

As Introduced

131st General Assembly

Regular Session

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S. B. No. 154

Senator Brown

Cosponsors: Senators Tavares, Thomas, Williams, Yuko

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, 2901.02, 2909.24, 2929.02, 4
2929.13, 2929.14, 2929.20, 2929.61, 2930.03, 5
2930.06, 2930.16, 2930.19, 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 penalty 20
and to declare an emergency. 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, 2901.02, 24
2909.24, 2929.02, 2929.13, 2929.14, 2929.20, 2929.61, 2930.03, 25
2930.06, 2930.16, 2930.19, 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.~~ 611

(D) In administering the office of the Ohio public 612
defender commission: 613

(1) The commission shall do the following: 614

(a) Approve an annual operating budget; 615

(b) Make an annual report to the governor, the general 616
assembly, and the supreme court of Ohio on the operation of the 617
state public defender's office, the county appointed counsel 618
systems, and the county and joint county public defenders' 619
offices. 620

(2) The commission may do the following: 621

(a) Accept the services of volunteer workers and 622
consultants at no compensation other than reimbursement of 623
actual and necessary expenses; 624

(b) Prepare and publish statistical and case studies and 625
other data pertinent to the legal representation of indigent 626
persons; 627

(c) Conduct programs having a general objective of 628
training and educating attorneys and others in the legal 629
representation of indigent persons. 630

(E) There is hereby established in the state treasury the 631
public defender training fund for the deposit of fees received 632
by the Ohio public defender commission from educational 633
seminars, and the sale of publications, on topics concerning 634
criminal law and procedure. Expenditures from this fund shall be 635
made only for the operation of activities authorized by division 636
(D) (2) (c) of this section. 637

(F) (1) In accordance with sections 109.02, 109.07, and 638
109.361 to 109.366 of the Revised Code, but subject to division 639
(E) of section 120.06 of the Revised Code, the attorney general 640
shall represent or provide for the representation of the Ohio 641
public defender commission, the state public defender, assistant 642
state public defenders, and other employees of the commission or 643
the state public defender. 644

(2) Subject to division (E) of section 120.06 of the 645
Revised Code, the attorney general shall represent or provide 646
for the representation of attorneys described in division (C) of 647
section 120.41 of the Revised Code in malpractice or other civil 648
actions or proceedings that arise from alleged actions or 649

omissions related to responsibilities derived pursuant to this 650
chapter, or in civil actions that are based upon alleged 651
violations of the constitution or statutes of the United States, 652
including section 1983 of Title 42 of the United States Code, 93 653
Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise 654
from alleged actions or omissions related to responsibilities 655
derived pursuant to this chapter. For purposes of the 656
representation, sections 109.361 to 109.366 of the Revised Code 657
shall apply to an attorney described in division (C) of section 658
120.41 of the Revised Code as if ~~he~~ the attorney were an officer 659
or employee, as defined in section 109.36 of the Revised Code, 660
and the Ohio public defender commission or the state public 661
defender, whichever contracted with the attorney, shall be 662
considered ~~his~~ the attorney's employer. 663

Sec. 120.06. (A) (1) The state public defender, when 664
designated by the court or requested by a county public defender 665
or joint county public defender, may provide legal 666
representation in all courts throughout the state to indigent 667
adults and juveniles who are charged with the commission of an 668
offense or act for which the penalty or any possible 669
adjudication includes the potential loss of liberty. 670

(2) The state public defender may provide legal 671
representation to any indigent person who, while incarcerated in 672
any state correctional institution, is charged with a felony 673
offense, for which the penalty or any possible adjudication that 674
may be imposed by a court upon conviction includes the potential 675
loss of liberty. 676

(3) The state public defender may provide legal 677
representation to any person incarcerated in any correctional 678
institution of the state, in any matter in which the person 679

asserts the person is unlawfully imprisoned or detained. 680

(4) The state public defender, in any case in which the 681
state public defender has provided legal representation or is 682
requested to do so by a county public defender or joint county 683
public defender, may provide legal representation on appeal. 684

(5) The state public defender, when designated by the 685
court or requested by a county public defender, joint county 686
public defender, or the director of rehabilitation and 687
correction, shall provide legal representation in parole and 688
probation revocation matters or matters relating to the 689
revocation of community control or post-release control under a 690
community control sanction or post-release control sanction, 691
unless the state public defender finds that the alleged parole 692
or probation violator or alleged violator of a community control 693
sanction or post-release control sanction has the financial 694
capacity to retain the alleged violator's own counsel. 695

(6) If the state public defender contracts with a county 696
public defender commission, a joint county public defender 697
commission, or a board of county commissioners for the provision 698
of services, under authority of division (C)(7) of section 699
120.04 of the Revised Code, the state public defender shall 700
provide legal representation in accordance with the contract. 701

(B) The state public defender shall not be required to 702
prosecute any appeal, postconviction remedy, or other proceeding 703
pursuant to division (A)(3), (4), or (5) of this section, unless 704
the state public defender first is satisfied that there is 705
arguable merit to the proceeding. 706

(C) A court may appoint counsel or allow an indigent 707
person to select the indigent's own personal counsel to assist 708

the state public defender as co-counsel when the interests of 709
justice so require. When co-counsel is appointed to assist the 710
state public defender, the co-counsel shall receive any 711
compensation that the court may approve, not to exceed the 712
amounts provided for in section 2941.51 of the Revised Code. 713

(D) (1) When the state public defender is designated by the 714
court or requested by a county public defender or joint county 715
public defender to provide legal representation for an indigent 716
person in any case, other than pursuant to a contract entered 717
into under authority of division (C) (7) of section 120.04 of the 718
Revised Code, the state public defender shall send to the county 719
in which the case is filed a bill detailing the actual cost of 720
the representation that separately itemizes legal fees and 721
expenses. The county, upon receipt of an itemized bill from the 722
state public defender pursuant to this division, shall pay the 723
state public defender each of the following amounts: 724

(a) For the amount identified as legal fees in the 725
itemized bill, one hundred per cent of the amount identified as 726
legal fees less the state reimbursement rate as calculated by 727
the state public defender pursuant to section 120.34 of the 728
Revised Code for the month the case terminated, as set forth in 729
the itemized bill; 730

(b) For the amount identified as expenses in the itemized 731
bill, one hundred per cent. 732

(2) Upon payment of the itemized bill under division (D) 733
(1) of this section, the county may submit the cost of the 734
expenses, excluding legal fees, to the state public defender for 735
reimbursement pursuant to section 120.33 of the Revised Code. 736

(3) When the state public defender provides investigation 737

or mitigation services to private appointed counsel or to a 738
county or joint county public defender as approved by the 739
appointing court, other than pursuant to a contract entered into 740
under authority of division (C) (7) of section 120.04 of the 741
Revised Code, the state public defender shall send to the county 742
in which the case is filed a bill itemizing the actual cost of 743
the services provided. The county, upon receipt of an itemized 744
bill from the state public defender pursuant to this division, 745
shall pay one hundred per cent of the amount as set forth in the 746
itemized bill. Upon payment of the itemized bill received 747
pursuant to this division, the county may submit the cost of the 748
investigation and mitigation services to the state public 749
defender for reimbursement pursuant to section 120.33 of the 750
Revised Code. 751

(4) There is hereby created in the state treasury the 752
county representation fund for the deposit of moneys received 753
from counties under this division. All moneys credited to the 754
fund shall be used by the state public defender to provide legal 755
representation for indigent persons when designated by the court 756
or requested by a county or joint county public defender or to 757
provide investigation or mitigation services, including 758
investigation or mitigation services to private appointed 759
counsel or a county or joint county public defender, as approved 760
by the court. 761

(E) (1) Notwithstanding any contrary provision of sections 762
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised 763
Code that pertains to representation by the attorney general, an 764
assistant attorney general, or special counsel of an officer or 765
employee, as defined in section 109.36 of the Revised Code, or 766
of an entity of state government, the state public defender may 767
elect to contract with, and to have the state pay pursuant to 768

division (E) (2) of this section for the services of, private 769
legal counsel to represent the Ohio public defender commission, 770
the state public defender, assistant state public defenders, 771
other employees of the commission or the state public defender, 772
and attorneys described in division (C) of section 120.41 of the 773
Revised Code in a malpractice or other civil action or 774
proceeding that arises from alleged actions or omissions related 775
to responsibilities derived pursuant to this chapter, or in a 776
civil action that is based upon alleged violations of the 777
constitution or statutes of the United States, including section 778
1983 of Title 42 of the United States Code, 93 Stat. 1284 779
(1979), 42 U.S.C.A. 1983, as amended, and that arises from 780
alleged actions or omissions related to responsibilities derived 781
pursuant to this chapter, if the state public defender 782
determines, in good faith, that the defendant in the civil 783
action or proceeding did not act manifestly outside the scope of 784
the defendant's employment or official responsibilities, with 785
malicious purpose, in bad faith, or in a wanton or reckless 786
manner. If the state public defender elects not to contract 787
pursuant to this division for private legal counsel in a civil 788
action or proceeding, then, in accordance with sections 109.02, 789
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 790
attorney general shall represent or provide for the 791
representation of the Ohio public defender commission, the state 792
public defender, assistant state public defenders, other 793
employees of the commission or the state public defender, or 794
attorneys described in division (C) of section 120.41 of the 795
Revised Code in the civil action or proceeding. 796

(2) (a) Subject to division (E) (2) (b) of this section, 797
payment from the state treasury for the services of private 798
legal counsel with whom the state public defender has contracted 799

pursuant to division (E)(1) of this section shall be 800
accomplished only through the following procedure: 801

(i) The private legal counsel shall file with the attorney 802
general a copy of the contract; a request for an award of legal 803
fees, court costs, and expenses earned or incurred in connection 804
with the defense of the Ohio public defender commission, the 805
state public defender, an assistant state public defender, an 806
employee, or an attorney in a specified civil action or 807
proceeding; a written itemization of those fees, costs, and 808
expenses, including the signature of the state public defender 809
and the state public defender's attestation that the fees, 810
costs, and expenses were earned or incurred pursuant to division 811
(E)(1) of this section to the best of the state public 812
defender's knowledge and information; a written statement 813
whether the fees, costs, and expenses are for all legal services 814
to be rendered in connection with that defense, are only for 815
legal services rendered to the date of the request and 816
additional legal services likely will have to be provided in 817
connection with that defense, or are for the final legal 818
services rendered in connection with that defense; a written 819
statement indicating whether the private legal counsel 820
previously submitted a request for an award under division (E) 821
(2) of this section in connection with that defense and, if so, 822
the date and the amount of each award granted; and, if the fees, 823
costs, and expenses are for all legal services to be rendered in 824
connection with that defense or are for the final legal services 825
rendered in connection with that defense, a certified copy of 826
any judgment entry in the civil action or proceeding or a signed 827
copy of any settlement agreement entered into between the 828
parties to the civil action or proceeding. 829

(ii) Upon receipt of a request for an award of legal fees, 830

court costs, and expenses and the requisite supportive 831
documentation described in division (E) (2) (a) (i) of this 832
section, the attorney general shall review the request and 833
documentation; determine whether any of the limitations 834
specified in division (E) (2) (b) of this section apply to the 835
request; and, if an award of legal fees, court costs, or 836
expenses is permissible after applying the limitations, prepare 837
a document awarding legal fees, court costs, or expenses to the 838
private legal counsel. The document shall name the private legal 839
counsel as the recipient of the award; specify the total amount 840
of the award as determined by the attorney general; itemize the 841
portions of the award that represent legal fees, court costs, 842
and expenses; specify any limitation applied pursuant to 843
division (E) (2) (b) of this section to reduce the amount of the 844
award sought by the private legal counsel; state that the award 845
is payable from the state treasury pursuant to division (E) (2) 846
(a) (iii) of this section; and be approved by the inclusion of 847
the signatures of the attorney general, the state public 848
defender, and the private legal counsel. 849

(iii) The attorney general shall forward a copy of the 850
document prepared pursuant to division (E) (2) (a) (ii) of this 851
section to the director of budget and management. The award of 852
legal fees, court costs, or expenses shall be paid out of the 853
state public defender's appropriations, to the extent there is a 854
sufficient available balance in those appropriations. If the 855
state public defender does not have a sufficient available 856
balance in the state public defender's appropriations to pay the 857
entire award of legal fees, court costs, or expenses, the 858
director shall make application for a transfer of appropriations 859
out of the emergency purposes account or any other appropriation 860
for emergencies or contingencies in an amount equal to the 861

portion of the award that exceeds the sufficient available 862
balance in the state public defender's appropriations. A 863
transfer of appropriations out of the emergency purposes account 864
or any other appropriation for emergencies or contingencies 865
shall be authorized if there are sufficient moneys greater than 866
the sum total of then pending emergency purposes account 867
requests, or requests for releases from the other appropriation. 868
If a transfer of appropriations out of the emergency purposes 869
account or other appropriation for emergencies or contingencies 870
is made to pay an amount equal to the portion of the award that 871
exceeds the sufficient available balance in the state public 872
defender's appropriations, the director shall cause the payment 873
to be made to the private legal counsel. If sufficient moneys do 874
not exist in the emergency purposes account or other 875
appropriation for emergencies or contingencies to pay an amount 876
equal to the portion of the award that exceeds the sufficient 877
available balance in the state public defender's appropriations, 878
the private legal counsel shall request the general assembly to 879
make an appropriation sufficient to pay an amount equal to the 880
portion of the award that exceeds the sufficient available 881
balance in the state public defender's appropriations, and no 882
payment in that amount shall be made until the appropriation has 883
been made. The private legal counsel shall make the request 884
during the current biennium and during each succeeding biennium 885
until a sufficient appropriation is made. 886

(b) An award of legal fees, court costs, and expenses 887
pursuant to division (E) of this section is subject to the 888
following limitations: 889

(i) The maximum award or maximum aggregate of a series of 890
awards of legal fees, court costs, and expenses to the private 891
legal counsel in connection with the defense of the Ohio public 892

defender commission, the state public defender, an assistant 893
state public defender, an employee, or an attorney in a 894
specified civil action or proceeding shall not exceed fifty 895
thousand dollars. 896

(ii) The private legal counsel shall not be awarded legal 897
fees, court costs, or expenses to the extent the fees, costs, or 898
expenses are covered by a policy of malpractice or other 899
insurance. 900

(iii) The private legal counsel shall be awarded legal 901
fees and expenses only to the extent that the fees and expenses 902
are reasonable in light of the legal services rendered by the 903
private legal counsel in connection with the defense of the Ohio 904
public defender commission, the state public defender, an 905
assistant state public defender, an employee, or an attorney in 906
a specified civil action or proceeding. 907

(c) If, pursuant to division (E) (2) (a) of this section, 908
the attorney general denies a request for an award of legal 909
fees, court costs, or expenses to private legal counsel because 910
of the application of a limitation specified in division (E) (2) 911
(b) of this section, the attorney general shall notify the 912
private legal counsel in writing of the denial and of the 913
limitation applied. 914

(d) If, pursuant to division (E) (2) (c) of this section, a 915
private legal counsel receives a denial of an award notification 916
or if a private legal counsel refuses to approve a document 917
under division (E) (2) (a) (ii) of this section because of the 918
proposed application of a limitation specified in division (E) 919
(2) (b) of this section, the private legal counsel may commence a 920
civil action against the attorney general in the court of claims 921
to prove the private legal counsel's entitlement to the award 922

sought, to prove that division (E) (2) (b) of this section does 923
not prohibit or otherwise limit the award sought, and to recover 924
a judgment for the amount of the award sought. A civil action 925
under division (E) (2) (d) of this section shall be commenced no 926
later than two years after receipt of a denial of award 927
notification or, if the private legal counsel refused to approve 928
a document under division (E) (2) (a) (ii) of this section because 929
of the proposed application of a limitation specified in 930
division (E) (2) (b) of this section, no later than two years 931
after the refusal. Any judgment of the court of claims in favor 932
of the private legal counsel shall be paid from the state 933
treasury in accordance with division (E) (2) (a) of this section. 934

~~(F) If a court appoints the office of the state public 935
defender to represent a petitioner in a postconviction relief- 936
proceeding under section 2953.21 of the Revised Code, the 937
petitioner has received a sentence of death, and the proceeding 938
relates to that sentence, all of the attorneys who represent the 939
petitioner in the proceeding pursuant to the appointment, 940
whether an assistant state public defender, the state public 941
defender, or another attorney, shall be certified under Rule 20- 942
of the Rules of Superintendence for the Courts of Ohio to 943
represent indigent defendants charged with or convicted of an 944
offense for which the death penalty can be or has been imposed. 945~~

~~(G)~~ (1) The state public defender may conduct a legal 946
assistance referral service for children committed to the 947
department of youth services relative to conditions of 948
confinement claims. If the legal assistance referral service 949
receives a request for assistance from a child confined in a 950
facility operated, or contracted for, by the department of youth 951
services and the state public defender determines that the child 952
has a conditions of confinement claim that has merit, the state 953

public defender may refer the child to a private attorney. If no 954
private attorney who the child has been referred to by the state 955
public defender accepts the case within a reasonable time, the 956
state public defender may prepare, as appropriate, pro se 957
pleadings in the form of a complaint regarding the conditions of 958
confinement at the facility where the child is confined with a 959
motion for appointment of counsel and other applicable pleadings 960
necessary for sufficient pro se representation. 961

(2) Division ~~(G)~~(F) (1) of this section does not authorize 962
the state public defender to represent a child committed to the 963
department of youth services in general civil matters arising 964
solely out of state law. 965

(3) The state public defender shall not undertake the 966
representation of a child in court based on a conditions of 967
confinement claim arising under this division. 968

~~(H)~~(G) A child's right to representation or services 969
under this section is not affected by the child, or another 970
person on behalf of the child, previously having paid for 971
similar representation or services or having waived legal 972
representation. 973

~~(I)~~(H) The state public defender shall have reasonable 974
access to any child committed to the department of youth 975
services, department of youth services institution, and 976
department of youth services record as needed to implement this 977
section. 978

~~(J)~~(I) As used in this section: 979

(1) "Community control sanction" has the same meaning as 980
in section 2929.01 of the Revised Code. 981

(2) "Conditions of confinement" means any issue involving 982

a constitutional right or other civil right related to a child's 983
incarceration, including, but not limited to, actions cognizable 984
under 42 U.S.C. 1983. 985

(3) "Post-release control sanction" has the same meaning 986
as in section 2967.01 of the Revised Code. 987

Sec. 120.14. (A) (1) Except as provided in division (A) (2) 988
of this section, the county public defender commission shall 989
appoint the county public defender and may remove ~~him~~ the county 990
public defender from office only for good cause. 991

(2) If a county public defender commission contracts with 992
the state public defender or with one or more nonprofit 993
organizations for the state public defender or the organizations 994
to provide all of the services that the county public defender 995
is required or permitted to provide by this chapter, the 996
commission shall not appoint a county public defender. 997

(B) The commission shall determine the qualifications and 998
size of the supporting staff and facilities and other 999
requirements needed to maintain and operate the office of the 1000
county public defender. 1001

(C) In administering the office of county public defender, 1002
the commission shall: 1003

(1) Recommend to the county commissioners an annual 1004
operating budget which is subject to the review, amendment, and 1005
approval of the board of county commissioners; 1006

(2) (a) Make an annual report to the county commissioners 1007
and the Ohio public defender commission on the operation of the 1008
county public defender's office, ~~including complete and detailed~~ 1009
~~information on finances and costs that separately states costs~~ 1010
~~and expenses that are reimbursable under section 120.35 of the~~ 1011

~~Revised Code~~, and any other data and information requested by 1012
the state public defender; 1013

(b) Make monthly reports relating to reimbursement and 1014
associated case data pursuant to the rules of the Ohio public 1015
defender commission to the board of county commissioners and the 1016
Ohio public defender commission on the total costs of the public 1017
defender's office. 1018

(3) Cooperate with the Ohio public defender commission in 1019
maintaining the standards established by rules of the Ohio 1020
public defender commission pursuant to divisions (B) and (C) of 1021
section 120.03 of the Revised Code, and cooperate with the state 1022
public defender in his the state public defender's programs 1023
providing technical aid and assistance to county systems. 1024

(D) The commission may accept the services of volunteer 1025
workers and consultants at no compensation except reimbursement 1026
for actual and necessary expenses. 1027

(E) The commission may contract with any municipal 1028
corporation, within the county served by the county public 1029
defender, for the county public defender to provide legal 1030
representation for indigent persons who are charged with a 1031
violation of the ordinances of the municipal corporation. 1032

(F) A county public defender commission, with the approval 1033
of the board of county commissioners regarding all provisions 1034
that pertain to the financing of defense counsel for indigent 1035
persons, may contract with the state public defender or with any 1036
nonprofit organization, the primary purpose of which is to 1037
provide legal representation to indigent persons, for the state 1038
public defender or the organization to provide all or any part 1039
of the services that a county public defender is required or 1040

permitted to provide by this chapter. A contract entered into 1041
pursuant to this division may provide for payment for the 1042
services provided on a per case, hourly, or fixed contract 1043
basis. The state public defender and any nonprofit organization 1044
that contracts with a county public defender commission pursuant 1045
to this division shall do all of the following: 1046

(1) Comply with all standards established by the rules of 1047
the Ohio public defender commission; 1048

(2) Comply with all standards established by the state 1049
public defender; 1050

(3) Comply with all statutory duties and other laws 1051
applicable to county public defenders. 1052

Sec. 120.16. (A) (1) The county public defender shall 1053
provide legal representation to indigent adults and juveniles 1054
who are charged with the commission of an offense or act that is 1055
a violation of a state statute and for which the penalty or any 1056
possible adjudication includes the potential loss of liberty and 1057
in postconviction proceedings as defined in this section. 1058

(2) The county public defender may provide legal 1059
representation to indigent adults and juveniles charged with the 1060
violation of an ordinance of a municipal corporation for which 1061
the penalty or any possible adjudication includes the potential 1062
loss of liberty, if the county public defender commission has 1063
contracted with the municipal corporation to provide legal 1064
representation for indigent persons charged with a violation of 1065
an ordinance of the municipal corporation. 1066

(B) The county public defender shall provide the legal 1067
representation authorized by division (A) of this section at 1068
every stage of the proceedings following arrest, detention, 1069

service of summons, or indictment. 1070

(C) The county public defender may request the state 1071
public defender to prosecute any appeal or other remedy before 1072
or after conviction that the county public defender decides is 1073
in the interests of justice, and may provide legal 1074
representation in parole and probation revocation matters and 1075
matters relating to the revocation of community control or post- 1076
release control under a community control sanction or post- 1077
release control sanction. 1078

(D) The county public defender shall not be required to 1079
prosecute any appeal, postconviction remedy, or other 1080
proceeding, unless the county public defender is first satisfied 1081
there is arguable merit to the proceeding. 1082

(E) Nothing in this section shall prevent a court from 1083
appointing counsel other than the county public defender or from 1084
allowing an indigent person to select the indigent person's own 1085
personal counsel to represent the indigent person. A court may 1086
also appoint counsel or allow an indigent person to select the 1087
indigent person's own personal counsel to assist the county 1088
public defender as co-counsel when the interests of justice so 1089
require. 1090

(F) Information as to the right to legal representation by 1091
the county public defender or assigned counsel shall be afforded 1092
to an accused person immediately upon arrest, when brought 1093
before a magistrate, or when formally charged, whichever occurs 1094
first. 1095

~~(G) If a court appoints the office of the county public 1096
defender to represent a petitioner in a postconviction relief- 1097
proceeding under section 2953.21 of the Revised Code, the 1098~~

~~petitioner has received a sentence of death, and the proceeding- 1099
relates to that sentence, all of the attorneys who represent the- 1100
petitioner in the proceeding pursuant to the appointment,- 1101
whether an assistant county public defender or the county public- 1102
defender, shall be certified under Rule 20 of the Rules of- 1103
Superintendence for the Courts of Ohio to represent indigent- 1104
defendants charged with or convicted of an offense for which the- 1105
death penalty can be or has been imposed. 1106~~

~~(H) As used in this section: 1107~~

(1) "Community control sanction" has the same meaning as 1108
in section 2929.01 of the Revised Code. 1109

(2) "Post-release control sanction" has the same meaning 1110
as in section 2967.01 of the Revised Code. 1111

Sec. 120.18. (A) The county public defender commission's 1112
report to the board of county commissioners shall be audited by 1113
the county auditor. The board of county commissioners, after 1114
review and approval of the audited report, may then certify it 1115
to the state public defender for reimbursement. If a request for 1116
the reimbursement of any operating expenditure incurred by a 1117
county public defender office is not received by the state 1118
public defender within sixty days after the end of the calendar 1119
month in which the expenditure is incurred, the state public 1120
defender shall not pay the requested reimbursement, unless the 1121
county has requested, and the state public defender has granted, 1122
an extension of the sixty-day time limit. Each request for 1123
reimbursement shall include a certification by the county public 1124
defender that the persons provided representation by the county 1125
public defender's office during the period covered by the report 1126
were indigent and, for each person provided representation 1127
during that period, a financial disclosure form completed by the 1128

person on a form prescribed by the state public defender. The 1129
state public defender shall also review the report and, in 1130
accordance with the standards, guidelines, and maximums 1131
established pursuant to divisions (B) (7) and (8) of section 1132
120.04 of the Revised Code, prepare a voucher for fifty per cent 1133
of the total cost of each county public defender's office for 1134
the period of time covered by the certified report ~~and a voucher~~ 1135
~~for fifty per cent of the costs and expenses that are~~ 1136
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 1137
or, if the amount of money appropriated by the general assembly 1138
to reimburse counties for the operation of county public 1139
defender offices, joint county public defender offices, and 1140
county appointed counsel systems is not sufficient to pay fifty 1141
per cent of the total cost of all of the offices and systems, 1142
for the lesser amount required by section 120.34 of the Revised 1143
Code. For the purposes of this section, "total cost" means total 1144
expenses minus ~~costs and expenses reimbursable under section~~ 1145
~~120.35 of the Revised Code and any funds received by the county~~ 1146
public defender commission pursuant to a contract, except a 1147
contract entered into with a municipal corporation pursuant to 1148
division (E) of section 120.14 of the Revised Code, gift, or 1149
grant. 1150

(B) If the county public defender fails to maintain the 1151
standards for the conduct of the office established by rules of 1152
the Ohio public defender commission pursuant to divisions (B) 1153
and (C) of section 120.03 or the standards established by the 1154
state public defender pursuant to division (B) (7) of section 1155
120.04 of the Revised Code, the Ohio public defender commission 1156
shall notify the county public defender commission and the board 1157
of county commissioners of the county that the county public 1158
defender has failed to comply with its rules or the standards of 1159

the state public defender. Unless the county public defender 1160
commission or the county public defender corrects the conduct of 1161
the county public defender's office to comply with the rules and 1162
standards within ninety days after the date of the notice, the 1163
state public defender may deny payment of all or part of the 1164
county's reimbursement from the state provided for in division 1165
(A) of this section. 1166

Sec. 120.24. (A) (1) Except as provided in division (A) (2) 1167
of this section, the joint county public defender commission 1168
shall appoint the joint county public defender and may remove 1169
~~him~~ the joint county public defender from office only for good 1170
cause. 1171

(2) If a joint county public defender commission contracts 1172
with the state public defender or with one or more nonprofit 1173
organizations for the state public defender or the organizations 1174
to provide all of the services that the joint county public 1175
defender is required or permitted to provide by this chapter, 1176
the commission shall not appoint a joint county public defender. 1177

(B) The commission shall determine the qualifications and 1178
size of the supporting staff and facilities and other 1179
requirements needed to maintain and operate the office. 1180

(C) In administering the office of joint county public 1181
defender, the commission shall: 1182

(1) Recommend to the boards of county commissioners in the 1183
district an annual operating budget which is subject to the 1184
review, amendment, and approval of the boards of county 1185
commissioners in the district; 1186

(2) (a) Make an annual report to the boards of county 1187
commissioners in the district and the Ohio public defender 1188

commission on the operation of the public defender's office, 1189
~~including complete and detailed information on finances and~~ 1190
~~costs that separately states costs and expenses that are~~ 1191
~~reimbursable under section 120.35 of the Revised Code,~~ and such 1192
other data and information requested by the state public 1193
defender; 1194

(b) Make monthly reports relating to reimbursement and 1195
associated case data pursuant to the rules of the Ohio public 1196
defender commission to the boards of county commissioners in the 1197
district and the Ohio public defender commission on the total 1198
costs of the public defender's office. 1199

(3) Cooperate with the Ohio public defender commission in 1200
maintaining the standards established by rules of the Ohio 1201
public defender commission pursuant to divisions (B) and (C) of 1202
section 120.03 of the Revised Code, and cooperate with the state 1203
public defender in ~~his~~ the state public defender's programs 1204
providing technical aid and assistance to county systems. 1205

(D) The commission may accept the services of volunteer 1206
workers and consultants at no compensation except reimbursement 1207
for actual and necessary expenses. 1208

(E) The commission may contract with any municipal 1209
corporation, within the counties served by the joint county 1210
public defender, for the joint county public defender to provide 1211
legal representation for indigent persons who are charged with a 1212
violation of the ordinances of the municipal corporation. 1213

(F) A joint county public defender commission, with the 1214
approval of each participating board of county commissioners 1215
regarding all provisions that pertain to the financing of 1216
defense counsel for indigent persons, may contract with the 1217

state public defender or with any nonprofit organization, the 1218
primary purpose of which is to provide legal representation to 1219
indigent persons, for the state public defender or the 1220
organization to provide all or any part of the services that a 1221
joint county public defender is required or permitted to provide 1222
by this chapter. A contract entered into pursuant to this 1223
division may provide for payment for the services provided on a 1224
per case, hourly, or fixed contract basis. The state public 1225
defender and any nonprofit organization that contracts with a 1226
joint county public defender commission pursuant to this 1227
division shall do all of the following: 1228

(1) Comply with all standards established by the rules of 1229
the Ohio public defender commission; 1230

(2) Comply with all standards established by the Ohio 1231
public defender; 1232

(3) Comply with all statutory duties and other laws 1233
applicable to joint county public defenders. 1234

Sec. 120.26. (A) (1) The joint county public defender shall 1235
provide legal representation to indigent adults and juveniles 1236
who are charged with the commission of an offense or act that is 1237
a violation of a state statute and for which the penalty or any 1238
possible adjudication includes the potential loss of liberty and 1239
in postconviction proceedings as defined in this section. 1240

(2) The joint county public defender may provide legal 1241
representation to indigent adults and juveniles charged with the 1242
violation of an ordinance of a municipal corporation for which 1243
the penalty or any possible adjudication includes the potential 1244
loss of liberty, if the joint county public defender commission 1245
has contracted with the municipal corporation to provide legal 1246

representation for indigent persons charged with a violation of 1247
an ordinance of the municipal corporation. 1248

(B) The joint county public defender shall provide the 1249
legal representation authorized by division (A) of this section 1250
at every stage of the proceedings following arrest, detention, 1251
service of summons, or indictment. 1252

(C) The joint county public defender may request the Ohio 1253
public defender to prosecute any appeal or other remedy before 1254
or after conviction that the joint county public defender 1255
decides is in the interests of justice and may provide legal 1256
representation in parole and probation revocation matters and 1257
matters relating to the revocation of community control or post- 1258
release control under a community control sanction or post- 1259
release control sanction. 1260

(D) The joint county public defender shall not be required 1261
to prosecute any appeal, postconviction remedy, or other 1262
proceeding, unless the joint county public defender is first 1263
satisfied that there is arguable merit to the proceeding. 1264

(E) Nothing in this section shall prevent a court from 1265
appointing counsel other than the joint county public defender 1266
or from allowing an indigent person to select the indigent 1267
person's own personal counsel to represent the indigent person. 1268
A court may also appoint counsel or allow an indigent person to 1269
select the indigent person's own personal counsel to assist the 1270
joint county public defender as co-counsel when the interests of 1271
justice so require. 1272

(F) Information as to the right to legal representation by 1273
the joint county public defender or assigned counsel shall be 1274
afforded to an accused person immediately upon arrest, when 1275

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 1305
defender has granted, an extension of the sixty-day time limit. 1306
Each request for reimbursement shall include a certification by 1307
the joint county public defender that all persons provided 1308
representation by the joint county public defender's office 1309
during the period covered by the request were indigent and, for 1310
each person provided representation during that period, a 1311
financial disclosure form completed by the person on a form 1312
prescribed by the state public defender. The state public 1313
defender shall also review the report and, in accordance with 1314
the standards, guidelines, and maximums established pursuant to 1315
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1316
prepare a voucher for fifty per cent of the total cost of each 1317
joint county public defender's office for the period of time 1318
covered by the certified report ~~and a voucher for fifty per cent~~ 1319
~~of the costs and expenses that are reimbursable under section~~ 1320
~~120.35 of the Revised Code, if any, or, if the amount of money~~ 1321
appropriated by the general assembly to reimburse counties for 1322
the operation of county public defender offices, joint county 1323
public defender offices, and county appointed counsel systems is 1324
not sufficient to pay fifty per cent of the total cost of all of 1325
the offices and systems, for the lesser amount required by 1326
section 120.34 of the Revised Code. For purposes of this 1327
section, "total cost" means total expenses minus ~~costs and~~ 1328
~~expenses reimbursable under section 120.35 of the Revised Code~~ 1329
~~and~~ any funds received by the joint county public defender 1330
commission pursuant to a contract, except a contract entered 1331
into with a municipal corporation pursuant to division (E) of 1332
section 120.24 of the Revised Code, gift, or grant. Each county 1333
in the district shall be entitled to a share of such state 1334
reimbursement in proportion to the percentage of the total cost 1335
it has agreed to pay. 1336

(B) If the joint county public defender fails to maintain 1337
the standards for the conduct of the office established by the 1338
rules of the Ohio public defender commission pursuant to 1339
divisions (B) and (C) of section 120.03 or the standards 1340
established by the state public defender pursuant to division 1341
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1342
defender commission shall notify the joint county public 1343
defender commission and the board of county commissioners of 1344
each county in the district that the joint county public 1345
defender has failed to comply with its rules or the standards of 1346
the state public defender. Unless the joint public defender 1347
commission or the joint county public defender corrects the 1348
conduct of the joint county public defender's office to comply 1349
with the rules and standards within ninety days after the date 1350
of the notice, the state public defender may deny all or part of 1351
the counties' reimbursement from the state provided for in 1352
division (A) of this section. 1353

Sec. 120.33. (A) In lieu of using a county public defender 1354
or joint county public defender to represent indigent persons in 1355
the proceedings set forth in division (A) of section 120.16 of 1356
the Revised Code, the board of county commissioners of any 1357
county may adopt a resolution to pay counsel who are either 1358
personally selected by the indigent person or appointed by the 1359
court. The resolution shall include those provisions the board 1360
of county commissioners considers necessary to provide effective 1361
representation of indigent persons in any proceeding for which 1362
counsel is provided under this section. The resolution shall 1363
include provisions for contracts with any municipal corporation 1364
under which the municipal corporation shall reimburse the county 1365
for counsel appointed to represent indigent persons charged with 1366
violations of the ordinances of the municipal corporation. 1367

(1) In a county that adopts a resolution to pay counsel, 1368
an indigent person shall have the right to do either of the 1369
following: 1370

(a) To select the person's own personal counsel to 1371
represent the person in any proceeding included within the 1372
provisions of the resolution; 1373

(b) To request the court to appoint counsel to represent 1374
the person in such a proceeding. 1375

(2) The court having jurisdiction over the proceeding in a 1376
county that adopts a resolution to pay counsel shall, after 1377
determining that the person is indigent and entitled to legal 1378
representation under this section, do either of the following: 1379

(a) By signed journal entry recorded on its docket, enter 1380
the name of the lawyer selected by the indigent person as 1381
counsel of record; 1382

(b) Appoint counsel for the indigent person if the person 1383
has requested the court to appoint counsel and, by signed 1384
journal entry recorded on its dockets, enter the name of the 1385
lawyer appointed for the indigent person as counsel of record. 1386

(3) The board of county commissioners shall establish a 1387
schedule of fees by case or on an hourly basis to be paid to 1388
counsel for legal services provided pursuant to a resolution 1389
adopted under this section. Prior to establishing the schedule, 1390
the board of county commissioners shall request the bar 1391
association or associations of the county to submit a proposed 1392
schedule. The schedule submitted shall be subject to the review, 1393
amendment, and approval of the board of county commissioners. 1394

(4) Counsel selected by the indigent person or appointed 1395
by the court at the request of an indigent person in a county 1396

that adopts a resolution to pay counsel, except for counsel 1397
appointed to represent a person charged with any violation of an 1398
ordinance of a municipal corporation that has not contracted 1399
with the county commissioners for the payment of appointed 1400
counsel, shall be paid by the county and shall receive the 1401
compensation and expenses the court approves. Each request for 1402
payment shall be accompanied by a financial disclosure form and 1403
an affidavit of indigency that are completed by the indigent 1404
person on forms prescribed by the state public defender. 1405
Compensation and expenses shall not exceed the amounts fixed by 1406
the board of county commissioners in the schedule adopted 1407
pursuant to division (A) (3) of this section. No court shall 1408
approve compensation and expenses that exceed the amount fixed 1409
pursuant to division (A) (3) of this section. 1410

The fees and expenses approved by the court shall not be 1411
taxed as part of the costs and shall be paid by the county. 1412
However, if the person represented has, or may reasonably be 1413
expected to have, the means to meet some part of the cost of the 1414
services rendered to the person, the person shall pay the county 1415
an amount that the person reasonably can be expected to pay. 1416
Pursuant to section 120.04 of the Revised Code, the county shall 1417
pay to the state public defender a percentage of the payment 1418
received from the person in an amount proportionate to the 1419
percentage of the costs of the person's case that were paid to 1420
the county by the state public defender pursuant to this 1421
section. The money paid to the state public defender shall be 1422
credited to the client payment fund created pursuant to division 1423
(B) (5) of section 120.04 of the Revised Code. 1424

The county auditor shall draw a warrant on the county 1425
treasurer for the payment of counsel in the amount fixed by the 1426
court, plus the expenses the court fixes and certifies to the 1427

auditor. The county auditor shall report periodically, but not 1428
less than annually, to the board of county commissioners and to 1429
the state public defender the amounts paid out pursuant to the 1430
approval of the court. The board of county commissioners, after 1431
review and approval of the auditor's report, or the county 1432
auditor, with permission from and notice to the board of county 1433
commissioners, may then certify it to the state public defender 1434
for reimbursement. The state public defender may pay a requested 1435
reimbursement only if the request for reimbursement is 1436
accompanied by a financial disclosure form and an affidavit of 1437
indigency completed by the indigent person on forms prescribed 1438
by the state public defender or if the court certifies by 1439
electronic signature as prescribed by the state public defender 1440
that a financial disclosure form and affidavit of indigency have 1441
been completed by the indigent person and are available for 1442
inspection. If a request for the reimbursement of the cost of 1443
counsel in any case is not received by the state public defender 1444
within ninety days after the end of the calendar month in which 1445
the case is finally disposed of by the court, unless the county 1446
has requested and the state public defender has granted an 1447
extension of the ninety-day limit, the state public defender 1448
shall not pay the requested reimbursement. The state public 1449
defender shall also review the report and, in accordance with 1450
the standards, guidelines, and maximums established pursuant to 1451
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1452
prepare a voucher for fifty per cent of the total cost of each 1453
county appointed counsel system in the period of time covered by 1454
the certified report ~~and a voucher for fifty per cent of the~~ 1455
~~costs and expenses that are reimbursable under section 120.35 of~~ 1456
~~the Revised Code, if any, or, if the amount of money~~ 1457
appropriated by the general assembly to reimburse counties for 1458
the operation of county public defender offices, joint county 1459

public defender offices, and county appointed counsel systems is 1460
not sufficient to pay fifty per cent of the total cost of all of 1461
the offices and systems ~~other than costs and expenses that are~~ 1462
~~reimbursable under section 120.35 of the Revised Code~~, for the 1463
lesser amount required by section 120.34 of the Revised Code. 1464

(5) If any county appointed counsel system fails to 1465
maintain the standards for the conduct of the system established 1466
by the rules of the Ohio public defender commission pursuant to 1467
divisions (B) and (C) of section 120.03 or the standards 1468
established by the state public defender pursuant to division 1469
(B)(7) of section 120.04 of the Revised Code, the Ohio public 1470
defender commission shall notify the board of county 1471
commissioners of the county that the county appointed counsel 1472
system has failed to comply with its rules or the standards of 1473
the state public defender. Unless the board of county 1474
commissioners corrects the conduct of its appointed counsel 1475
system to comply with the rules and standards within ninety days 1476
after the date of the notice, the state public defender may deny 1477
all or part of the county's reimbursement from the state 1478
provided for in division (A)(4) of this section. 1479

(B) In lieu of using a county public defender or joint 1480
county public defender to represent indigent persons in the 1481
proceedings set forth in division (A) of section 120.16 of the 1482
Revised Code, and in lieu of adopting the resolution and 1483
following the procedure described in division (A) of this 1484
section, the board of county commissioners of any county may 1485
contract with the state public defender for the state public 1486
defender's legal representation of indigent persons. A contract 1487
entered into pursuant to this division may provide for payment 1488
for the services provided on a per case, hourly, or fixed 1489
contract basis. 1490

~~(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 1522
expenses of conducting the defense in capital cases shall not 1523
exceed the total amount appropriated for that fiscal year by the 1524
general assembly for the reimbursement of the counties for 1525
conducting the defense in capital cases. If the amount 1526
appropriated by the general assembly in any fiscal year is 1527
insufficient to pay fifty per cent of the counties' total costs 1528
and expenses of conducting the defense in capital cases in the 1529
fiscal year, the amount of money paid in that fiscal year 1530
pursuant to section 120.35 of the Revised Code to each county 1531
for the fiscal year shall be reduced proportionately so that 1532
each county is paid an equal percentage of its costs and 1533
expenses of conducting the defense in capital cases in the 1534
fiscal year. 1535~~

If any county receives an amount of money pursuant to 1536
section 120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code 1537
that is in excess of the amount of reimbursement it is entitled 1538
to receive pursuant to this section, the state public defender 1539
shall request the board of county commissioners to return the 1540
excess payment and the board of county commissioners, upon 1541
receipt of the request, shall direct the appropriate county 1542
officer to return the excess payment to the state. 1543

Within thirty days of the end of each fiscal quarter, the 1544
state public defender shall provide to the office of budget and 1545
management and the ~~legislative budget office of the~~ legislative 1546
service commission an estimate of the amount of money that will 1547
be required for the balance of the fiscal year to make the 1548
payments required by sections 120.18, 120.28, and 120.33, ~~and~~ 1549
~~120.35~~ of the Revised Code. 1550

Sec. 1901.183. In addition to jurisdiction otherwise 1551

granted in this chapter, the environmental division of a 1552
municipal court shall have jurisdiction within its territory in 1553
all of the following actions or proceedings and to perform all 1554
of the following functions: 1555

(A) Notwithstanding any monetary limitations in section 1556
1901.17 of the Revised Code, in all actions and proceedings for 1557
the sale of real or personal property under lien of a judgment 1558
of the environmental division of the municipal court, or a lien 1559
for machinery, material, fuel furnished, or labor performed, 1560
irrespective of amount, and, in those cases, the environmental 1561
division may proceed to foreclose and marshal all liens and all 1562
vested or contingent rights, to appoint a receiver, and to 1563
render personal judgment irrespective of amount in favor of any 1564
party; 1565

(B) When in aid of execution of a judgment of the 1566
environmental division of the municipal court, in all actions 1567
for the foreclosure of a mortgage on real property given to 1568
secure the payment of money, or the enforcement of a specific 1569
lien for money or other encumbrance or charge on real property, 1570
when the real property is situated within the territory, and, in 1571
those cases, the environmental division may proceed to foreclose 1572
all liens and all vested and contingent rights and proceed to 1573
render judgments, and make findings and orders, between the 1574
parties, in the same manner and to the same extent as in similar 1575
cases in the court of common pleas; 1576

(C) When in aid of execution of a judgment of the 1577
environmental division of the municipal court, in all actions 1578
for the recovery of real property situated within the territory 1579
to the same extent as courts of common pleas have jurisdiction; 1580

(D) In all actions for injunction to prevent or terminate 1581

violations of the ordinances and regulations of any municipal 1582
corporation within its territory enacted or promulgated under 1583
the police power of that municipal corporation pursuant to 1584
Section 3 of Article XVIII, Ohio Constitution, over which the 1585
court of common pleas has or may have jurisdiction, and, in 1586
those cases, the environmental division of the municipal court 1587
may proceed to render judgments, and make findings and orders, 1588
in the same manner and to the same extent as in similar cases in 1589
the court of common pleas; 1590

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

(F) In any civil action to enforce any provision of 1600
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 1601
Revised Code over which the court of common pleas has or may 1602
have jurisdiction, and, in those actions, the environmental 1603
division of the municipal court may proceed to render judgments, 1604
and make findings and orders, in the same manner and to the same 1605
extent as in similar actions in the court of common pleas; 1606

(G) In all actions and proceedings in the nature of 1607
creditors' bills, and in aid of execution to subject the 1608
interests of a judgment debtor in real or personal property to 1609
the payment of a judgment of the division, and, in those actions 1610
and proceedings, the environmental division may proceed to 1611

marshal and foreclose all liens on the property irrespective of 1612
the amount of the lien, and all vested or contingent rights in 1613
the property; 1614

(H) Concurrent jurisdiction with the court of common pleas 1615
of all criminal actions or proceedings related to the pollution 1616
of the air, ground, or water within the territory of the 1617
environmental division of the municipal court, ~~for which a~~ 1618
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 1619
~~Revised Code;~~ 1620

(I) In any review or appeal of any final order of any 1621
administrative officer, agency, board, department, tribunal, 1622
commission, or other instrumentality that relates to a local 1623
building, housing, air pollution, sanitation, health, fire, 1624
zoning, or safety code, ordinance, or regulation, in the same 1625
manner and to the same extent as in similar appeals in the court 1626
of common pleas; 1627

(J) With respect to the environmental division of the 1628
Franklin county municipal court, to hear appeals from 1629
adjudication hearings conducted under Chapter 956. of the 1630
Revised Code. 1631

Sec. 2152.13. (A) A juvenile court shall impose a serious 1632
youthful dispositional sentence on a child when required under 1633
division (B) (3) of section 2152.121 of the Revised Code. In such 1634
a case, the remaining provisions of this division and divisions 1635
(B) and (C) do not apply to the child, and the court shall 1636
impose the mandatory serious youthful dispositional sentence 1637
under division (D) (1) of this section. 1638

In all other cases, a juvenile court may impose a serious 1639
youthful offender dispositional sentence on a child only if the 1640

prosecuting attorney of the county in which the delinquent act 1641
allegedly occurred initiates the process against the child in 1642
accordance with this division, and the child is an alleged 1643
delinquent child who is eligible for the dispositional sentence. 1644
The prosecuting attorney may initiate the process in any of the 1645
following ways: 1646

(1) Obtaining an indictment of the child as a serious 1647
youthful offender; 1648

(2) The child waives the right to indictment, charging the 1649
child in a bill of information as a serious youthful offender; 1650

(3) Until an indictment or information is obtained, 1651
requesting a serious youthful offender dispositional sentence in 1652
the original complaint alleging that the child is a delinquent 1653
child; 1654

(4) Until an indictment or information is obtained, if the 1655
original complaint does not request a serious youthful offender 1656
dispositional sentence, filing with the juvenile court a written 1657
notice of intent to seek a serious youthful offender 1658
dispositional sentence within twenty days after the later of the 1659
following, unless the time is extended by the juvenile court for 1660
good cause shown: 1661

(a) The date of the child's first juvenile court hearing 1662
regarding the complaint; 1663

(b) The date the juvenile court determines not to transfer 1664
the case under section 2152.12 of the Revised Code. 1665

After a written notice is filed under division (A) (4) of 1666
this section, the juvenile court shall serve a copy of the 1667
notice on the child and advise the child of the prosecuting 1668
attorney's intent to seek a serious youthful offender 1669

dispositional sentence in the case. 1670

(B) If an alleged delinquent child is not indicted or 1671
charged by information as described in division (A)(1) or (2) of 1672
this section and if a notice or complaint as described in 1673
division (A)(3) or (4) of this section indicates that the 1674
prosecuting attorney intends to pursue a serious youthful 1675
offender dispositional sentence in the case, the juvenile court 1676
shall hold a preliminary hearing to determine if there is 1677
probable cause that the child committed the act charged and is 1678
by age eligible for, or required to receive, a serious youthful 1679
offender dispositional sentence. 1680

(C) (1) A child for whom a serious youthful offender 1681
dispositional sentence is sought by a prosecuting attorney has 1682
the right to a grand jury determination of probable cause that 1683
the child committed the act charged and that the child is 1684
eligible by age for a serious youthful offender dispositional 1685
sentence. The grand jury may be impaneled by the court of common 1686
pleas or the juvenile court. 1687

Once a child is indicted, or charged by information or the 1688
juvenile court determines that the child is eligible for a 1689
serious youthful offender dispositional sentence, the child is 1690
entitled to an open and speedy trial by jury in juvenile court 1691
and to be provided with a transcript of the proceedings. The 1692
time within which the trial is to be held under Title XXIX of 1693
the Revised Code commences on whichever of the following dates 1694
is applicable: 1695

(a) If the child is indicted or charged by information, on 1696
the date of the filing of the indictment or information. 1697

(b) If the child is charged by an original complaint that 1698

requests a serious youthful offender dispositional sentence, on 1699
the date of the filing of the complaint. 1700

(c) If the child is not charged by an original complaint 1701
that requests a serious youthful offender dispositional 1702
sentence, on the date that the prosecuting attorney files the 1703
written notice of intent to seek a serious youthful offender 1704
dispositional sentence. 1705

(2) If the child is detained awaiting adjudication, upon 1706
indictment or being charged by information, the child has the 1707
same right to bail as an adult charged with the offense the 1708
alleged delinquent act would be if committed by an adult. Except 1709
as provided in division (D) of section 2152.14 of the Revised 1710
Code, all provisions of Title XXIX of the Revised Code and the 1711
Criminal Rules shall apply in the case and to the child. The 1712
juvenile court shall afford the child all rights afforded a 1713
person who is prosecuted for committing a crime including the 1714
right to counsel and the right to raise the issue of competency. 1715
The child may not waive the right to counsel. 1716

(D) (1) If a child is adjudicated a delinquent child for 1717
committing an act under circumstances that require the juvenile 1718
court to impose upon the child a serious youthful offender 1719
dispositional sentence under section 2152.11 of the Revised 1720
Code, all of the following apply: 1721

(a) The juvenile court shall impose upon the child a 1722
sentence available for the violation, as if the child were an 1723
adult, under Chapter 2929. of the Revised Code, except that the 1724
juvenile court shall not impose on the child a sentence of ~~death~~ 1725
~~or~~ life imprisonment without parole. 1726

(b) The juvenile court also shall impose upon the child 1727

one or more traditional juvenile dispositions under sections 1728
2152.16, 2152.19, and 2152.20, and, if applicable, section 1729
2152.17 of the Revised Code. 1730

(c) The juvenile court shall stay the adult portion of the 1731
serious youthful offender dispositional sentence pending the 1732
successful completion of the traditional juvenile dispositions 1733
imposed. 1734

(2) (a) If a child is adjudicated a delinquent child for 1735
committing an act under circumstances that allow, but do not 1736
require, the juvenile court to impose on the child a serious 1737
youthful offender dispositional sentence under section 2152.11 1738
of the Revised Code, all of the following apply: 1739

(i) If the juvenile court on the record makes a finding 1740
that, given the nature and circumstances of the violation and 1741
the history of the child, the length of time, level of security, 1742
and types of programming and resources available in the juvenile 1743
system alone are not adequate to provide the juvenile court with 1744
a reasonable expectation that the purposes set forth in section 1745
2152.01 of the Revised Code will be met, the juvenile court may 1746
impose upon the child a sentence available for the violation, as 1747
if the child were an adult, under Chapter 2929. of the Revised 1748
Code, except that the juvenile court shall not impose on the 1749
child a sentence of ~~death or~~ life imprisonment without parole. 1750

(ii) If a sentence is imposed under division (D) (2) (a) (i) 1751
of this section, the juvenile court also shall impose upon the 1752
child one or more traditional juvenile dispositions under 1753
sections 2152.16, 2152.19, and 2152.20 and, if applicable, 1754
section 2152.17 of the Revised Code. 1755

(iii) The juvenile court shall stay the adult portion of 1756

the serious youthful offender dispositional sentence pending the 1757
successful completion of the traditional juvenile dispositions 1758
imposed. 1759

(b) If the juvenile court does not find that a sentence 1760
should be imposed under division (D)(2)(a)(i) of this section, 1761
the juvenile court may impose one or more traditional juvenile 1762
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 1763
applicable, section 2152.17 of the Revised Code. 1764

(3) A child upon whom a serious youthful offender 1765
dispositional sentence is imposed under division (D)(1) or (2) 1766
of this section has a right to appeal under division (A)(1), 1767
(3), (4), or (5) of section 2953.08 of the Revised Code the 1768
adult portion of the serious youthful offender dispositional 1769
sentence when any of those divisions apply. The child may appeal 1770
the adult portion, and the court shall consider the appeal as if 1771
the adult portion were not stayed. 1772

Sec. 2152.67. Any adult who is arrested or charged under 1773
any provision in this chapter and who is charged with a crime 1774
may demand a trial by jury, or the juvenile judge upon the 1775
judge's own motion may call a jury. A demand for a jury trial 1776
shall be made in writing in not less than three days before the 1777
date set for trial, or within three days after counsel has been 1778
retained, whichever is later. Sections 2945.17 and 2945.23 to 1779
2945.36 of the Revised Code, relating to the drawing and 1780
impaneling of jurors in criminal cases in the court of common 1781
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 1782
under this section. The compensation of jurors and costs of the 1783
clerk and sheriff shall be taxed and paid in the same manner as 1784
in criminal cases in the court of common pleas. 1785

Sec. 2301.20. All civil and criminal actions in the court 1786

of common pleas shall be recorded. The reporter shall take 1787
accurate notes of or electronically record the oral testimony. 1788
The notes and electronic records shall be filed in the office of 1789
the official reporter and carefully preserved for ~~either of the~~ 1790
~~following periods of time:~~ 1791

~~(A) If the action is not a capital case, the notes and~~ 1792
~~electronic records shall be preserved for the period of time~~ 1793
specified by the court of common pleas, which period of time 1794
shall not be longer than the period of time that the other 1795
records of the particular action are required to be kept. 1796

~~(B) If the action is a capital case, the notes and~~ 1797
~~electronic records shall be preserved for the longer of ten~~ 1798
~~years or until the final disposition of the action and~~ 1799
~~exhaustion of all appeals.~~ 1800

Sec. 2307.60. (A) (1) Anyone injured in person or property 1801
by a criminal act has, and may recover full damages in, a civil 1802
action unless specifically excepted by law, may recover the 1803
costs of maintaining the civil action and attorney's fees if 1804
authorized by any provision of the Rules of Civil Procedure or 1805
another section of the Revised Code or under the common law of 1806
this state, and may recover punitive or exemplary damages if 1807
authorized by section 2315.21 or another section of the Revised 1808
Code. 1809

(2) A final judgment of a trial court that has not been 1810
reversed on appeal or otherwise set aside, nullified, or 1811
vacated, entered after a trial or upon a plea of guilty, but not 1812
upon a plea of no contest or the equivalent plea from another 1813
jurisdiction, that adjudges an offender guilty of an offense of 1814
violence punishable by ~~death or~~ imprisonment in excess of one 1815
year, when entered as evidence in any subsequent civil 1816

proceeding based on the criminal act, shall preclude the 1817
offender from denying in the subsequent civil proceeding any 1818
fact essential to sustaining that judgment, unless the offender 1819
can demonstrate that extraordinary circumstances prevented the 1820
offender from having a full and fair opportunity to litigate the 1821
issue in the criminal proceeding or other extraordinary 1822
circumstances justify affording the offender an opportunity to 1823
relitigate the issue. The offender may introduce evidence of the 1824
offender's pending appeal of the final judgment of the trial 1825
court, if applicable, and the court may consider that evidence 1826
in determining the liability of the offender. 1827

(B) (1) As used in division (B) of this section: 1828

(a) "Tort action" means a civil action for damages for 1829
injury, death, or loss to person or property other than a civil 1830
action for damages for a breach of contract or another agreement 1831
between persons. "Tort action" includes, but is not limited to, 1832
a product liability claim, as defined in section 2307.71 of the 1833
Revised Code, and an asbestos claim, as defined in section 1834
2307.91 of the Revised Code, an action for wrongful death under 1835
Chapter 2125. of the Revised Code, and an action based on 1836
derivative claims for relief. 1837

(b) "Residence" has the same meaning as in section 2901.05 1838
of the Revised Code. 1839

(2) Recovery on a claim for relief in a tort action is 1840
barred to any person or the person's legal representative if any 1841
of the following apply: 1842

(a) The person has been convicted of or has pleaded guilty 1843
to a felony, or to a misdemeanor that is an offense of violence, 1844
arising out of criminal conduct that was a proximate cause of 1845

the injury or loss for which relief is claimed in the tort 1846
action. 1847

(b) The person engaged in conduct that, if prosecuted, 1848
would constitute a felony, a misdemeanor that is an offense of 1849
violence, an attempt to commit a felony, or an attempt to commit 1850
a misdemeanor that is an offense of violence and that conduct 1851
was a proximate cause of the injury or loss for which relief is 1852
claimed in the tort action, regardless of whether the person has 1853
been convicted of or pleaded guilty to or has been charged with 1854
committing the felony, the misdemeanor, or the attempt to commit 1855
the felony or misdemeanor. 1856

(c) The person suffered the injury or loss for which 1857
relief is claimed in the tort action as a proximate result of 1858
the victim of conduct that, if prosecuted, would constitute a 1859
felony, a misdemeanor that is an offense of violence, an attempt 1860
to commit a felony, or an attempt to commit a misdemeanor that 1861
is an offense of violence acting against the person in self- 1862
defense, defense of another, or defense of the victim's 1863
residence, regardless of whether the person has been convicted 1864
of or pleaded guilty to or has been charged with committing the 1865
felony, the misdemeanor, or the attempt to commit the felony or 1866
misdemeanor. Division (B) (2) (c) of this section does not apply 1867
if the person who suffered the injury or loss, at the time of 1868
the victim's act of self-defense, defense of another, or defense 1869
of residence, was an innocent bystander who had no connection 1870
with the underlying conduct that prompted the victim's exercise 1871
of self-defense, defense of another, or defense of residence. 1872

(3) Recovery against a victim of conduct that, if 1873
prosecuted, would constitute a felony, a misdemeanor that is an 1874
offense of violence, an attempt to commit a felony, or an 1875

attempt to commit a misdemeanor that is an offense of violence, 1876
on a claim for relief in a tort action is barred to any person 1877
or the person's legal representative if conduct the person 1878
engaged in against that victim was a proximate cause of the 1879
injury or loss for which relief is claimed in the tort action 1880
and that conduct, if prosecuted, would constitute a felony, a 1881
misdemeanor that is an offense of violence, an attempt to commit 1882
a felony, or an attempt to commit a misdemeanor that is an 1883
offense of violence, regardless of whether the person has been 1884
convicted of or pleaded guilty to or has been charged with 1885
committing the felony, the misdemeanor, or the attempt to commit 1886
the felony or misdemeanor. 1887

(4) Divisions (B)(1) to (3) of this section do not apply 1888
to civil claims based upon alleged intentionally tortious 1889
conduct, alleged violations of the United States Constitution, 1890
or alleged violations of statutes of the United States 1891
pertaining to civil rights. For purposes of division (B)(4) of 1892
this section, a person's act of self-defense, defense of 1893
another, or defense of the person's residence does not 1894
constitute intentionally tortious conduct. 1895

Sec. 2701.07. When, in the opinion of the court, the 1896
business thereof so requires, each court of common pleas, court 1897
of appeals, and, in counties having at the last or any future 1898
federal census more than seventy thousand inhabitants, the 1899
probate court, may appoint one or more constables to preserve 1900
order, attend the assignment of cases in counties where more 1901
than two judges of the court of common pleas regularly hold 1902
court at the same time, and discharge such other duties as the 1903
court requires. When so directed by the court, each constable 1904
has the same powers as sheriffs to call and impanel jurors, ~~—~~ 1905
~~except in capital cases.~~ 1906

| | |
|---|--|
| Sec. 2901.02. As used in the Revised Code: | 1907 |
| (A) Offenses include aggravated murder, murder, felonies of the first, second, third, fourth, and fifth degree, misdemeanors of the first, second, third, and fourth degree, minor misdemeanors, and offenses not specifically classified. | 1908 1909 1910 1911 |
| (B) Aggravated murder when the indictment or the count in the indictment charging aggravated murder contains one or more specifications of aggravating circumstances listed in division (A) of section 2929.04 of Revised Code, and any other offense for which death may be imposed as a penalty, is a capital offense. | 1912 1913 1914 1915 1916 1917 |
| (C) Aggravated murder and murder are felonies. | 1918 |
| (D) (C) Regardless of the penalty that may be imposed, any offense specifically classified as a felony is a felony, and any offense specifically classified as a misdemeanor is a misdemeanor. | 1919 1920 1921 1922 |
| (E) (D) Any offense not specifically classified is a felony if imprisonment for more than one year may be imposed as a penalty. | 1923 1924 1925 |
| (F) (E) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty. | 1926 1927 1928 |
| (G) (F) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following: | 1929 1930 1931 |
| (1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars; | 1932 1933 |
| (2) For an offense committed on or after January 1, 2004, | 1934 |

a fine not exceeding one hundred fifty dollars, community 1935
service under division (D) of section 2929.27 of the Revised 1936
Code, or a financial sanction other than a fine under section 1937
2929.28 of the Revised Code. 1938

Sec. 2909.24. (A) No person shall commit a specified 1939
offense with purpose to do any of the following: 1940

(1) Intimidate or coerce a civilian population; 1941

(2) Influence the policy of any government by intimidation 1942
or coercion; 1943

(3) Affect the conduct of any government by the specified 1944
offense. 1945

(B) (1) Whoever violates this section is guilty of 1946
terrorism. 1947

(2) Except as otherwise provided in divisions (B) (3) and 1948
(4) of this section, terrorism is an offense one degree higher 1949
than the most serious underlying specified offense the defendant 1950
committed. 1951

(3) If the most serious underlying specified offense the 1952
defendant committed is a felony of the first degree or murder, 1953
the person shall be sentenced to life imprisonment without 1954
parole. 1955

(4) If the most serious underlying specified offense the 1956
defendant committed is aggravated murder, the offender shall be 1957
sentenced to life imprisonment without parole ~~or death pursuant~~ 1958
~~to sections 2929.02 to 2929.06 of the Revised Code.~~ 1959

(5) Section 2909.25 of the Revised Code applies regarding 1960
an offender who is convicted of or pleads guilty to a violation 1961
of this section. 1962

Sec. 2929.02. (A) ~~Whoever~~ Except as otherwise provided in 1963
division (C) of this section, whoever is convicted of or pleads 1964
guilty to aggravated murder in violation of section 2903.01 of 1965
the Revised Code shall ~~suffer death or be imprisoned for life,~~ 1966
~~as determined pursuant to sections 2929.022, 2929.03, and~~ 1967
~~2929.04 of the Revised Code, except that no person who raises~~ 1968
~~the matter of age pursuant to section 2929.023 of the Revised~~ 1969
~~Code and who is not found to have been eighteen years of age or~~ 1970
~~older at the time of the commission of the offense shall suffer~~ 1971
~~death. In addition, the offender may be fined an amount fixed by~~ 1972
~~the court, but not more than twenty-five thousand dollars~~ 1973
sentenced to life imprisonment with parole eligibility after 1974
serving twenty years of imprisonment, life imprisonment with 1975
parole eligibility after serving twenty-five full years of 1976
imprisonment, life imprisonment with parole eligibility after 1977
serving thirty full years of imprisonment, or life imprisonment 1978
without parole. 1979

(B) ~~(1)~~ Except as otherwise provided in division ~~(B) (2) or~~ 1980
~~(3)~~ (C) of this section, whoever is convicted of or pleads 1981
guilty to murder in violation of section 2903.02 of the Revised 1982
Code shall be imprisoned for an indefinite term of fifteen years 1983
to life. 1984

~~(2)~~ (C) (1) Except as otherwise provided in division ~~(B) (3)~~ 1985
(C) (2) of this section, if a person is convicted of or pleads 1986
guilty to aggravated murder in violation of section 2903.01 of 1987
the Revised Code or to murder in violation of section 2903.02 of 1988
the Revised Code, the victim of the offense was less than 1989
thirteen years of age, and the offender also is convicted of or 1990
pleads guilty to a sexual motivation specification that was 1991
included in the indictment, count in the indictment, or 1992
information charging the offense, the court shall impose an 1993

indefinite prison term of thirty years to life pursuant to 1994
division (B) (3) of section 2971.03 of the Revised Code. 1995

~~(3)~~ (2) If a person is convicted of or pleads guilty to 1996
aggravated murder in violation of section 2903.01 of the Revised 1997
Code or to murder in violation of section 2903.02 of the Revised 1998
Code and also is convicted of or pleads guilty to a sexual 1999
motivation specification and a sexually violent predator 2000
specification that were included in the indictment, count in the 2001
indictment, or information that charged the murder, the court 2002
shall impose upon the offender a term of life imprisonment 2003
without parole that shall be served pursuant to section 2971.03 2004
of the Revised Code. 2005

~~(4)~~ (D) In addition to the prison term imposed under this 2006
section, the offender may be fined an amount fixed by the court, 2007
but not more than twenty-five thousand dollars for aggravated 2008
murder or fifteen thousand dollars for murder. 2009

~~(C)~~ (E) The court shall not impose a fine or fines for 2010
aggravated murder or murder ~~which that~~, in the aggregate and to 2011
the extent not suspended by the court, exceeds the amount ~~which~~ 2012
that the offender is or will be able to pay by the method and 2013
within the time allowed without undue hardship to the offender 2014
or to the dependents of the offender, or will prevent the 2015
offender from making reparation for the victim's wrongful death. 2016

~~(D)~~ (F) (1) In addition to any other sanctions imposed for a 2017
violation of section 2903.01 or 2903.02 of the Revised Code, if 2018
the offender used a motor vehicle as the means to commit the 2019
violation, the court shall impose upon the offender a class two 2020
suspension of the offender's driver's license, commercial 2021
driver's license, temporary instruction permit, probationary 2022
license, or nonresident operating privilege as specified in 2023

division (A) (2) of section 4510.02 of the Revised Code. 2024

(2) As used in division ~~(D)~~ (F) of this section, "motor 2025
vehicle" has the same meaning as in section 4501.01 of the 2026
Revised Code. 2027

(G) Capital punishment is hereby abolished. A trial court 2028
that sentenced an offender to death prior to the effective date 2029
of this amendment shall conduct a hearing to resentence the 2030
offender. At the resentencing hearing, the court shall impose 2031
upon the offender a sentence of life imprisonment without 2032
parole. 2033

Sec. 2929.13. (A) Except as provided in division (E), (F), 2034
or (G) of this section and unless a specific sanction is 2035
required to be imposed or is precluded from being imposed 2036
pursuant to law, a court that imposes a sentence upon an 2037
offender for a felony may impose any sanction or combination of 2038
sanctions on the offender that are provided in sections 2929.14 2039
to 2929.18 of the Revised Code. 2040

If the offender is eligible to be sentenced to community 2041
control sanctions, the court shall consider the appropriateness 2042
of imposing a financial sanction pursuant to section 2929.18 of 2043
the Revised Code or a sanction of community service pursuant to 2044
section 2929.17 of the Revised Code as the sole sanction for the 2045
offense. Except as otherwise provided in this division, if the 2046
court is required to impose a mandatory prison term for the 2047
offense for which sentence is being imposed, the court also 2048
shall impose any financial sanction pursuant to section 2929.18 2049
of the Revised Code that is required for the offense and may 2050
impose any other financial sanction pursuant to that section but 2051
may not impose any additional sanction or combination of 2052
sanctions under section 2929.16 or 2929.17 of the Revised Code. 2053

If the offender is being sentenced for a fourth degree 2054
felony OVI offense or for a third degree felony OVI offense, in 2055
addition to the mandatory term of local incarceration or the 2056
mandatory prison term required for the offense by division (G) 2057
(1) or (2) of this section, the court shall impose upon the 2058
offender a mandatory fine in accordance with division (B) (3) of 2059
section 2929.18 of the Revised Code and may impose whichever of 2060
the following is applicable: 2061

(1) For a fourth degree felony OVI offense for which 2062
sentence is imposed under division (G) (1) of this section, an 2063
additional community control sanction or combination of 2064
community control sanctions under section 2929.16 or 2929.17 of 2065
the Revised Code. If the court imposes upon the offender a 2066
community control sanction and the offender violates any 2067
condition of the community control sanction, the court may take 2068
any action prescribed in division (B) of section 2929.15 of the 2069
Revised Code relative to the offender, including imposing a 2070
prison term on the offender pursuant to that division. 2071

(2) For a third or fourth degree felony OVI offense for 2072
which sentence is imposed under division (G) (2) of this section, 2073
an additional prison term as described in division (B) (4) of 2074
section 2929.14 of the Revised Code or a community control 2075
sanction as described in division (G) (2) of this section. 2076

(B) (1) (a) Except as provided in division (B) (1) (b) of this 2077
section, if an offender is convicted of or pleads guilty to a 2078
felony of the fourth or fifth degree that is not an offense of 2079
violence or that is a qualifying assault offense, the court 2080
shall sentence the offender to a community control sanction of 2081
at least one year's duration if all of the following apply: 2082

(i) The offender previously has not been convicted of or 2083

pleaded guilty to a felony offense. 2084

(ii) The most serious charge against the offender at the 2085
time of sentencing is a felony of the fourth or fifth degree. 2086

(iii) If the court made a request of the department of 2087
rehabilitation and correction pursuant to division (B)(1)(c) of 2088
this section, the department, within the forty-five-day period 2089
specified in that division, provided the court with the names 2090
of, contact information for, and program details of one or more 2091
community control sanctions of at least one year's duration that 2092
are available for persons sentenced by the court. 2093

(iv) The offender previously has not been convicted of or 2094
pleaded guilty to a misdemeanor offense of violence that the 2095
offender committed within two years prior to the offense for 2096
which sentence is being imposed. 2097

(b) The court has discretion to impose a prison term upon 2098
an offender who is convicted of or pleads guilty to a felony of 2099
the fourth or fifth degree that is not an offense of violence or 2100
that is a qualifying assault offense if any of the following 2101
apply: 2102

(i) The offender committed the offense while having a 2103
firearm on or about the offender's person or under the 2104
offender's control. 2105

(ii) If the offense is a qualifying assault offense, the 2106
offender caused serious physical harm to another person while 2107
committing the offense, and, if the offense is not a qualifying 2108
assault offense, the offender caused physical harm to another 2109
person while committing the offense. 2110

(iii) The offender violated a term of the conditions of 2111
bond as set by the court. 2112

(iv) The court made a request of the department of 2113
rehabilitation and correction pursuant to division (B)(1)(c) of 2114
this section, and the department, within the forty-five-day 2115
period specified in that division, did not provide the court 2116
with the name of, contact information for, and program details 2117
of any community control sanction of at least one year's 2118
duration that is available for persons sentenced by the court. 2119

(v) The offense is a sex offense that is a fourth or fifth 2120
degree felony violation of any provision of Chapter 2907. of the 2121
Revised Code. 2122

(vi) In committing the offense, the offender attempted to 2123
cause or made an actual threat of physical harm to a person with 2124
a deadly weapon. 2125

(vii) In committing the offense, the offender attempted to 2126
cause or made an actual threat of physical harm to a person, and 2127
the offender previously was convicted of an offense that caused 2128
physical harm to a person. 2129

(viii) The offender held a public office or position of 2130
trust, and the offense related to that office or position; the 2131
offender's position obliged the offender to prevent the offense 2132
or to bring those committing it to justice; or the offender's 2133
professional reputation or position facilitated the offense or 2134
was likely to influence the future conduct of others. 2135

(ix) The offender committed the offense for hire or as 2136
part of an organized criminal activity. 2137

(x) The offender at the time of the offense was serving, 2138
or the offender previously had served, a prison term. 2139

(xi) The offender committed the offense while under a 2140
community control sanction, while on probation, or while 2141

released from custody on a bond or personal recognizance. 2142

(c) If a court that is sentencing an offender who is 2143
convicted of or pleads guilty to a felony of the fourth or fifth 2144
degree that is not an offense of violence or that is a 2145
qualifying assault offense believes that no community control 2146
sanctions are available for its use that, if imposed on the 2147
offender, will adequately fulfill the overriding principles and 2148
purposes of sentencing, the court shall contact the department 2149
of rehabilitation and correction and ask the department to 2150
provide the court with the names of, contact information for, 2151
and program details of one or more community control sanctions 2152
of at least one year's duration that are available for persons 2153
sentenced by the court. Not later than forty-five days after 2154
receipt of a request from a court under this division, the 2155
department shall provide the court with the names of, contact 2156
information for, and program details of one or more community 2157
control sanctions of at least one year's duration that are 2158
available for persons sentenced by the court, if any. Upon 2159
making a request under this division that relates to a 2160
particular offender, a court shall defer sentencing of that 2161
offender until it receives from the department the names of, 2162
contact information for, and program details of one or more 2163
community control sanctions of at least one year's duration that 2164
are available for persons sentenced by the court or for forty- 2165
five days, whichever is the earlier. 2166

If the department provides the court with the names of, 2167
contact information for, and program details of one or more 2168
community control sanctions of at least one year's duration that 2169
are available for persons sentenced by the court within the 2170
forty-five-day period specified in this division, the court 2171
shall impose upon the offender a community control sanction 2172

under division (B) (1) (a) of this section, except that the court 2173
may impose a prison term under division (B) (1) (b) of this 2174
section if a factor described in division (B) (1) (b) (i) or (ii) 2175
of this section applies. If the department does not provide the 2176
court with the names of, contact information for, and program 2177
details of one or more community control sanctions of at least 2178
one year's duration that are available for persons sentenced by 2179
the court within the forty-five-day period specified in this 2180
division, the court may impose upon the offender a prison term 2181
under division (B) (1) (b) (iv) of this section. 2182

(d) A sentencing court may impose an additional penalty 2183
under division (B) of section 2929.15 of the Revised Code upon 2184
an offender sentenced to a community control sanction under 2185
division (B) (1) (a) of this section if the offender violates the 2186
conditions of the community control sanction, violates a law, or 2187
leaves the state without the permission of the court or the 2188
offender's probation officer. 2189

(2) If division (B) (1) of this section does not apply, 2190
except as provided in division (E), (F), or (G) of this section, 2191
in determining whether to impose a prison term as a sanction for 2192
a felony of the fourth or fifth degree, the sentencing court 2193
shall comply with the purposes and principles of sentencing 2194
under section 2929.11 of the Revised Code and with section 2195
2929.12 of the Revised Code. 2196

(C) Except as provided in division (D), (E), (F), or (G) 2197
of this section, in determining whether to impose a prison term 2198
as a sanction for a felony of the third degree or a felony drug 2199
offense that is a violation of a provision of Chapter 2925. of 2200
the Revised Code and that is specified as being subject to this 2201
division for purposes of sentencing, the sentencing court shall 2202

comply with the purposes and principles of sentencing under 2203
section 2929.11 of the Revised Code and with section 2929.12 of 2204
the Revised Code. 2205

(D) (1) Except as provided in division (E) or (F) of this 2206
section, for a felony of the first or second degree, for a 2207
felony drug offense that is a violation of any provision of 2208
Chapter 2925., 3719., or 4729. of the Revised Code for which a 2209
presumption in favor of a prison term is specified as being 2210
applicable, and for a violation of division (A) (4) or (B) of 2211
section 2907.05 of the Revised Code for which a presumption in 2212
favor of a prison term is specified as being applicable, it is 2213
presumed that a prison term is necessary in order to comply with 2214
the purposes and principles of sentencing under section 2929.11 2215
of the Revised Code. Division (D) (2) of this section does not 2216
apply to a presumption established under this division for a 2217
violation of division (A) (4) of section 2907.05 of the Revised 2218
Code. 2219

(2) Notwithstanding the presumption established under 2220
division (D) (1) of this section for the offenses listed in that 2221
division other than a violation of division (A) (4) or (B) of 2222
section 2907.05 of the Revised Code, the sentencing court may 2223
impose a community control sanction or a combination of 2224
community control sanctions instead of a prison term on an 2225
offender for a felony of the first or second degree or for a 2226
felony drug offense that is a violation of any provision of 2227
Chapter 2925., 3719., or 4729. of the Revised Code for which a 2228
presumption in favor of a prison term is specified as being 2229
applicable if it makes both of the following findings: 2230

(a) A community control sanction or a combination of 2231
community control sanctions would adequately punish the offender 2232

and protect the public from future crime, because the applicable 2233
factors under section 2929.12 of the Revised Code indicating a 2234
lesser likelihood of recidivism outweigh the applicable factors 2235
under that section indicating a greater likelihood of 2236
recidivism. 2237

(b) A community control sanction or a combination of 2238
community control sanctions would not demean the seriousness of 2239
the offense, because one or more factors under section 2929.12 2240
of the Revised Code that indicate that the offender's conduct 2241
was less serious than conduct normally constituting the offense 2242
are applicable, and they outweigh the applicable factors under 2243
that section that indicate that the offender's conduct was more 2244
serious than conduct normally constituting the offense. 2245

(E) (1) Except as provided in division (F) of this section, 2246
for any drug offense that is a violation of any provision of 2247
Chapter 2925. of the Revised Code and that is a felony of the 2248
third, fourth, or fifth degree, the applicability of a 2249
presumption under division (D) of this section in favor of a 2250
prison term or of division (B) or (C) of this section in 2251
determining whether to impose a prison term for the offense 2252
shall be determined as specified in section 2925.02, 2925.03, 2253
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2254
2925.36, or 2925.37 of the Revised Code, whichever is applicable 2255
regarding the violation. 2256

(2) If an offender who was convicted of or pleaded guilty 2257
to a felony violates the conditions of a community control 2258
sanction imposed for the offense solely by reason of producing 2259
positive results on a drug test, the court, as punishment for 2260
the violation of the sanction, shall not order that the offender 2261
be imprisoned unless the court determines on the record either 2262

of the following: 2263

(a) The offender had been ordered as a sanction for the 2264
felony to participate in a drug treatment program, in a drug 2265
education program, or in narcotics anonymous or a similar 2266
program, and the offender continued to use illegal drugs after a 2267
reasonable period of participation in the program. 2268

(b) The imprisonment of the offender for the violation is 2269
consistent with the purposes and principles of sentencing set 2270
forth in section 2929.11 of the Revised Code. 2271

(3) A court that sentences an offender for a drug abuse 2272
offense that is a felony of the third, fourth, or fifth degree 2273
may require that the offender be assessed by a properly 2274
credentialed professional within a specified period of time. The 2275
court shall require the professional to file a written 2276
assessment of the offender with the court. If the offender is 2277
eligible for a community control sanction and after considering 2278
the written assessment, the court may impose a community control 2279
sanction that includes treatment and recovery support services 2280
authorized by section 3793.02 of the Revised Code. If the court 2281
imposes treatment and recovery support services as a community 2282
control sanction, the court shall direct the level and type of 2283
treatment and recovery support services after considering the 2284
assessment and recommendation of treatment and recovery support 2285
services providers. 2286

(F) Notwithstanding divisions (A) to (E) of this section, 2287
the court shall impose a prison term or terms under ~~sections~~ 2288
section 2929.02 to 2929.06, section 2929.14, section 2929.142, 2289
or ~~section~~ 2971.03 of the Revised Code and except as 2290
specifically provided in section 2929.20, divisions (C) to (I) 2291
of section 2967.19, or section 2967.191 of the Revised Code or 2292

when parole is authorized for the offense under section 2967.13 2293
of the Revised Code shall not reduce the term or terms pursuant 2294
to section 2929.20, section 2967.19, section 2967.193, or any 2295
other provision of Chapter 2967. or Chapter 5120. of the Revised 2296
Code for any of the following offenses: 2297

(1) Aggravated murder ~~when death is not imposed~~ or murder; 2298

(2) Any rape, regardless of whether force was involved and 2299
regardless of the age of the victim, or an attempt to commit 2300
rape if, had the offender completed the rape that was attempted, 2301
the offender would have been guilty of a violation of division 2302
(A) (1) (b) of section 2907.02 of the Revised Code and would be 2303
sentenced under section 2971.03 of the Revised Code; 2304

(3) Gross sexual imposition or sexual battery, if the 2305
victim is less than thirteen years of age and if any of the 2306
following applies: 2307

(a) Regarding gross sexual imposition, the offender 2308
previously was convicted of or pleaded guilty to rape, the 2309
former offense of felonious sexual penetration, gross sexual 2310
imposition, or sexual battery, and the victim of the previous 2311
offense was less than thirteen years of age; 2312

(b) Regarding gross sexual imposition, the offense was 2313
committed on or after August 3, 2006, and evidence other than 2314
the testimony of the victim was admitted in the case 2315
corroborating the violation. 2316

(c) Regarding sexual battery, either of the following 2317
applies: 2318

(i) The offense was committed prior to August 3, 2006, the 2319
offender previously was convicted of or pleaded guilty to rape, 2320
the former offense of felonious sexual penetration, or sexual 2321

battery, and the victim of the previous offense was less than 2322
thirteen years of age. 2323

(ii) The offense was committed on or after August 3, 2006. 2324

(4) A felony violation of section 2903.04, 2903.06, 2325
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, or 2907.07 of the 2326
Revised Code if the section requires the imposition of a prison 2327
term; 2328

(5) A first, second, or third degree felony drug offense 2329
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2330
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 2331
or 4729.99 of the Revised Code, whichever is applicable 2332
regarding the violation, requires the imposition of a mandatory 2333
prison term; 2334

(6) Any offense that is a first or second degree felony 2335
and that is not set forth in division (F) (1), (2), (3), or (4) 2336
of this section, if the offender previously was convicted of or 2337
pleaded guilty to aggravated murder, murder, any first or second 2338
degree felony, or an offense under an existing or former law of 2339
this state, another state, or the United States that is or was 2340
substantially equivalent to one of those offenses; 2341

(7) Any offense that is a third degree felony and either 2342
is a violation of section 2903.04 of the Revised Code or an 2343
attempt to commit a felony of the second degree that is an 2344
offense of violence and involved an attempt to cause serious 2345
physical harm to a person or that resulted in serious physical 2346
harm to a person if the offender previously was convicted of or 2347
pleaded guilty to any of the following offenses: 2348

(a) Aggravated murder, murder, involuntary manslaughter, 2349
rape, felonious sexual penetration as it existed under section 2350

2907.12 of the Revised Code prior to September 3, 1996, a felony 2351
of the first or second degree that resulted in the death of a 2352
person or in physical harm to a person, or complicity in or an 2353
attempt to commit any of those offenses; 2354

(b) An offense under an existing or former law of this 2355
state, another state, or the United States that is or was 2356
substantially equivalent to an offense listed in division (F) (7) 2357
(a) of this section that resulted in the death of a person or in 2358
physical harm to a person. 2359

(8) Any offense, other than a violation of section 2923.12 2360
of the Revised Code, that is a felony, if the offender had a 2361
firearm on or about the offender's person or under the 2362
offender's control while committing the felony, with respect to 2363
a portion of the sentence imposed pursuant to division (B) (1) (a) 2364
of section 2929.14 of the Revised Code for having the firearm; 2365

(9) Any offense of violence that is a felony, if the 2366
offender wore or carried body armor while committing the felony 2367
offense of violence, with respect to the portion of the sentence 2368
imposed pursuant to division (B) (1) (d) of section 2929.14 of the 2369
Revised Code for wearing or carrying the body armor; 2370

(10) Corrupt activity in violation of section 2923.32 of 2371
the Revised Code when the most serious offense in the pattern of 2372
corrupt activity that is the basis of the offense is a felony of 2373
the first degree; 2374

(11) Any violent sex offense or designated homicide, 2375
assault, or kidnapping offense if, in relation to that offense, 2376
the offender is adjudicated a sexually violent predator; 2377

(12) A violation of division (A) (1) or (2) of section 2378
2921.36 of the Revised Code, or a violation of division (C) of 2379

that section involving an item listed in division (A) (1) or (2) 2380
of that section, if the offender is an officer or employee of 2381
the department of rehabilitation and correction; 2382

(13) A violation of division (A) (1) or (2) of section 2383
2903.06 of the Revised Code if the victim of the offense is a 2384
peace officer, as defined in section 2935.01 of the Revised 2385
Code, or an investigator of the bureau of criminal 2386
identification and investigation, as defined in section 2903.11 2387
of the Revised Code, with respect to the portion of the sentence 2388
imposed pursuant to division (B) (5) of section 2929.14 of the 2389
Revised Code; 2390

(14) A violation of division (A) (1) or (2) of section 2391
2903.06 of the Revised Code if the offender has been convicted 2392
of or pleaded guilty to three or more violations of division (A) 2393
or (B) of section 4511.19 of the Revised Code or an equivalent 2394
offense, as defined in section 2941.1415 of the Revised Code, or 2395
three or more violations of any combination of those divisions 2396
and offenses, with respect to the portion of the sentence 2397
imposed pursuant to division (B) (6) of section 2929.14 of the 2398
Revised Code; 2399

(15) Kidnapping, in the circumstances specified in section 2400
2971.03 of the Revised Code and when no other provision of 2401
division (F) of this section applies; 2402

(16) Kidnapping, abduction, compelling prostitution, 2403
promoting prostitution, engaging in a pattern of corrupt 2404
activity, illegal use of a minor in a nudity-oriented material 2405
or performance in violation of division (A) (1) or (2) of section 2406
2907.323 of the Revised Code, or endangering children in 2407
violation of division (B) (1), (2), (3), (4), or (5) of section 2408
2919.22 of the Revised Code, if the offender is convicted of or 2409

pleads guilty to a specification as described in section 2410
2941.1422 of the Revised Code that was included in the 2411
indictment, count in the indictment, or information charging the 2412
offense; 2413

(17) A felony violation of division (A) or (B) of section 2414
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 2415
that section, and division (D) (6) of that section, require the 2416
imposition of a prison term; 2417

(18) A felony violation of section 2903.11, 2903.12, or 2418
2903.13 of the Revised Code, if the victim of the offense was a 2419
woman that the offender knew was pregnant at the time of the 2420
violation, with respect to a portion of the sentence imposed 2421
pursuant to division (B) (8) of section 2929.14 of the Revised 2422
Code. 2423

(G) Notwithstanding divisions (A) to (E) of this section, 2424
if an offender is being sentenced for a fourth degree felony OVI 2425
offense or for a third degree felony OVI offense, the court 2426
shall impose upon the offender a mandatory term of local 2427
incarceration or a mandatory prison term in accordance with the 2428
following: 2429

(1) If the offender is being sentenced for a fourth degree 2430
felony OVI offense and if the offender has not been convicted of 2431
and has not pleaded guilty to a specification of the type 2432
described in section 2941.1413 of the Revised Code, the court 2433
may impose upon the offender a mandatory term of local 2434
incarceration of sixty days or one hundred twenty days as 2435
specified in division (G) (1) (d) of section 4511.19 of the 2436
Revised Code. The court shall not reduce the term pursuant to 2437
section 2929.20, 2967.193, or any other provision of the Revised 2438
Code. The court that imposes a mandatory term of local 2439

incarceration under this division shall specify whether the term 2440
is to be served in a jail, a community-based correctional 2441
facility, a halfway house, or an alternative residential 2442
facility, and the offender shall serve the term in the type of 2443
facility specified by the court. A mandatory term of local 2444
incarceration imposed under division (G)(1) of this section is 2445
not subject to any other Revised Code provision that pertains to 2446
a prison term except as provided in division (A)(1) of this 2447
section. 2448

(2) If the offender is being sentenced for a third degree 2449
felony OVI offense, or if the offender is being sentenced for a 2450
fourth degree felony OVI offense and the court does not impose a 2451
mandatory term of local incarceration under division (G)(1) of 2452
this section, the court shall impose upon the offender a 2453
mandatory prison term of one, two, three, four, or five years if 2454
the offender also is convicted of or also pleads guilty to a 2455
specification of the type described in section 2941.1413 of the 2456
Revised Code or shall impose upon the offender a mandatory 2457
prison term of sixty days or one hundred twenty days as 2458
specified in division (G)(1)(d) or (e) of section 4511.19 of the 2459
Revised Code if the offender has not been convicted of and has 2460
not pleaded guilty to a specification of that type. Subject to 2461
divisions (C) to (I) of section 2967.19 of the Revised Code, the 2462
court shall not reduce the term pursuant to section 2929.20, 2463
2967.19, 2967.193, or any other provision of the Revised Code. 2464
The offender shall serve the one-, two-, three-, four-, or five- 2465
year mandatory prison term consecutively to and prior to the 2466
prison term imposed for the underlying offense and consecutively 2467
to any other mandatory prison term imposed in relation to the 2468
offense. In no case shall an offender who once has been 2469
sentenced to a mandatory term of local incarceration pursuant to 2470

division (G) (1) of this section for a fourth degree felony OVI 2471
offense be sentenced to another mandatory term of local 2472
incarceration under that division for any violation of division 2473
(A) of section 4511.19 of the Revised Code. In addition to the 2474
mandatory prison term described in division (G) (2) of this 2475
section, the court may sentence the offender to a community 2476
control sanction under section 2929.16 or 2929.17 of the Revised 2477
Code, but the offender shall serve the prison term prior to 2478
serving the community control sanction. The department of 2479
rehabilitation and correction may place an offender sentenced to 2480
a mandatory prison term under this division in an intensive 2481
program prison established pursuant to section 5120.033 of the 2482
Revised Code if the department gave the sentencing judge prior 2483
notice of its intent to place the offender in an intensive 2484
program prison established under that section and if the judge 2485
did not notify the department that the judge disapproved the 2486
placement. Upon the establishment of the initial intensive 2487
program prison pursuant to section 5120.033 of the Revised Code 2488
that is privately operated and managed by a contractor pursuant 2489
to a contract entered into under section 9.06 of the Revised 2490
Code, both of the following apply: 2491

(a) The department of rehabilitation and correction shall 2492
make a reasonable effort to ensure that a sufficient number of 2493
offenders sentenced to a mandatory prison term under this 2494
division are placed in the privately operated and managed prison 2495
so that the privately operated and managed prison has full 2496
occupancy. 2497

(b) Unless the privately operated and managed prison has 2498
full occupancy, the department of rehabilitation and correction 2499
shall not place any offender sentenced to a mandatory prison 2500
term under this division in any intensive program prison 2501

established pursuant to section 5120.033 of the Revised Code 2502
other than the privately operated and managed prison. 2503

(H) If an offender is being sentenced for a sexually 2504
oriented offense or child-victim oriented offense that is a 2505
felony committed on or after January 1, 1997, the judge shall 2506
require the offender to submit to a DNA specimen collection 2507
procedure pursuant to section 2901.07 of the Revised Code. 2508

(I) If an offender is being sentenced for a sexually 2509
oriented offense or a child-victim oriented offense committed on 2510
or after January 1, 1997, the judge shall include in the 2511
sentence a summary of the offender's duties imposed under 2512
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 2513
Code and the duration of the duties. The judge shall inform the 2514
offender, at the time of sentencing, of those duties and of 2515
their duration. If required under division (A) (2) of section 2516
2950.03 of the Revised Code, the judge shall perform the duties 2517
specified in that section, or, if required under division (A) (6) 2518
of section 2950.03 of the Revised Code, the judge shall perform 2519
the duties specified in that division. 2520

(J) (1) Except as provided in division (J) (2) of this 2521
section, when considering sentencing factors under this section 2522
in relation to an offender who is convicted of or pleads guilty 2523
to an attempt to commit an offense in violation of section 2524
2923.02 of the Revised Code, the sentencing court shall consider 2525
the factors applicable to the felony category of the violation 2526
of section 2923.02 of the Revised Code instead of the factors 2527
applicable to the felony category of the offense attempted. 2528

(2) When considering sentencing factors under this section 2529
in relation to an offender who is convicted of or pleads guilty 2530
to an attempt to commit a drug abuse offense for which the 2531

penalty is determined by the amount or number of unit doses of 2532
the controlled substance involved in the drug abuse offense, the 2533
sentencing court shall consider the factors applicable to the 2534
felony category that the drug abuse offense attempted would be 2535
if that drug abuse offense had been committed and had involved 2536
an amount or number of unit doses of the controlled substance 2537
that is within the next lower range of controlled substance 2538
amounts than was involved in the attempt. 2539

(K) As used in this section: 2540

(1) "Drug abuse offense" has the same meaning as in 2541
section 2925.01 of the Revised Code. 2542

(2) "Qualifying assault offense" means a violation of 2543
section 2903.13 of the Revised Code for which the penalty 2544
provision in division (C) (8) (b) or (C) (9) (b) of that section 2545
applies. 2546

(L) At the time of sentencing an offender for any sexually 2547
oriented offense, if the offender is a tier III sex 2548
offender/child-victim offender relative to that offense and the 2549
offender does not serve a prison term or jail term, the court 2550
may require that the offender be monitored by means of a global 2551
positioning device. If the court requires such monitoring, the 2552
cost of monitoring shall be borne by the offender. If the 2553
offender is indigent, the cost of compliance shall be paid by 2554
the crime victims reparations fund. 2555

Sec. 2929.14. (A) Except as provided in division (B) (1), 2556
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (E), 2557
(G), (H), or (J) of this section or in division (D) (6) of 2558
section 2919.25 of the Revised Code and except in relation to an 2559
offense for which a sentence of ~~death or~~ life imprisonment is to 2560

be imposed, if the court imposing a sentence upon an offender 2561
for a felony elects or is required to impose a prison term on 2562
the offender pursuant to this chapter, the court shall impose a 2563
definite prison term that shall be one of the following: 2564

(1) For a felony of the first degree, the prison term 2565
shall be three, four, five, six, seven, eight, nine, ten, or 2566
eleven years. 2567

(2) For a felony of the second degree, the prison term 2568
shall be two, three, four, five, six, seven, or eight years. 2569

(3) (a) For a felony of the third degree that is a 2570
violation of section 2903.06, 2903.08, 2907.03, 2907.04, or 2571
2907.05 of the Revised Code or that is a violation of section 2572
2911.02 or 2911.12 of the Revised Code if the offender 2573
previously has been convicted of or pleaded guilty in two or 2574
more separate proceedings to two or more violations of section 2575
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, the 2576
prison term shall be twelve, eighteen, twenty-four, thirty, 2577
thirty-six, forty-two, forty-eight, fifty-four, or sixty months. 2578

(b) For a felony of the third degree that is not an 2579
offense for which division (A) (3) (a) of this section applies, 2580
the prison term shall be nine, twelve, eighteen, twenty-four, 2581
thirty, or thirty-six months. 2582

(4) For a felony of the fourth degree, the prison term 2583
shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, 2584
fourteen, fifteen, sixteen, seventeen, or eighteen months. 2585

(5) For a felony of the fifth degree, the prison term 2586
shall be six, seven, eight, nine, ten, eleven, or twelve months. 2587

(B) (1) (a) Except as provided in division (B) (1) (e) of this 2588
section, if an offender who is convicted of or pleads guilty to 2589

a felony also is convicted of or pleads guilty to a 2590
specification of the type described in section 2941.141, 2591
2941.144, or 2941.145 of the Revised Code, the court shall 2592
impose on the offender one of the following prison terms: 2593

(i) A prison term of six years if the specification is of 2594
the type described in section 2941.144 of the Revised Code that 2595
charges the offender with having a firearm that is an automatic 2596
firearm or that was equipped with a firearm muffler or silencer 2597
on or about the offender's person or under the offender's 2598
control while committing the felony; 2599

(ii) A prison term of three years if the specification is 2600
of the type described in section 2941.145 of the Revised Code 2601
that charges the offender with having a firearm on or about the 2602
offender's person or under the offender's control while 2603
committing the offense and displaying the firearm, brandishing 2604
the firearm, indicating that the offender possessed the firearm, 2605
or using it to facilitate the offense; 2606

(iii) A prison term of one year if the specification is of 2607
the type described in section 2941.141 of the Revised Code that 2608
charges the offender with having a firearm on or about the 2609
offender's person or under the offender's control while 2610
committing the felony. 2611

(b) If a court imposes a prison term on an offender under 2612
division (B) (1) (a) of this section, the prison term shall not be 2613
reduced pursuant to section 2967.19, section 2929.20, section 2614
2967.193, or any other provision of Chapter 2967. or Chapter 2615
5120. of the Revised Code. Except as provided in division (B) (1) 2616
(g) of this section, a court shall not impose more than one 2617
prison term on an offender under division (B) (1) (a) of this 2618
section for felonies committed as part of the same act or 2619

transaction. 2620

(c) Except as provided in division (B)(1)(e) of this 2621
section, if an offender who is convicted of or pleads guilty to 2622
a violation of section 2923.161 of the Revised Code or to a 2623
felony that includes, as an essential element, purposely or 2624
knowingly causing or attempting to cause the death of or 2625
physical harm to another, also is convicted of or pleads guilty 2626
to a specification of the type described in section 2941.146 of 2627
the Revised Code that charges the offender with committing the 2628
offense by discharging a firearm from a motor vehicle other than 2629
a manufactured home, the court, after imposing a prison term on 2630
the offender for the violation of section 2923.161 of the 2631
Revised Code or for the other felony offense under division (A), 2632
(B)(2), or (B)(3) of this section, shall impose an additional 2633
prison term of five years upon the offender that shall not be 2634
reduced pursuant to section 2929.20, section 2967.19, section 2635
2967.193, or any other provision of Chapter 2967. or Chapter 2636
5120. of the Revised Code. A court shall not impose more than 2637
one additional prison term on an offender under division (B)(1) 2638
(c) of this section for felonies committed as part of the same 2639
act or transaction. If a court imposes an additional prison term 2640
on an offender under division (B)(1)(c) of this section relative 2641
to an offense, the court also shall impose a prison term under 2642
division (B)(1)(a) of this section relative to the same offense, 2643
provided the criteria specified in that division for imposing an 2644
additional prison term are satisfied relative to the offender 2645
and the offense. 2646

(d) If an offender who is convicted of or pleads guilty to 2647
an offense of violence that is a felony also is convicted of or 2648
pleads guilty to a specification of the type described in 2649
section 2941.1411 of the Revised Code that charges the offender 2650

with wearing or carrying body armor while committing the felony 2651
offense of violence, the court shall impose on the offender a 2652
prison term of two years. The prison term so imposed, subject to 2653
divisions (C) to (I) of section 2967.19 of the Revised Code, 2654
shall not be reduced pursuant to section 2929.20, section 2655
2967.19, section 2967.193, or any other provision of Chapter 2656
2967. or Chapter 5120. of the Revised Code. A court shall not 2657
impose more than one prison term on an offender under division 2658
(B) (1) (d) of this section for felonies committed as part of the 2659
same act or transaction. If a court imposes an additional prison 2660
term under division (B) (1) (a) or (c) of this section, the court 2661
is not precluded from imposing an additional prison term under 2662
division (B) (1) (d) of this section. 2663

(e) The court shall not impose any of the prison terms 2664
described in division (B) (1) (a) of this section or any of the 2665
additional prison terms described in division (B) (1) (c) of this 2666
section upon an offender for a violation of section 2923.12 or 2667
2923.123 of the Revised Code. The court shall not impose any of 2668
the prison terms described in division (B) (1) (a) or (b) of this 2669
section upon an offender for a violation of section 2923.122 2670
that involves a deadly weapon that is a firearm other than a 2671
dangerous ordnance, section 2923.16, or section 2923.121 of the 2672
Revised Code. The court shall not impose any of the prison terms 2673
described in division (B) (1) (a) of this section or any of the 2674
additional prison terms described in division (B) (1) (c) of this 2675
section upon an offender for a violation of section 2923.13 of 2676
the Revised Code unless all of the following apply: 2677

(i) The offender previously has been convicted of 2678
aggravated murder, murder, or any felony of the first or second 2679
degree. 2680

(ii) Less than five years have passed since the offender 2681
was released from prison or post-release control, whichever is 2682
later, for the prior offense. 2683

(f) If an offender is convicted of or pleads guilty to a 2684
felony that includes, as an essential element, causing or 2685
attempting to cause the death of or physical harm to another and 2686
also is convicted of or pleads guilty to a specification of the 2687
type described in section 2941.1412 of the Revised Code that 2688
charges the offender with committing the offense by discharging 2689
a firearm at a peace officer as defined in section 2935.01 of 2690
the Revised Code or a corrections officer, as defined in section 2691
2941.1412 of the Revised Code, the court, after imposing a 2692
prison term on the offender for the felony offense under 2693
division (A), (B) (2), or (B) (3) of this section, shall impose an 2694
additional prison term of seven years upon the offender that 2695
shall not be reduced pursuant to section 2929.20, section 2696
2967.19, section 2967.193, or any other provision of Chapter 2697
2967. or Chapter 5120. of the Revised Code. If an offender is 2698
convicted of or pleads guilty to two or more felonies that 2699
include, as an essential element, causing or attempting to cause 2700
the death or physical harm to another and also is convicted of 2701
or pleads guilty to a specification of the type described under 2702
division (B) (1) (f) of this section in connection with two or 2703
more of the felonies of which the offender is convicted or to 2704
which the offender pleads guilty, the sentencing court shall 2705
impose on the offender the prison term specified under division 2706
(B) (1) (f) of this section for each of two of the specifications 2707
of which the offender is convicted or to which the offender 2708
pleads guilty and, in its discretion, also may impose on the 2709
offender the prison term specified under that division for any 2710
or all of the remaining specifications. If a court imposes an 2711

additional prison term on an offender under division (B) (1) (f) 2712
of this section relative to an offense, the court shall not 2713
impose a prison term under division (B) (1) (a) or (c) of this 2714
section relative to the same offense. 2715

(g) If an offender is convicted of or pleads guilty to two 2716
or more felonies, if one or more of those felonies are 2717
aggravated murder, murder, attempted aggravated murder, 2718
attempted murder, aggravated robbery, felonious assault, or 2719
rape, and if the offender is convicted of or pleads guilty to a 2720
specification of the type described under division (B) (1) (a) of 2721
this section in connection with two or more of the felonies, the 2722
sentencing court shall impose on the offender the prison term 2723
specified under division (B) (1) (a) of this section for each of 2724
the two most serious specifications of which the offender is 2725
convicted or to which the offender pleads guilty and, in its 2726
discretion, also may impose on the offender the prison term 2727
specified under that division for any or all of the remaining 2728
specifications. 2729

(2) (a) If division (B) (2) (b) of this section does not 2730
apply, the court may impose on an offender, in addition to the 2731
longest prison term authorized or required for the offense, an 2732
additional definite prison term of one, two, three, four, five, 2733
six, seven, eight, nine, or ten years if all of the following 2734
criteria are met: 2735

(i) The offender is convicted of or pleads guilty to a 2736
specification of the type described in section 2941.149 of the 2737
Revised Code that the offender is a repeat violent offender. 2738

(ii) The offense of which the offender currently is 2739
convicted or to which the offender currently pleads guilty is 2740
aggravated murder and the court does not impose a sentence of 2741

~~death or~~ life imprisonment without parole, murder, terrorism and 2742
the court does not impose a sentence of life imprisonment 2743
without parole, any felony of the first degree that is an 2744
offense of violence and the court does not impose a sentence of 2745
life imprisonment without parole, or any felony of the second 2746
degree that is an offense of violence and the trier of fact 2747
finds that the offense involved an attempt to cause or a threat 2748
to cause serious physical harm to a person or resulted in 2749
serious physical harm to a person. 2750

(iii) The court imposes the longest prison term for the 2751
offense that is not life imprisonment without parole. 2752

(iv) The court finds that the prison terms imposed 2753
pursuant to division (B) (2) (a) (iii) of this section and, if 2754
applicable, division (B) (1) or (3) of this section are 2755
inadequate to punish the offender and protect the public from 2756
future crime, because the applicable factors under section 2757
2929.12 of the Revised Code indicating a greater likelihood of 2758
recidivism outweigh the applicable factors under that section 2759
indicating a lesser likelihood of recidivism. 2760

(v) The court finds that the prison terms imposed pursuant 2761
to division (B) (2) (a) (iii) of this section and, if applicable, 2762
division (B) (1) or (3) of this section are demeaning to the 2763
seriousness of the offense, because one or more of the factors 2764
under section 2929.12 of the Revised Code indicating that the 2765
offender's conduct is more serious than conduct normally 2766
constituting the offense are present, and they outweigh the 2767
applicable factors under that section indicating that the 2768
offender's conduct is less serious than conduct normally 2769
constituting the offense. 2770

(b) The court shall impose on an offender the longest 2771

prison term authorized or required for the offense and shall 2772
impose on the offender an additional definite prison term of 2773
one, two, three, four, five, six, seven, eight, nine, or ten 2774
years if all of the following criteria are met: 2775

(i) The offender is convicted of or pleads guilty to a 2776
specification of the type described in section 2941.149 of the 2777
Revised Code that the offender is a repeat violent offender. 2778

(ii) The offender within the preceding twenty years has 2779
been convicted of or pleaded guilty to three or more offenses 2780
described in division (CC)(1) of section 2929.01 of the Revised 2781
Code, including all offenses described in that division of which 2782
the offender is convicted or to which the offender pleads guilty 2783
in the current prosecution and all offenses described in that 2784
division of which the offender previously has been convicted or 2785
to which the offender previously pleaded guilty, whether 2786
prosecuted together or separately. 2787

(iii) The offense or offenses of which the offender 2788
currently is convicted or to which the offender currently pleads 2789
guilty is aggravated murder and the court does not impose a 2790
sentence of ~~death or~~ life imprisonment without parole, murder, 2791
terrorism and the court does not impose a sentence of life 2792
imprisonment without parole, any felony of the first degree that 2793
is an offense of violence and the court does not impose a 2794
sentence of life imprisonment without parole, or any felony of 2795
the second degree that is an offense of violence and the trier 2796
of fact finds that the offense involved an attempt to cause or a 2797
threat to cause serious physical harm to a person or resulted in 2798
serious physical harm to a person. 2799

(c) For purposes of division (B)(2)(b) of this section, 2800
two or more offenses committed at the same time or as part of 2801

the same act or event shall be considered one offense, and that 2802
one offense shall be the offense with the greatest penalty. 2803

(d) A sentence imposed under division (B) (2) (a) or (b) of 2804
this section shall not be reduced pursuant to section 2929.20, 2805
section 2967.19, or section 2967.193, or any other provision of 2806
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 2807
shall serve an additional prison term imposed under this section 2808
consecutively to and prior to the prison term imposed for the 2809
underlying offense. 2810

(e) When imposing a sentence pursuant to division (B) (2) 2811
(a) or (b) of this section, the court shall state its findings 2812
explaining the imposed sentence. 2813

(3) Except when an offender commits a violation of section 2814
2903.01 or 2907.02 of the Revised Code and the penalty imposed 2815
for the violation is life imprisonment or commits a violation of 2816
section 2903.02 of the Revised Code, if the offender commits a 2817
violation of section 2925.03 or 2925.11 of the Revised Code and 2818
that section classifies the offender as a major drug offender, 2819
if the offender commits a felony violation of section 2925.02, 2820
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 2821
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 2822
division (C) of section 4729.51, or division (J) of section 2823
4729.54 of the Revised Code that includes the sale, offer to 2824
sell, or possession of a schedule I or II controlled substance, 2825
with the exception of marihuana, and the court imposing sentence 2826
upon the offender finds that the offender is guilty of a 2827
specification of the type described in section 2941.1410 of the 2828
Revised Code charging that the offender is a major drug 2829
offender, if the court imposing sentence upon an offender for a 2830
felony finds that the offender is guilty of corrupt activity 2831

with the most serious offense in the pattern of corrupt activity 2832
being a felony of the first degree, or if the offender is guilty 2833
of an attempted violation of section 2907.02 of the Revised Code 2834
and, had the offender completed the violation of section 2907.02 2835
of the Revised Code that was attempted, the offender would have 2836
been subject to a sentence of life imprisonment or life 2837
imprisonment without parole for the violation of section 2907.02 2838
of the Revised Code, the court shall impose upon the offender 2839
for the felony violation a mandatory prison term of the maximum 2840
prison term prescribed for a felony of the first degree that, 2841
subject to divisions (C) to (I) of section 2967.19 of the 2842
Revised Code, cannot be reduced pursuant to section 2929.20, 2843
section 2967.19, or any other provision of Chapter 2967. or 2844
5120. of the Revised Code. 2845

(4) If the offender is being sentenced for a third or 2846
fourth degree felony OVI offense under division (G) (2) of 2847
section 2929.13 of the Revised Code, the sentencing court shall 2848
impose upon the offender a mandatory prison term in accordance 2849
with that division. In addition to the mandatory prison term, if 2850
the offender is being sentenced for a fourth degree felony OVI 2851
offense, the court, notwithstanding division (A) (4) of this 2852
section, may sentence the offender to a definite prison term of 2853
not less than six months and not more than thirty months, and if 2854
the offender is being sentenced for a third degree felony OVI 2855
offense, the sentencing court may sentence the offender to an 2856
additional prison term of any duration specified in division (A) 2857
(3) of this section. In either case, the additional prison term 2858
imposed shall be reduced by the sixty or one hundred twenty days 2859
imposed upon the offender as the mandatory prison term. The 2860
total of the additional prison term imposed under division (B) 2861
(4) of this section plus the sixty or one hundred twenty days 2862

imposed as the mandatory prison term shall equal a definite term 2863
in the range of six months to thirty months for a fourth degree 2864
felony OVI offense and shall equal one of the authorized prison 2865
terms specified in division (A) (3) of this section for a third 2866
degree felony OVI offense. If the court imposes an additional 2867
prison term under division (B) (4) of this section, the offender 2868
shall serve the additional prison term after the offender has 2869
served the mandatory prison term required for the offense. In 2870
addition to the mandatory prison term or mandatory and 2871
additional prison term imposed as described in division (B) (4) 2872
of this section, the court also may sentence the offender to a 2873
community control sanction under section 2929.16 or 2929.17 of 2874
the Revised Code, but the offender shall serve all of the prison 2875
terms so imposed prior to serving the community control 2876
sanction. 2877

If the offender is being sentenced for a fourth degree 2878
felony OVI offense under division (G) (1) of section 2929.13 of 2879
the Revised Code and the court imposes a mandatory term of local 2880
incarceration, the court may impose a prison term as described 2881
in division (A) (1) of that section. 2882

(5) If an offender is convicted of or pleads guilty to a 2883
violation of division (A) (1) or (2) of section 2903.06 of the 2884
Revised Code and also is convicted of or pleads guilty to a 2885
specification of the type described in section 2941.1414 of the 2886
Revised Code that charges that the victim of the offense is a 2887
peace officer, as defined in section 2935.01 of the Revised 2888
Code, or an investigator of the bureau of criminal 2889
identification and investigation, as defined in section 2903.11 2890
of the Revised Code, the court shall impose on the offender a 2891
prison term of five years. If a court imposes a prison term on 2892
an offender under division (B) (5) of this section, the prison 2893

term, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, 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 prison term on an offender under division (B) (5) of this section for felonies committed as part of the same act.

(6) If an offender is convicted of or pleads guilty to a violation of division (A) (1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (B) (6) of this section, the prison term, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, 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 prison term on an offender under division (B) (6) of this section for felonies committed as part of the same act.

(7) (a) If an offender is convicted of or pleads guilty to a felony violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code and also is convicted of or pleads guilty to a

specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the court shall impose on the offender a mandatory prison term that is one of the following:

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

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

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

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

(8) If an offender is convicted of or pleads guilty to a felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 of the Revised Code that charges that the victim of the violation was a

woman whom the offender knew was pregnant at the time of the 2954
violation, notwithstanding the range of prison terms prescribed 2955
in division (A) of this section for felonies of the same degree 2956
as the violation, the court shall impose on the offender a 2957
mandatory prison term that is either a definite prison term of 2958
six months or one of the prison terms prescribed in section 2959
2929.14 of the Revised Code for felonies of the same degree as 2960
the violation. 2961

(C) (1) (a) Subject to division (C) (1) (b) of this section, 2962
if a mandatory prison term is imposed upon an offender pursuant 2963
to division (B) (1) (a) of this section for having a firearm on or 2964
about the offender's person or under the offender's control 2965
while committing a felony, if a mandatory prison term is imposed 2966
upon an offender pursuant to division (B) (1) (c) of this section 2967
for committing a felony specified in that division by 2968
discharging a firearm from a motor vehicle, or if both types of 2969
mandatory prison terms are imposed, the offender shall serve any 2970
mandatory prison term imposed under either division 2971
consecutively to any other mandatory prison term imposed under 2972
either division or under division (B) (1) (d) of this section, 2973
consecutively to and prior to any prison term imposed for the 2974
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 2975
this section or any other section of the Revised Code, and 2976
consecutively to any other prison term or mandatory prison term 2977
previously or subsequently imposed upon the offender. 2978

(b) If a mandatory prison term is imposed upon an offender 2979
pursuant to division (B) (1) (d) of this section for wearing or 2980
carrying body armor while committing an offense of violence that 2981
is a felony, the offender shall serve the mandatory term so 2982
imposed consecutively to any other mandatory prison term imposed 2983
under that division or under division (B) (1) (a) or (c) of this 2984

section, consecutively to and prior to any prison term imposed 2985
for the underlying felony under division (A), (B) (2), or (B) (3) 2986
of this section or any other section of the Revised Code, and 2987
consecutively to any other prison term or mandatory prison term 2988
previously or subsequently imposed upon the offender. 2989

(c) If a mandatory prison term is imposed upon an offender 2990
pursuant to division (B) (1) (f) of this section, the offender 2991
shall serve the mandatory prison term so imposed consecutively 2992
to and prior to any prison term imposed for the underlying 2993
felony under division (A), (B) (2), or (B) (3) of this section or 2994
any other section of the Revised Code, and consecutively to any 2995
other prison term or mandatory prison term previously or 2996
subsequently imposed upon the offender. 2997

(d) If a mandatory prison term is imposed upon an offender 2998
pursuant to division (B) (7) or (8) of this section, the offender 2999
shall serve the mandatory prison term so imposed consecutively 3000
to any other mandatory prison term imposed under that division 3001
or under any other provision of law and consecutively to any 3002
other prison term or mandatory prison term previously or 3003
subsequently imposed upon the offender. 3004

(2) If an offender who is an inmate in a jail, prison, or 3005
other residential detention facility violates section 2917.02, 3006
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 3007
(2) of section 2921.34 of the Revised Code, if an offender who 3008
is under detention at a detention facility commits a felony 3009
violation of section 2923.131 of the Revised Code, or if an 3010
offender who is an inmate in a jail, prison, or other 3011
residential detention facility or is under detention at a 3012
detention facility commits another felony while the offender is 3013
an escapee in violation of division (A) (1) or (2) of section 3014

2921.34 of the Revised Code, any prison term imposed upon the 3015
offender for one of those violations shall be served by the 3016
offender consecutively to the prison term or term of 3017
imprisonment the offender was serving when the offender 3018
committed that offense and to any other prison term previously 3019
or subsequently imposed upon the offender. 3020

(3) If a prison term is imposed for a violation of 3021
division (B) of section 2911.01 of the Revised Code, a violation 3022
of division (A) of section 2913.02 of the Revised Code in which 3023
the stolen property is a firearm or dangerous ordnance, or a 3024
felony violation of division (B) of section 2921.331 of the 3025
Revised Code, the offender shall serve that prison term 3026
consecutively to any other prison term or mandatory prison term 3027
previously or subsequently imposed upon the offender. 3028

(4) If multiple prison terms are imposed on an offender 3029
for convictions of multiple offenses, the court may require the 3030
offender to serve the prison terms consecutively if the court 3031
finds that the consecutive service is necessary to protect the 3032
public from future crime or to punish the offender and that 3033
consecutive sentences are not disproportionate to the 3034
seriousness of the offender's conduct and to the danger the 3035
offender poses to the public, and if the court also finds any of 3036
the following: 3037

(a) The offender committed one or more of the multiple 3038
offenses while the offender was awaiting trial or sentencing, 3039
was under a sanction imposed pursuant to section 2929.16, 3040
2929.17, or 2929.18 of the Revised Code, or was under post- 3041
release control for a prior offense. 3042

(b) At least two of the multiple offenses were committed 3043
as part of one or more courses of conduct, and the harm caused 3044

by two or more of the multiple offenses so committed was so 3045
great or unusual that no single prison term for any of the 3046
offenses committed as part of any of the courses of conduct 3047
adequately reflects the seriousness of the offender's conduct. 3048

(c) The offender's history of criminal conduct 3049
demonstrates that consecutive sentences are necessary to protect 3050
the public from future crime by the offender. 3051

(5) If a mandatory prison term is imposed upon an offender 3052
pursuant to division (B) (5) or (6) of this section, the offender 3053
shall serve the mandatory prison term consecutively to and prior 3054
to any prison term imposed for the underlying violation of 3055
division (A) (1) or (2) of section 2903.06 of the Revised Code 3056
pursuant to division (A) of this section or section 2929.142 of 3057
the Revised Code. If a mandatory prison term is imposed upon an 3058
offender pursuant to division (B) (5) of this section, and if a 3059
mandatory prison term also is imposed upon the offender pursuant 3060
to division (B) (6) of this section in relation to the same 3061
violation, the offender shall serve the mandatory prison term 3062
imposed pursuant to division (B) (5) of this section 3063
consecutively to and prior to the mandatory prison term imposed 3064
pursuant to division (B) (6) of this section and consecutively to 3065
and prior to any prison term imposed for the underlying 3066
violation of division (A) (1) or (2) of section 2903.06 of the 3067
Revised Code pursuant to division (A) of this section or section 3068
2929.142 of the Revised Code. 3069

(6) When consecutive prison terms are imposed pursuant to 3070
division (C) (1), (2), (3), (4), or (5) or division (H) (1) or (2) 3071
of this section, the term to be served is the aggregate of all 3072
of the terms so imposed. 3073

(D) (1) If a court imposes a prison term for a felony of 3074

the first degree, for a felony of the second degree, for a 3075
felony sex offense, or for a felony of the third degree that is 3076
not a felony sex offense and in the commission of which the 3077
offender caused or threatened to cause physical harm to a 3078
person, it shall include in the sentence a requirement that the 3079
offender be subject to a period of post-release control after 3080
the offender's release from imprisonment, in accordance with 3081
that division. If a court imposes a sentence including a prison 3082
term of a type described in this division on or after July 11, 3083
2006, the failure of a court to include a post-release control 3084
requirement in the sentence pursuant to this division does not 3085
negate, limit, or otherwise affect the mandatory period of post- 3086
release control that is required for the offender under division 3087
(B) of section 2967.28 of the Revised Code. Section 2929.191 of 3088
the Revised Code applies if, prior to July 11, 2006, a court 3089
imposed a sentence including a prison term of a type described 3090
in this division and failed to include in the sentence pursuant 3091
to this division a statement regarding post-release control. 3092

(2) If a court imposes a prison term for a felony of the 3093
third, fourth, or fifth degree that is not subject to division 3094
(D)(1) of this section, it shall include in the sentence a 3095
requirement that the offender be subject to a period of post- 3096
release control after the offender's release from imprisonment, 3097
in accordance with that division, if the parole board determines 3098
that a period of post-release control is necessary. Section 3099
2929.191 of the Revised Code applies if, prior to July 11, 2006, 3100
a court imposed a sentence including a prison term of a type 3101
described in this division and failed to include in the sentence 3102
pursuant to this division a statement regarding post-release 3103
control. 3104

(E) The court shall impose sentence upon the offender in 3105

accordance with section 2971.03 of the Revised Code, and Chapter 3106
2971. of the Revised Code applies regarding the prison term or 3107
term of life imprisonment without parole imposed upon the 3108
offender and the service of that term of imprisonment if any of 3109
the following apply: 3110

(1) A person is convicted of or pleads guilty to a violent 3111
sex offense or a designated homicide, assault, or kidnapping 3112
offense, and, in relation to that offense, the offender is 3113
adjudicated a sexually violent predator. 3114

(2) A person is convicted of or pleads guilty to a 3115
violation of division (A) (1) (b) of section 2907.02 of the 3116
Revised Code committed on or after January 2, 2007, and either 3117
the court does not impose a sentence of life without parole when 3118
authorized pursuant to division (B) of section 2907.02 of the 3119
Revised Code, or division (B) of section 2907.02 of the Revised 3120
Code provides that the court shall not sentence the offender 3121
pursuant to section 2971.03 of the Revised Code. 3122

(3) A person is convicted of or pleads guilty to attempted 3123
rape committed on or after January 2, 2007, and a specification 3124
of the type described in section 2941.1418, 2941.1419, or 3125
2941.1420 of the Revised Code. 3126

(4) A person is convicted of or pleads guilty to a 3127
violation of section 2905.01 of the Revised Code committed on or 3128
after January 1, 2008, and that section requires the court to 3129
sentence the offender pursuant to section 2971.03 of the Revised 3130
Code. 3131

(5) A person is convicted of or pleads guilty to 3132
aggravated murder committed on or after January 1, 2008, and 3133
~~division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e),~~ 3134

~~(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 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 3165
towards a person in a school safety zone, the court shall impose 3166
upon the offender an additional prison term of two years. The 3167
offender shall serve the additional two years consecutively to 3168
and prior to the prison term imposed for the underlying offense. 3169

(2) (a) If an offender is convicted of or pleads guilty to 3170
a felony violation of section 2907.22, 2907.24, 2907.241, or 3171
2907.25 of the Revised Code and to a specification of the type 3172
described in section 2941.1421 of the Revised Code and if the 3173
court imposes a prison term on the offender for the felony 3174
violation, the court may impose upon the offender an additional 3175
prison term as follows: 3176

(i) Subject to division (H) (2) (a) (ii) of this section, an 3177
additional prison term of one, two, three, four, five, or six 3178
months; 3179

(ii) If the offender previously has been convicted of or 3180
pleaded guilty to one or more felony or misdemeanor violations 3181
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 3182
the Revised Code and also was convicted of or pleaded guilty to 3183
a specification of the type described in section 2941.1421 of 3184
the Revised Code regarding one or more of those violations, an 3185
additional prison term of one, two, three, four, five, six, 3186
seven, eight, nine, ten, eleven, or twelve months. 3187

(b) In lieu of imposing an additional prison term under 3188
division (H) (2) (a) of this section, the court may directly 3189
impose on the offender a sanction that requires the offender to 3190
wear a real-time processing, continual tracking electronic 3191
monitoring device during the period of time specified by the 3192
court. The period of time specified by the court shall equal the 3193
duration of an additional prison term that the court could have 3194

imposed upon the offender under division (H) (2) (a) of this 3195
section. A sanction imposed under this division shall commence 3196
on the date specified by the court, provided that the sanction 3197
shall not commence until after the offender has served the 3198
prison term imposed for the felony violation of section 2907.22, 3199
2907.24, 2907.241, or 2907.25 of the Revised Code and any 3200
residential sanction imposed for the violation under section 3201
2929.16 of the Revised Code. A sanction imposed under this 3202
division shall be considered to be a community control sanction 3203
for purposes of section 2929.15 of the Revised Code, and all 3204
provisions of the Revised Code that pertain to community control 3205
sanctions shall apply to a sanction imposed under this division, 3206
except to the extent that they would by their nature be clearly 3207
inapplicable. The offender shall pay all costs associated with a 3208
sanction imposed under this division, including the cost of the 3209
use of the monitoring device. 3210

(I) At the time of sentencing, the court may recommend the 3211
offender for placement in a program of shock incarceration under 3212
section 5120.031 of the Revised Code or for placement in an 3213
intensive program prison under section 5120.032 of the Revised 3214
Code, disapprove placement of the offender in a program of shock 3215
incarceration or an intensive program prison of that nature, or 3216
make no recommendation on placement of the offender. In no case 3217
shall the department of rehabilitation and correction place the 3218
offender in a program or prison of that nature unless the 3219
department determines as specified in section 5120.031 or 3220
5120.032 of the Revised Code, whichever is applicable, that the 3221
offender is eligible for the placement. 3222

If the court disapproves placement of the offender in a 3223
program or prison of that nature, the department of 3224
rehabilitation and correction shall not place the offender in 3225

any program of shock incarceration or intensive program prison. 3226

If the court recommends placement of the offender in a 3227
program of shock incarceration or in an intensive program 3228
prison, and if the offender is subsequently placed in the 3229
recommended program or prison, the department shall notify the 3230
court of the placement and shall include with the notice a brief 3231
description of the placement. 3232

If the court recommends placement of the offender in a 3233
program of shock incarceration or in an intensive program prison 3234
and the department does not subsequently place the offender in 3235
the recommended program or prison, the department shall send a 3236
notice to the court indicating why the offender was not placed 3237
in the recommended program or prison. 3238

If the court does not make a recommendation under this 3239
division with respect to an offender and if the department 3240
determines as specified in section 5120.031 or 5120.032 of the 3241
Revised Code, whichever is applicable, that the offender is 3242
eligible for placement in a program or prison of that nature, 3243
the department shall screen the offender and determine if there 3244
is an available program of shock incarceration or an intensive 3245
program prison for which the offender is suited. If there is an 3246
available program of shock incarceration or an intensive program 3247
prison for which the offender is suited, the department shall 3248
notify the court of the proposed placement of the offender as 3249
specified in section 5120.031 or 5120.032 of the Revised Code 3250
and shall include with the notice a brief description of the 3251
placement. The court shall have ten days from receipt of the 3252
notice to disapprove the placement. 3253

(J) If a person is convicted of or pleads guilty to 3254
aggravated vehicular homicide in violation of division (A) (1) of 3255

section 2903.06 of the Revised Code and division (B) (2) (c) of 3256
that section applies, the person shall be sentenced pursuant to 3257
section 2929.142 of the Revised Code. 3258

Sec. 2929.20. (A) As used in this section: 3259

(1) (a) Except as provided in division (A) (1) (b) of this 3260
section, "eligible offender" means any person who, on or after 3261
April 7, 2009, is serving a stated prison term that includes one 3262
or more nonmandatory prison terms. 3263

(b) "Eligible offender" does not include any person who, 3264
on or after April 7, 2009, is serving a stated prison term for 3265
any of the following criminal offenses that was a felony and was 3266
committed while the person held a public office in this state: 3267

(i) A violation of section 2921.02, 2921.03, 2921.05, 3268
2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised 3269
Code; 3270

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 3271
2921.12 of the Revised Code, when the conduct constituting the 3272
violation was related to the duties of the offender's public 3273
office or to the offender's actions as a public official holding 3274
that public office; 3275

(iii) A violation of an existing or former municipal 3276
ordinance or law of this or any other state or the United States 3277
that is substantially equivalent to any violation listed in 3278
division (A) (1) (b) (i) of this section; 3279

(iv) A violation of an existing or former municipal 3280
ordinance or law of this or any other state or the United States 3281
that is substantially equivalent to any violation listed in 3282
division (A) (1) (b) (ii) of this section, when the conduct 3283
constituting the violation was related to the duties of the 3284

| | |
|---|------|
| offender's public office or to the offender's actions as a | 3285 |
| public official holding that public office; | 3286 |
| (v) A conspiracy to commit, attempt to commit, or | 3287 |
| complicity in committing any offense listed in division (A) (1) | 3288 |
| (b) (i) or described in division (A) (1) (b) (iii) of this section; | 3289 |
| (vi) A conspiracy to commit, attempt to commit, or | 3290 |
| complicity in committing any offense listed in division (A) (1) | 3291 |
| (b) (ii) or described in division (A) (1) (b) (iv) of this section, | 3292 |
| if the conduct constituting the offense that was the subject of | 3293 |
| the conspiracy, that would have constituted the offense | 3294 |
| attempted, or constituting the offense in which the offender was | 3295 |
| complicit was or would have been related to the duties of the | 3296 |
| offender's public office or to the offender's actions as a | 3297 |
| public official holding that public office. | 3298 |
| (2) "Nonmandatory prison term" means a prison term that is | 3299 |
| not a mandatory prison term. | 3300 |
| (3) "Public office" means any elected federal, state, or | 3301 |
| local government office in this state. | 3302 |
| (4) "Victim's representative" has the same meaning as in | 3303 |
| section 2930.01 of the Revised Code. | 3304 |
| (B) On the motion of an eligible offender or upon its own | 3305 |
| motion, the sentencing court may reduce the eligible offender's | 3306 |
| aggregated nonmandatory prison term or terms through a judicial | 3307 |
| release under this section. | 3308 |
| (C) An eligible offender may file a motion for judicial | 3309 |
| release with the sentencing court within the following | 3310 |
| applicable periods: | 3311 |
| (1) If the aggregated nonmandatory prison term or terms is | 3312 |

less than two years, the eligible offender may file the motion 3313
not earlier than thirty days after the offender is delivered to 3314
a state correctional institution or, if the prison term includes 3315
a mandatory prison term or terms, not earlier than thirty days 3316
after the expiration of all mandatory prison terms. 3317

(2) If the aggregated nonmandatory prison term or terms is 3318
at least two years but less than five years, the eligible 3319
offender may file the motion not earlier than one hundred eighty 3320
days after the offender is delivered to a state correctional 3321
institution or, if the prison term includes a mandatory prison 3322
term or terms, not earlier than one hundred eighty days after 3323
the expiration of all mandatory prison terms. 3324

(3) If the aggregated nonmandatory prison term or terms is 3325
five years, the eligible offender may file the motion not 3326
earlier than four years after the eligible offender is delivered 3327
to a state correctional institution or, if the prison term 3328
includes a mandatory prison term or terms, not earlier than four 3329
years after the expiration of all mandatory prison terms. 3330

(4) If the aggregated nonmandatory prison term or terms is 3331
more than five years but not more than ten years, the eligible 3332
offender may file the motion not earlier than five years after 3333
the eligible offender is delivered to a state correctional 3334
institution or, if the prison term includes a mandatory prison 3335
term or terms, not earlier than five years after the expiration 3336
of all mandatory prison terms. 3337

(5) If the aggregated nonmandatory prison term or terms is 3338
more than ten years, the eligible offender may file the motion 3339
not earlier than the later of the date on which the offender has 3340
served one-half of the offender's stated prison term or the date 3341
specified in division (C)(4) of this section. 3342

(D) Upon receipt of a timely motion for judicial release 3343
filed by an eligible offender under division (C) of this section 3344
or upon the sentencing court's own motion made within the 3345
appropriate time specified in that division, the court may deny 3346
the motion without a hearing or schedule a hearing on the 3347
motion. The court shall not grant the motion without a hearing. 3348
If a court denies a motion without a hearing, the court later 3349
may consider judicial release for that eligible offender on a 3350
subsequent motion filed by that eligible offender unless the 3351
court denies the motion with prejudice. If a court denies a 3352
motion with prejudice, the court may later consider judicial 3353
release on its own motion. If a court denies a motion after a 3354
hearing, the court shall not consider a subsequent motion for 3355
that eligible offender. The court shall hold only one hearing 3356
for any eligible offender. 3357

A hearing under this section shall be conducted in open 3358
court not less than thirty or more than sixty days after the 3359
motion is filed, provided that the court may delay the hearing 3360
for one hundred eighty additional days. If the court holds a 3361
hearing, the court shall enter a ruling on the motion within ten 3362
days after the hearing. If the court denies the motion without a 3363
hearing, the court shall enter its ruling on the motion within 3364
sixty days after the motion is filed. 3365

(E) If a court schedules a hearing under division (D) of 3366
this section, the court shall notify the eligible offender and 3367
the head of the state correctional institution in which the 3368
eligible offender is confined prior to the hearing. The head of 3369
the state correctional institution immediately shall notify the 3370
appropriate person at the department of rehabilitation and 3371
correction of the hearing, and the department within twenty-four 3372
hours after receipt of the notice, shall post on the database it 3373

maintains pursuant to section 5120.66 of the Revised Code the 3374
offender's name and all of the information specified in division 3375
(A) (1) (c) (i) of that section. If the court schedules a hearing 3376
for judicial release, the court promptly shall give notice of 3377
the hearing to the prosecuting attorney of the county in which 3378
the eligible offender was indicted. Upon receipt of the notice 3379
from the court, the prosecuting attorney shall do whichever of 3380
the following is applicable: 3381

(1) Subject to division (E) (2) of this section, notify the 3382
victim of the offense or the victim's representative pursuant to 3383
division (B) of section 2930.16 of the Revised Code; 3384

(2) If the offense was an offense of violence that is a 3385
felony of the first, second, or third degree, except as 3386
otherwise provided in this division, notify the victim or the 3387
victim's representative of the hearing regardless of whether the 3388
victim or victim's representative has requested the 3389
notification. The notice of the hearing shall not be given under 3390
this division to a victim or victim's representative if the 3391
victim or victim's representative has requested pursuant to 3392
division (B) (2) of section 2930.03 of the Revised Code that the 3393
victim or the victim's representative not be provided the 3394
notice. If notice is to be provided to a victim or victim's 3395
representative under this division, the prosecuting attorney may 3396
give the notice by any reasonable means, including regular mail, 3397
telephone, and electronic mail, in accordance with division (D) 3398
(1) of section 2930.16 of the Revised Code. If the notice is 3399
based on an offense committed prior to March 22, 2013, the 3400
notice also shall include the opt-out information described in 3401
division (D) (1) of section 2930.16 of the Revised Code. The 3402
prosecuting attorney, in accordance with division (D) (2) of 3403
section 2930.16 of the Revised Code, shall keep a record of all 3404

attempts to provide the notice, and of all notices provided, 3405
under this division. Division (E) (2) of this section, and the 3406
notice-related provisions of division (K) of this section, 3407
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 3408
2967.12, division (E) (1) (b) of section 2967.19, division (A) (3) 3409
(b) of section 2967.26, division (D) (1) of section 2967.28, and 3410
division (A) (2) of section 5149.101 of the Revised Code enacted 3411
in the act in which division (E) (2) of this section was enacted, 3412
shall be known as "Roberta's Law." 3413

(F) Upon an offender's successful completion of 3414
rehabilitative activities, the head of the state correctional 3415
institution may notify the sentencing court of the successful 3416
completion of the activities. 3417

(G) Prior to the date of the hearing on a motion for 3418
judicial release under this section, the head of the state 3419
correctional institution in which the eligible offender is 3420
confined shall send to the court an institutional summary report 3421
on the eligible offender's conduct in the institution and in any 3422
institution from which the eligible offender may have been 3423
transferred. Upon the request of the prosecuting attorney of the 3424
county in which the eligible offender was indicted or of any law 3425
enforcement agency, the head of the state correctional 3426
institution, at the same time the person sends the institutional 3427
summary report to the court, also shall send a copy of the 3428
report to the requesting prosecuting attorney and law 3429
enforcement agencies. The institutional summary report shall 3430
cover the eligible offender's participation in school, 3431
vocational training, work, treatment, and other rehabilitative 3432
activities and any disciplinary action taken against the 3433
eligible offender. The report shall be made part of the record 3434
of the hearing. A presentence investigation report is not 3435

required for judicial release. 3436

(H) If the court grants a hearing on a motion for judicial 3437
release under this section, the eligible offender shall attend 3438
the hearing if ordered to do so by the court. Upon receipt of a 3439
copy of the journal entry containing the order, the head of the 3440
state correctional institution in which the eligible offender is 3441
incarcerated shall deliver the eligible offender to the sheriff 3442
of the county in which the hearing is to be held. The sheriff 3443
shall convey the eligible offender to and from the hearing. 3444

(I) At the hearing on a motion for judicial release under 3445
this section, the court shall afford the eligible offender and 3446
the eligible offender's attorney an opportunity to present 3447
written and, if present, oral information relevant to the 3448
motion. The court shall afford a similar opportunity to the 3449
prosecuting attorney, the victim or the victim's representative, 3450
and any other person the court determines is likely to present 3451
additional relevant information. The court shall consider any 3452
statement of a victim made pursuant to section 2930.14 or 3453
2930.17 of the Revised Code, any victim impact statement 3454
prepared pursuant to section 2947.051 of the Revised Code, and 3455
any report made under division (G) of this section. The court 3456
may consider any written statement of any person submitted to 3457
the court pursuant to division (L) of this section. After ruling 3458
on the motion, the court shall notify the victim of the ruling 3459
in accordance with sections 2930.03 and 2930.16 of the Revised 3460
Code. 3461

(J) (1) A court shall not grant a judicial release under 3462
this section to an eligible offender who is imprisoned for a 3463
felony of the first or second degree, or to an eligible offender 3464
who committed an offense under Chapter 2925. or 3719. of the 3465

Revised Code and for whom there was a presumption under section 3466
2929.13 of the Revised Code in favor of a prison term, unless 3467
the court, with reference to factors under section 2929.12 of 3468
the Revised Code, finds both of the following: 3469

(a) That a sanction other than a prison term would 3470
adequately punish the offender and protect the public from 3471
future criminal violations by the eligible offender because the 3472
applicable factors indicating a lesser likelihood of recidivism 3473
outweigh the applicable factors indicating a greater likelihood 3474
of recidivism; 3475

(b) That a sanction other than a prison term would not 3476
demean the seriousness of the offense because factors indicating 3477
that the eligible offender's conduct in committing the offense 3478
was less serious than conduct normally constituting the offense 3479
outweigh factors indicating that the eligible offender's conduct 3480
was more serious than conduct normally constituting the offense. 3481

(2) A court that grants a judicial release to an eligible 3482
offender under division (J)(1) of this section shall specify on 3483
the record both findings required in that division and also 3484
shall list all the factors described in that division that were 3485
presented at the hearing. 3486

(K) If the court grants a motion for judicial release 3487
under this section, the court shall order the release of the 3488
eligible offender, shall place the eligible offender under an 3489
appropriate community control sanction, under appropriate 3490
conditions, and under the supervision of the department of 3491
probation serving the court and shall reserve the right to 3492
reimpose the sentence that it reduced if the offender violates 3493
the sanction. If the court reimposes the reduced sentence, it 3494
may do so either concurrently with, or consecutive to, any new 3495

sentence imposed upon the eligible offender as a result of the 3496
violation that is a new offense. The period of community control 3497
shall be no longer than five years. The court, in its 3498
discretion, may reduce the period of community control by the 3499
amount of time the eligible offender spent in jail or prison for 3500
the offense and in prison. If the court made any findings 3501
pursuant to division (J) (1) of this section, the court shall 3502
serve a copy of the findings upon counsel for the parties within 3503
fifteen days after the date on which the court grants the motion 3504
for judicial release. 3505

If the court grants a motion for judicial release, the 3506
court shall notify the appropriate person at the department of 3507
rehabilitation and correction, and the department shall post 3508
notice of the release on the database it maintains pursuant to 3509
section 5120.66 of the Revised Code. The court also shall notify 3510
the prosecuting attorney of the county in which the eligible 3511
offender was indicted that the motion has been granted. Unless 3512
the victim or the victim's representative has requested pursuant 3513
to division (B) (2) of section 2930.03 of the Revised Code that 3514
the victim or victim's representative not be provided the 3515
notice, the prosecuting attorney shall notify the victim or the 3516
victim's representative of the judicial release in any manner, 3517
and in accordance with the same procedures, pursuant to which 3518
the prosecuting attorney is authorized to provide notice of the 3519
hearing pursuant to division (E) (2) of this section. If the 3520
notice is based on an offense committed prior to March 22, 2013, 3521
the notice to the victim or victim's representative also shall 3522
include the opt-out information described in division (D) (1) of 3523
section 2930.16 of the Revised Code. 3524

(L) In addition to and independent of the right of a 3525
victim to make a statement pursuant to section 2930.14, 2930.17, 3526

or 2946.051 of the Revised Code and any right of a person to 3527
present written information or make a statement pursuant to 3528
division (I) of this section, any person may submit to the 3529
court, at any time prior to the hearing on the offender's motion 3530
for judicial release, a written statement concerning the effects 3531
of the offender's crime or crimes, the circumstances surrounding 3532
the crime or crimes, the manner in which the crime or crimes 3533
were perpetrated, and the person's opinion as to whether the 3534
offender should be released. 3535

(M) The changes to this section that are made on September 30, 2011, apply to any judicial release decision made on or after September 30, 2011, for any eligible offender. 3536
3537
3538

Sec. 2929.61. (A) Persons charged with an offense that 3539
formerly was a capital offense and that was committed prior to 3540
January 1, 1974, shall be prosecuted under the law as it existed 3541
at the time the offense was committed, and, if convicted, shall 3542
be imprisoned for life, except that whenever the statute under 3543
which any such person is prosecuted provides for a lesser 3544
penalty under the circumstances of the particular case, such 3545
lesser penalty shall be imposed. 3546

(B) Persons charged with an offense, other than an offense 3547
that formerly was a capital offense, that was committed prior to 3548
January 1, 1974, shall be prosecuted under the law as it existed 3549
at the time the offense was committed. Persons convicted or 3550
sentenced on or after January 1, 1974, for an offense committed 3551
prior to January 1, 1974, shall be sentenced according to the 3552
penalty for commission of the substantially equivalent offense 3553
under Amended Substitute House Bill 511 of the 109th General 3554
Assembly. If the offense for which sentence is being imposed 3555
does not have a substantial equivalent under that act, or if 3556

that act provides a more severe penalty than that originally 3557
prescribed for the offense of which the person is convicted, 3558
then sentence shall be imposed under the law as it existed prior 3559
to January 1, 1974. 3560

(C) Persons charged with an offense that is a felony of 3561
the third or fourth degree and that was committed on or after 3562
January 1, 1974, and before July 1, 1983, shall be prosecuted 3563
under the law as it existed at the time the offense was 3564
committed. Persons convicted or sentenced on or after July 1, 3565
1983, for an offense that is a felony of the third or fourth 3566
degree and that was committed on or after January 1, 1974, and 3567
before July 1, 1983, shall be notified by the court sufficiently 3568
in advance of sentencing that they may choose to be sentenced 3569
pursuant to either the law in effect at the time of the 3570
commission of the offense or the law in effect at the time of 3571
sentencing. This notice shall be written and shall include the 3572
differences between and possible effects of the alternative 3573
sentence forms and the effect of the person's refusal to choose. 3574
The person to be sentenced shall then inform the court in 3575
writing of ~~his~~ the person's choice, and shall be sentenced 3576
accordingly. Any person choosing to be sentenced pursuant to the 3577
law in effect at the time of the commission of an offense that 3578
is a felony of the third or fourth degree shall then be eligible 3579
for parole, and this person cannot at a later date have ~~his~~ the 3580
person's sentence converted to a definite sentence. If the 3581
person refuses to choose between the two possible sentences, the 3582
person shall be sentenced pursuant to the law in effect at the 3583
time of the commission of the offense. 3584

(D) Persons charged with an offense that was a felony of 3585
the first or second degree at the time it was committed, that 3586
was committed on or after January 1, 1974, and that was 3587

committed prior to July 1, 1983, shall be prosecuted for that 3588
offense and, if convicted, shall be sentenced under the law as 3589
it existed at the time the offense was committed. 3590

Sec. 2930.03. (A) A person or entity required or 3591
authorized under this chapter to give notice to a victim shall 3592
give the notice to the victim by any means reasonably calculated 3593
to provide prompt actual notice. Except when a provision 3594
requires that notice is to be given in a specific manner, a 3595
notice may be oral or written. 3596

(B) (1) Except for receipt of the initial information and 3597
notice required to be given to a victim under divisions (A) and 3598
(B) of section 2930.04, section 2930.05, and divisions (A) and 3599
(B) of section 2930.06 of the Revised Code and the notice 3600
required to be given to a victim under division (D) of section 3601
2930.16 of the Revised Code, a victim who wishes to receive any 3602
notice authorized by this chapter shall make a request for the 3603
notice to the prosecutor or the custodial agency that is to 3604
provide the notice, as specified in this chapter. If the victim 3605
does not make a request as described in this division, the 3606
prosecutor or custodial agency is not required to provide any 3607
notice described in this chapter other than the initial 3608
information and notice required to be given to a victim under 3609
divisions (A) and (B) of section 2930.04, section 2930.05, and 3610
divisions (A) and (B) of section 2930.06 of the Revised Code and 3611
the notice required to be given to a victim under division (D) 3612
of section 2930.16 of the Revised Code. 3613

(2) A victim who does not wish to receive any of the 3614
notices required to be given to a victim under division (E) (2) 3615
or (K) of section 2929.20, division (D) of section 2930.16, 3616
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 3617

section 2967.19, division (A) (3) (b) of section 2967.26, division 3618
(D) (1) of section 2967.28, or division (A) (2) of section 3619
5149.101 of the Revised Code shall make a request to the 3620
prosecutor or custodial agency that is to provide the particular 3621
notice that the notice not be provided to the victim. Unless the 3622
victim makes a request as described in this division, the 3623
prosecutor or custodial agency shall provide the notices 3624
required to be given to a victim under division (E) (2) or (K) of 3625
section 2929.20, division (D) of section 2930.16, division (H) 3626
of section 2967.12, division (E) (1) (b) of section 2967.19, 3627
division (A) (3) (b) of section 2967.26, division (D) (1) of 3628
section 2967.28, or division (A) (2) of section 5149.101 of the 3629
Revised Code in any manner, and in accordance with the 3630
procedures, specified in the particular division. This division 3631
also applies to a victim's representative or a member of a 3632
victim's immediate family that is authorized to receive any of 3633
the notices specified in this division. 3634

(C) A person or agency that is required to furnish notice 3635
under this chapter shall give the notice to the victim at the 3636
address or telephone number provided to the person or agency by 3637
the victim. A victim who requests to receive notice under this 3638
chapter as described in division (B) of this section shall 3639
inform the person or agency of the name, address, or telephone 3640
number of the victim and of any change to that information. 3641

(D) A person or agency that has furnished information to a 3642
victim in accordance with any requirement or authorization under 3643
this chapter shall notify the victim promptly of any significant 3644
changes to that information. 3645

(E) Divisions (A) to (D) of this section do not apply 3646
regarding a notice that a prosecutor is required to provide 3647

under section 2930.061 of the Revised Code. A prosecutor 3648
required to provide notice under that section shall provide the 3649
notice as specified in that section. 3650

Sec. 2930.06. (A) The prosecutor in a case, to the extent 3651
practicable, shall confer with the victim in the case before 3652
pretrial diversion is granted to the defendant or alleged 3653
juvenile offender in the case, before amending or dismissing an 3654
indictment, information, or complaint against that defendant or 3655
alleged juvenile offender, before agreeing to a negotiated plea 3656
for that defendant or alleged juvenile offender, before a trial 3657
of that defendant by judge or jury, or before the juvenile court 3658
conducts an adjudicatory hearing for that alleged juvenile 3659
offender. If the juvenile court disposes of a case prior to the 3660
prosecutor's involvement in the case, the court or a court 3661
employee shall notify the victim in the case that the alleged 3662
juvenile offender will be granted pretrial diversion, the 3663
complaint against that alleged juvenile offender will be amended 3664
or dismissed, or the court will conduct an adjudicatory hearing 3665
for that alleged juvenile offender. If the prosecutor fails to 3666
confer with the victim at any of those times, the court, if 3667
informed of the failure, shall note on the record the failure 3668
and the prosecutor's reasons for the failure. A prosecutor's 3669
failure to confer with a victim as required by this division and 3670
a court's failure to provide the notice as required by this 3671
division do not affect the validity of an agreement between the 3672
prosecutor and the defendant or alleged juvenile offender in the 3673
case, a pretrial diversion of the defendant or alleged juvenile 3674
offender, an amendment or dismissal of an indictment, 3675
information, or complaint filed against the defendant or alleged 3676
juvenile offender, a plea entered by the defendant or alleged 3677
juvenile defender, an admission entered by the defendant or 3678

alleged juvenile offender, or any other disposition in the case. 3679
A court shall not dismiss a criminal complaint, charge, 3680
information, or indictment or a delinquent child complaint 3681
solely at the request of the victim and over the objection of 3682
the prosecuting attorney, village solicitor, city director of 3683
law, or other chief legal officer responsible for the 3684
prosecution of the case. 3685

(B) After a prosecution in a case has been commenced, the 3686
prosecutor or a designee of the prosecutor other than a court or 3687
court employee, to the extent practicable, promptly shall give 3688
the victim all of the following information, except that, if the 3689
juvenile court disposes of a case prior to the prosecutor's 3690
involvement in the case, the court or a court employee, to the 3691
extent practicable, promptly shall give the victim all of the 3692
following information: 3693

(1) The name of the crime or specified delinquent act with 3694
which the defendant or alleged juvenile offender in the case has 3695
been charged and the name of the defendant or alleged juvenile 3696
offender; 3697

(2) The file number of the case; 3698

(3) A brief statement regarding the procedural steps in a 3699
criminal prosecution or delinquency proceeding involving a crime 3700
or specified delinquent act similar to the crime or specified 3701
delinquent act with which the defendant or alleged juvenile 3702
offender has been charged and the right of the victim to be 3703
present during all proceedings held throughout the prosecution 3704
of the case; 3705

(4) A summary of the rights of a victim under this 3706
chapter; 3707

(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 3737
prosecutor is not involved in the case, the court under this 3738
chapter shall keep the prosecutor or the court informed of the 3739
victim's current address and telephone number until the case is 3740
dismissed or terminated, the defendant is acquitted or 3741
sentenced, the delinquent child complaint is dismissed, the 3742
defendant is adjudicated a delinquent child, or the appellate 3743
process is completed, whichever is the final disposition in the 3744
case. 3745

(E) If a defendant is charged with the commission of a 3746
misdemeanor offense that is not identified in division (A) (2) of 3747
section 2930.01 of the Revised Code and if a police report or a 3748
complaint, indictment, or information that charges the 3749
commission of that offense and provides the basis for a criminal 3750
prosecution of that defendant identifies one or more individuals 3751
as individuals against whom that offense was committed, after a 3752
prosecution in the case has been commenced, the prosecutor or a 3753
designee of the prosecutor other than a court or court employee, 3754
to the extent practicable, promptly shall notify each of the 3755
individuals so identified in the report, complaint, indictment, 3756
or information that, if the defendant is convicted of or pleads 3757
guilty to the offense, the individual may make an oral or 3758
written statement to the court hearing the case regarding the 3759
sentence to be imposed upon the defendant and that the court 3760
must consider any statement so made that is relevant. Before 3761
imposing sentence in the case, the court shall permit the 3762
individuals so identified in the report, complaint, indictment, 3763
or information to make an oral or written statement. Division 3764
(A) of section 2930.14 of the Revised Code applies regarding any 3765
statement so made. The court shall consider a statement so made, 3766
in accordance with division (B) of that section and division (D) 3767

of section 2929.22 of the Revised Code. 3768

Sec. 2930.16. (A) If a defendant is incarcerated, a victim 3769
in a case who has requested to receive notice under this section 3770
shall be given notice of the incarceration of the defendant. If 3771
an alleged juvenile offender is committed to the temporary 3772
custody of a school, camp, institution, or other facility 3773
operated for the care of delinquent children or to the legal 3774
custody of the department of youth services, a victim in a case 3775
who has requested to receive notice under this section shall be 3776
given notice of the commitment. Promptly after sentence is 3777
imposed upon the defendant or the commitment of the alleged 3778
juvenile offender is ordered, the prosecutor in the case shall 3779
notify the victim of the date on which the defendant will be 3780
released from confinement or the prosecutor's reasonable 3781
estimate of that date or the date on which the alleged juvenile 3782
offender will have served the minimum period of commitment or 3783
the prosecutor's reasonable estimate of that date. The 3784
prosecutor also shall notify the victim of the name of the 3785
custodial agency of the defendant or alleged juvenile offender 3786
and tell the victim how to contact that custodial agency. If the 3787
custodial agency is the department of rehabilitation and 3788
correction, the prosecutor shall notify the victim of the 3789
services offered by the office of victims' services pursuant to 3790
section 5120.60 of the Revised Code. If the custodial agency is 3791
the department of youth services, the prosecutor shall notify 3792
the victim of the services provided by the office of victims' 3793
services within the release authority of the department pursuant 3794
to section 5139.55 of the Revised Code and the victim's right 3795
pursuant to section 5139.56 of the Revised Code to submit a 3796
written request to the release authority to be notified of 3797
actions the release authority takes with respect to the alleged 3798

juvenile offender. The victim shall keep the custodial agency 3799
informed of the victim's current address and telephone number. 3800

(B) (1) Upon the victim's request or in accordance with 3801
division (D) of this section, the prosecutor promptly shall 3802
notify the victim of any hearing for judicial release of the 3803
defendant pursuant to section 2929.20 of the Revised Code, of 3804
any hearing for release of the defendant pursuant to section 3805
2967.19 of the Revised Code, or of any hearing for judicial 3806
release or early release of the alleged juvenile offender 3807
pursuant to section 2151.38 of the Revised Code and of the 3808
victim's right to make a statement under those sections. The 3809
court shall notify the victim of its ruling in each of those 3810
hearings and on each of those applications. 3811

(2) If an offender is sentenced to a prison term pursuant 3812
to division (A) (3) or (B) of section 2971.03 of the Revised 3813
Code, upon the request of the victim of the crime or in 3814
accordance with division (D) of this section, the prosecutor 3815
promptly shall notify the victim of any hearing to be conducted 3816
pursuant to section 2971.05 of the Revised Code to determine 3817
whether to modify the requirement that the offender serve the 3818
entire prison term in a state correctional facility in 3819
accordance with division (C) of that section, whether to 3820
continue, revise, or revoke any existing modification of that 3821
requirement, or whether to terminate the prison term in 3822
accordance with division (D) of that section. The court shall 3823
notify the victim of any order issued at the conclusion of the 3824
hearing. 3825

(C) Upon the victim's request made at any time before the 3826
particular notice would be due or in accordance with division 3827
(D) of this section, the custodial agency of a defendant or 3828

alleged juvenile offender shall give the victim any of the 3829
following notices that is applicable: 3830

(1) At least sixty days before the adult parole authority 3831
recommends a pardon or commutation of sentence for the defendant 3832
or at least sixty days prior to a hearing before the adult 3833
parole authority regarding a grant of parole to the defendant, 3834
notice of the victim's right to submit a statement regarding the 3835
impact of the defendant's release in accordance with section 3836
2967.12 of the Revised Code and, if applicable, of the victim's 3837
right to appear at a full board hearing of the parole board to 3838
give testimony as authorized by section 5149.101 of the Revised 3839
Code; 3840

(2) At least sixty days before the defendant is 3841
transferred to transitional control under section 2967.26 of the 3842
Revised Code, notice of the pendency of the transfer and of the 3843
victim's right under that section to submit a statement 3844
regarding the impact of the transfer; 3845

(3) At least sixty days before the release authority of 3846
the department of youth services holds a release review, release 3847
hearing, or discharge review for the alleged juvenile offender, 3848
notice of the pendency of the review or hearing, of the victim's 3849
right to make an oral or written statement regarding the impact 3850
of the crime upon the victim or regarding the possible release 3851
or discharge, and, if the notice pertains to a hearing, of the 3852
victim's right to attend and make statements or comments at the 3853
hearing as authorized by section 5139.56 of the Revised Code; 3854

(4) Prompt notice of the defendant's or alleged juvenile 3855
offender's escape from a facility of the custodial agency in 3856
which the defendant was incarcerated or in which the alleged 3857
juvenile offender was placed after commitment, of the 3858

defendant's or alleged juvenile offender's absence without leave 3859
from a mental health or mental retardation and developmental 3860
disabilities facility or from other custody, and of the capture 3861
of the defendant or alleged juvenile offender after an escape or 3862
absence; 3863

(5) Notice of the defendant's or alleged juvenile 3864
offender's death while in confinement or custody; 3865

(6) Notice of the filing of a petition by the director of 3866
rehabilitation and correction pursuant to section 2967.19 of the 3867
Revised Code requesting the early release under that section of 3868
the defendant; 3869

(7) Notice of the defendant's or alleged juvenile 3870
offender's release from confinement or custody and the terms and 3871
conditions of the release. 3872

(D) (1) If a defendant is incarcerated for the commission 3873
of aggravated murder, murder, or an offense of violence that is 3874
a felony of the first, second, or third degree or is under a 3875
sentence of life imprisonment or if an alleged juvenile offender 3876
has been charged with the commission of an act that would be 3877
aggravated murder, murder, or an offense of violence that is a 3878
felony of the first, second, or third degree or be subject to a 3879
sentence of life imprisonment if committed by an adult, except 3880
as otherwise provided in this division, the notices described in 3881
divisions (B) and (C) of this section shall be given regardless 3882
of whether the victim has requested the notification. The 3883
notices described in divisions (B) and (C) of this section shall 3884
not be given under this division to a victim if the victim has 3885
requested pursuant to division (B) (2) of section 2930.03 of the 3886
Revised Code that the victim not be provided the notice. 3887
Regardless of whether the victim has requested that the notices 3888

described in division (C) of this section be provided or not be 3889
provided, the custodial agency shall give notice similar to 3890
those notices to the prosecutor in the case, to the sentencing 3891
court, to the law enforcement agency that arrested the defendant 3892
or alleged juvenile offender if any officer of that agency was a 3893
victim of the offense, and to any member of the victim's 3894
immediate family who requests notification. If the notice given 3895
under this division to the victim is based on an offense 3896
committed prior to ~~the effective date of this amendment~~ March 3897
22, 2013, and if the prosecutor or custodial agency has not 3898
previously successfully provided any notice to the victim under 3899
this division or division (B) or (C) of this section with 3900
respect to that offense and the offender who committed it, the 3901
notice also shall inform the victim that the victim may request 3902
that the victim not be provided any further notices with respect 3903
to that offense and the offender who committed it and shall 3904
describe the procedure for making that request. If the notice 3905
given under this division to the victim pertains to a hearing 3906
regarding a grant of a parole to the defendant, the notice also 3907
shall inform the victim that the victim, a member of the 3908
victim's immediate family, or the victim's representative may 3909
request a victim conference, as described in division (E) of 3910
this section, and shall provide an explanation of a victim 3911
conference. 3912

The prosecutor or custodial agency may give the notices to 3913
which this division applies by any reasonable means, including 3914
regular mail, telephone, and electronic mail. If the prosecutor 3915
or custodial agency attempts to provide notice to a victim under 3916
this division but the attempt is unsuccessful because the 3917
prosecutor or custodial agency is unable to locate the victim, 3918
is unable to provide the notice by its chosen method because it 3919

cannot determine the mailing address, telephone number, or 3920
electronic mail address at which to provide the notice, or, if 3921
the notice is sent by mail, the notice is returned, the 3922
prosecutor or custodial agency shall make another attempt to 3923
provide the notice to the victim. If the second attempt is 3924
unsuccessful, the prosecutor or custodial agency shall make at 3925
least one more attempt to provide the notice. If the notice is 3926
based on an offense committed prior to ~~the effective date of~~ 3927
~~this amendment~~ March 22, 2013, in each attempt to provide the 3928
notice to the victim, the notice shall include the opt-out 3929
information described in the preceding paragraph. The prosecutor 3930
or custodial agency, in accordance with division (D) (2) of this 3931
section, shall keep a record of all attempts to provide the 3932
notice, and of all notices provided, under this division. 3933

Division (D) (1) of this section, and the notice-related 3934
provisions of divisions (E) (2) and (K) of section 2929.20, 3935
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 3936
section 2967.19, division (A) (3) (b) of section 2967.26, division 3937
(D) (1) of section 2967.28, and division (A) (2) of section 3938
5149.101 of the Revised Code enacted in the act in which 3939
division (D) (1) of this section was enacted, shall be known as 3940
"Roberta's Law." 3941

(2) Each prosecutor and custodial agency that attempts to 3942
give any notice to which division (D) (1) of this section applies 3943
shall keep a record of all attempts to give the notice. The 3944
record shall indicate the person who was to be the recipient of 3945
the notice, the date on which the attempt was made, the manner 3946
in which the attempt was made, and the person who made the 3947
attempt. If the attempt is successful and the notice is given, 3948
the record shall indicate that fact. The record shall be kept in 3949
a manner that allows public inspection of attempts and notices 3950

given to persons other than victims without revealing the names, 3951
addresses, or other identifying information relating to victims. 3952
The record of attempts and notices given to victims is not a 3953
public record, but the prosecutor or custodial agency shall 3954
provide upon request a copy of that record to a prosecuting 3955
attorney, judge, law enforcement agency, or member of the 3956
general assembly. The record of attempts and notices given to 3957
persons other than victims is a public record. A record kept 3958
under this division may be indexed by offender name, or in any 3959
other manner determined by the prosecutor or the custodial 3960
agency. Each prosecutor or custodial agency that is required to 3961
keep a record under this division shall determine the procedures 3962
for keeping the record and the manner in which it is to be kept, 3963
subject to the requirements of this division. 3964

(E) The adult parole authority shall adopt rules under 3965
Chapter 119. of the Revised Code providing for a victim 3966
conference, upon request of the victim, a member of the victim's 3967
immediate family, or the victim's representative, prior to a 3968
parole hearing in the case of a prisoner who is incarcerated for 3969
the commission of aggravated murder, murder, or an offense of 3970
violence that is a felony of the first, second, or third degree 3971
or is under a sentence of life imprisonment. The rules shall 3972
provide for, but not be limited to, all of the following: 3973

(1) Subject to division (E) (3) of this section, attendance 3974
by the victim, members of the victim's immediate family, the 3975
victim's representative, and, if practicable, other individuals; 3976

(2) Allotment of up to one hour for the conference; 3977

(3) A specification of the number of persons specified in 3978
division (E) (1) of this section who may be present at any single 3979
victim conference, if limited by the department pursuant to 3980

division (F) of this section. 3981

(F) The department may limit the number of persons 3982
specified in division (E) (1) of this section who may be present 3983
at any single victim conference, provided that the department 3984
shall not limit the number of persons who may be present at any 3985
single conference to fewer than three. If the department limits 3986
the number of persons who may be present at any single victim 3987
conference, the department shall permit and schedule, upon 3988
request of the victim, a member of the victim's immediate 3989
family, or the victim's representative, multiple victim 3990
conferences for the persons specified in division (E) (1) of this 3991
section. 3992

(G) As used in this section, "victim's immediate family" 3993
has the same meaning as in section 2967.12 of the Revised Code. 3994

Sec. 2930.19. (A) In a manner consistent with the duty of 3995
a prosecutor to represent the interests of the public as a 3996
whole, a prosecutor shall seek compliance with this chapter on 3997
behalf of a victim, a member of the victim's family, or the 3998
victim's representative. 3999

(B) The failure of a public official or public agency to 4000
comply with the requirements of this chapter does not give rise 4001
to a claim for damages against that public official or public 4002
agency, except that a public agency as an employer may be held 4003
responsible for a violation of section 2930.18 of the Revised 4004
Code. 4005

(C) The failure of any person or entity to provide a 4006
right, privilege, or notice to a victim under this chapter does 4007
not constitute grounds for declaring a mistrial or new trial, 4008
for setting aside a conviction, sentence, adjudication, or 4009

disposition, or for granting postconviction release to a 4010
defendant or alleged juvenile offender. 4011

~~(D) If there is a conflict between a provision in this 4012
chapter and a specific statute governing the procedure in a case 4013
involving a capital offense, the specific statute supersedes the 4014
provision in this chapter. 4015~~

~~(E) If the victim of a crime is incarcerated in a state or 4016
local correctional facility or is in the legal custody of the 4017
department of youth services, the victim's rights under this 4018
chapter may be modified by court order to prevent any security 4019
risk, hardship, or undue burden upon a public official or public 4020
agency with a duty under this chapter. 4021~~

Sec. 2937.222. (A) On the motion of the prosecuting 4022
attorney or on the judge's own motion, the judge shall hold a 4023
hearing to determine whether an accused person charged with 4024
aggravated murder ~~when it is not a capital offense,~~ murder, a 4025
felony of the first or second degree, a violation of section 4026
2903.06 of the Revised Code, a violation of section 2903.211 of 4027
the Revised Code that is a felony, or a felony OVI offense shall 4028
be denied bail. The judge shall order that the accused be 4029
detained until the conclusion of the hearing. Except for good 4030
cause, a continuance on the motion of the state shall not exceed 4031
three court days. Except for good cause, a continuance on the 4032
motion of the accused shall not exceed five court days unless 4033
the motion of the accused waives in writing the five-day limit 4034
and states in writing a specific period for which the accused 4035
requests a continuance. A continuance granted upon a motion of 4036
the accused that waives in writing the five-day limit shall not 4037
exceed five court days after the period of continuance requested 4038
in the motion. 4039

At the hearing, the accused has the right to be 4040
represented by counsel and, if the accused is indigent, to have 4041
counsel appointed. The judge shall afford the accused an 4042
opportunity to testify, to present witnesses and other 4043
information, and to cross-examine witnesses who appear at the 4044
hearing. The rules concerning admissibility of evidence in 4045
criminal trials do not apply to the presentation and 4046
consideration of information at the hearing. Regardless of 4047
whether the hearing is being held on the motion of the 4048
prosecuting attorney or on the court's own motion, the state has 4049
the burden of proving that the proof is evident or the 4050
presumption great that the accused committed the offense with 4051
which the accused is charged, of proving that the accused poses 4052
a substantial risk of serious physical harm to any person or to 4053
the community, and of proving that no release conditions will 4054
reasonably assure the safety of that person and the community. 4055

The judge may reopen the hearing at any time before trial 4056
if the judge finds that information exists that was not known to 4057
the movant at the time of the hearing and that that information 4058
has a material bearing on whether bail should be denied. If a 4059
municipal court or county court enters an order denying bail, a 4060
judge of the court of common pleas having jurisdiction over the 4061
case may continue that order or may hold a hearing pursuant to 4062
this section to determine whether to continue that order. 4063

(B) No accused person shall be denied bail pursuant to 4064
this section unless the judge finds by clear and convincing 4065
evidence that the proof is evident or the presumption great that 4066
the accused committed the offense described in division (A) of 4067
this section with which the accused is charged, finds by clear 4068
and convincing evidence that the accused poses a substantial 4069
risk of serious physical harm to any person or to the community, 4070

and finds by clear and convincing evidence that no release 4071
conditions will reasonably assure the safety of that person and 4072
the community. 4073

(C) The judge, in determining whether the accused person 4074
described in division (A) of this section poses a substantial 4075
risk of serious physical harm to any person or to the community 4076
and whether there are conditions of release that will reasonably 4077
assure the safety of that person and the community, shall 4078
consider all available information regarding all of the 4079
following: 4080

(1) The nature and circumstances of the offense charged, 4081
including whether the offense is an offense of violence or 4082
involves alcohol or a drug of abuse; 4083

(2) The weight of the evidence against the accused; 4084

(3) The history and characteristics of the accused, 4085
including, but not limited to, both of the following: 4086

(a) The character, physical and mental condition, family 4087
ties, employment, financial resources, length of residence in 4088
the community, community ties, past conduct, history relating to 4089
drug or alcohol abuse, and criminal history of the accused; 4090

(b) Whether, at the time of the current alleged offense or 4091
at the time of the arrest of the accused, the accused was on 4092
probation, parole, post-release control, or other release 4093
pending trial, sentencing, appeal, or completion of sentence for 4094
the commission of an offense under the laws of this state, 4095
another state, or the United States or under a municipal 4096
ordinance. 4097

(4) The nature and seriousness of the danger to any person 4098
or the community that would be posed by the person's release. 4099

(D) (1) An order of the court of common pleas denying bail 4100
pursuant to this section is a final appealable order. In an 4101
appeal pursuant to division (D) of this section, the court of 4102
appeals shall do all of the following: 4103

(a) Give the appeal priority on its calendar; 4104

(b) Liberally modify or dispense with formal requirements 4105
in the interest of a speedy and just resolution of the appeal; 4106

(c) Decide the appeal expeditiously; 4107

(d) Promptly enter its judgment affirming or reversing the 4108
order denying bail. 4109

(2) The pendency of an appeal under this section does not 4110
deprive the court of common pleas of jurisdiction to conduct 4111
further proceedings in the case or to further consider the order 4112
denying bail in accordance with this section. If, during the 4113
pendency of an appeal under division (D) of this section, the 4114
court of common pleas sets aside or terminates the order denying 4115
bail, the court of appeals shall dismiss the appeal. 4116

(E) As used in this section: 4117

(1) "Court day" has the same meaning as in section 5122.01 4118
of the Revised Code. 4119

(2) "Felony OVI offense" means a third degree felony OVI 4120
offense and a fourth degree felony OVI offense. 4121

(3) "Fourth degree felony OVI offense" and "third degree 4122
felony OVI offense" have the same meanings as in section 2929.01 4123
of the Revised Code. 4124

Sec. 2941.021. Any criminal offense which is not 4125
punishable by ~~death or~~ life imprisonment may be prosecuted by 4126

information filed in the common pleas court by the prosecuting attorney if the defendant, after ~~he has~~ having been advised by the court of the nature of the charge against ~~him~~ the defendant and of ~~his~~ the defendant's rights under the constitution, is represented by counsel or has affirmatively waived counsel by waiver in writing and in open court, waives in writing and in open court prosecution by indictment.

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

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

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

~~"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE 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)."~~

Sec. 2941.148. (A) (1) The application of Chapter 2971. of
the Revised Code to an offender is precluded unless one of the
following applies:

(a) The offender is charged with a violent sex offense,
and the indictment, count in the indictment, or information
charging the violent sex offense also includes a specification
that the offender is a sexually violent predator, or the
offender is charged with a designated homicide, assault, or
kidnapping offense, and the indictment, count in the indictment,
or information charging the designated homicide, assault, or
kidnapping offense also includes both a specification of the
type described in section 2941.147 of the Revised Code and a
specification that the offender is a sexually violent predator.

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

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

(d) The offender is convicted of or pleads guilty to a
violation of section 2905.01 of the Revised Code and to a
specification of the type described in section 2941.147 of the

Revised Code, and section 2905.01 of the Revised Code requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(e) The offender is convicted of or pleads guilty to aggravated murder and to a specification of the type described in section 2941.147 of the Revised Code, 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)(1) of section 2929.06~~ 2929.02 of the Revised Code requires a court to sentence the offender pursuant to division (B)(3) of section 2971.03 of the Revised Code.

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

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

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

(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 4215
as evidence tending to indicate that it is likely that the 4216
person will engage in the future in one or more sexually violent 4217
offenses. 4218

(C) As used in this section, "designated homicide, 4219
assault, or kidnapping offense," "violent sex offense," and 4220
"sexually violent predator" have the same meanings as in section 4221
2971.01 of the Revised Code. 4222

Sec. 2941.401. When a person has entered upon a term of 4223
imprisonment in a correctional institution of this state, and 4224
when during the continuance of the term of imprisonment there is 4225
pending in this state any untried indictment, information, or 4226
complaint against the prisoner, ~~he~~ the prisoner shall be brought 4227
to trial within one hundred eighty days after ~~he~~ the prisoner 4228
causes to be delivered to the prosecuting attorney and the 4229
appropriate court in which the matter is pending, written notice 4230
of the place of ~~his~~ the prisoner's imprisonment and a request 4231
for a final disposition to be made of the matter, except that 4232
for good cause shown in open court, with the prisoner or ~~his~~ the 4233
prisoner's counsel present, the court may grant any necessary or 4234
reasonable continuance. The request of the prisoner shall be 4235
accompanied by a certificate of the warden or superintendent 4236
having custody of the prisoner, stating the term of commitment 4237
under which the prisoner is being held, the time served and 4238
remaining to be served on the sentence, the amount of good time 4239
earned, the time of parole eligibility of the prisoner, and any 4240
decisions of the adult parole authority relating to the 4241
prisoner. 4242

The written notice and request for final disposition shall 4243
be given or sent by the prisoner to the warden or superintendent 4244

having custody of ~~him~~ the prisoner, who shall promptly forward 4245
it with the certificate to the appropriate prosecuting attorney 4246
and court by registered or certified mail, return receipt 4247
requested. 4248

The warden or superintendent having custody of the 4249
prisoner shall promptly inform ~~him~~ the prisoner in writing of 4250
the source and contents of any untried indictment, information, 4251
or complaint against ~~him~~ the prisoner, concerning which the 4252
warden or superintendent has knowledge, and of ~~his~~ the 4253
prisoner's right to make a request for final disposition 4254
thereof. 4255

Escape from custody by the prisoner, subsequent to ~~his~~ the 4256
prisoner's execution of the request for final disposition, voids 4257
the request. 4258

If the action is not brought to trial within the time 4259
provided, subject to continuance allowed pursuant to this 4260
section, no court any longer has jurisdiction thereof, the 4261
indictment, information, or complaint is void, and the court 4262
shall enter an order dismissing the action with prejudice. 4263

This section does not apply to any person adjudged to be 4264
mentally ill or who is under sentence of life imprisonment ~~or~~ 4265
~~death, or to any prisoner under sentence of death.~~ 4266

Sec. 2941.43. If the convict referred to in section 4267
2941.40 of the Revised Code is acquitted, ~~he~~ the convict shall 4268
be forthwith returned by the sheriff to the state correctional 4269
institution to serve out the remainder of ~~his~~ the convict's 4270
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 4271
state correctional institution, ~~he~~ the convict shall be returned 4272
to the state correctional institution by the sheriff to serve 4273

~~his new the convict's term. If he is sentenced to death, the~~ 4274
~~death sentence shall be executed as if he were not under~~ 4275
~~sentence of imprisonment in a state correctional institution.~~ 4276

Sec. 2941.51. (A) Counsel appointed to a case or selected 4277
by an indigent person under division (E) of section 120.16 or 4278
division (E) of section 120.26 of the Revised Code, or otherwise 4279
appointed by the court, except for counsel appointed by the 4280
court to provide legal representation for a person charged with 4281
a violation of an ordinance of a municipal corporation, shall be 4282
paid for their services by the county the compensation and 4283
expenses that the trial court approves. Each request for payment 4284
shall be accompanied by a financial disclosure form and an 4285
affidavit of indigency that are completed by the indigent person 4286
on forms prescribed by the state public defender. Compensation 4287
and expenses shall not exceed the amounts fixed by the board of 4288
county commissioners pursuant to division (B) of this section. 4289

(B) The board of county commissioners shall establish a 4290
schedule of fees by case or on an hourly basis to be paid by the 4291
county for legal services provided by appointed counsel. Prior 4292
to establishing such schedule, the board shall request the bar 4293
association or associations of the county to submit a proposed 4294
schedule. The schedule submitted shall be subject to the review, 4295
amendment, and approval of the board of county commissioners. 4296

(C) In a case where counsel have been appointed to conduct 4297
an appeal under Chapter 120. of the Revised Code, such 4298
compensation shall be fixed by the court of appeals or the 4299
supreme court, as provided in divisions (A) and (B) of this 4300
section. 4301

(D) The fees and expenses approved by the court under this 4302
section shall not be taxed as part of the costs and shall be 4303

paid by the county. However, if the person represented has, or 4304
reasonably may be expected to have, the means to meet some part 4305
of the cost of the services rendered to the person, the person 4306
shall pay the county an amount that the person reasonably can be 4307
expected to pay. Pursuant to section 120.04 of the Revised Code, 4308
the county shall pay to the state public defender a percentage 4309
of the payment received from the person in an amount 4310
proportionate to the percentage of the costs of the person's 4311
case that were paid to the county by the state public defender 4312
pursuant to this section. The money paid to the state public 4313
defender shall be credited to the client payment fund created 4314
pursuant to division (B) (5) of section 120.04 of the Revised 4315
Code. 4316

(E) The county auditor shall draw a warrant on the county 4317
treasurer for the payment of such counsel in the amount fixed by 4318
the court, plus the expenses that the court fixes and certifies 4319
to the auditor. The county auditor shall report periodically, 4320
but not less than annually, to the board of county commissioners 4321
and to the Ohio public defender commission the amounts paid out 4322
pursuant to the approval of the court under this section, 4323
separately stating costs and expenses that are reimbursable 4324
under section 120.35 of the Revised Code. The board, after 4325
review and approval of the auditor's report, may then certify it 4326
to the state public defender for reimbursement. The request for 4327
reimbursement shall be accompanied by a financial disclosure 4328
form completed by each indigent person for whom counsel was 4329
provided on a form prescribed by the state public defender. The 4330
state public defender shall review the report and, in accordance 4331
with the standards, guidelines, and maximums established 4332
pursuant to divisions (B) (7) and (8) of section 120.04 of the 4333
Revised Code, pay fifty per cent of the total cost, ~~other than~~ 4334

~~costs and expenses that are reimbursable under section 120.35 of~~ 4335
~~the Revised Code, if any,~~ of paying appointed counsel in each 4336
county and ~~pay fifty per cent of costs and expenses that are~~ 4337
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 4338
to the board. 4339

(F) If any county system for paying appointed counsel 4340
fails to maintain the standards for the conduct of the system 4341
established by the rules of the Ohio public defender commission 4342
pursuant to divisions (B) and (C) of section 120.03 of the 4343
Revised Code or the standards established by the state public 4344
defender pursuant to division (B) (7) of section 120.04 of the 4345
Revised Code, the commission shall notify the board of county 4346
commissioners of the county that the county system for paying 4347
appointed counsel has failed to comply with its rules. Unless 4348
the board corrects the conduct of its appointed counsel system 4349
to comply with the rules within ninety days after the date of 4350
the notice, the state public defender may deny all or part of 4351
the county's reimbursement from the state provided for in this 4352
section. 4353

Sec. 2945.06. In any case in which a defendant waives his 4354
right to trial by jury and elects to be tried by the court under 4355
section 2945.05 of the Revised Code, any judge of the court in 4356
which the cause is pending shall proceed to hear, try, and 4357
determine the cause in accordance with the rules and in like 4358
manner as if the cause were being tried before a jury. ~~If the~~ 4359
~~accused is charged with an offense punishable with death, he~~ 4360
~~shall be tried by a court to be composed of three judges,~~ 4361
~~consisting of the judge presiding at the time in the trial of~~ 4362
~~criminal cases and two other judges to be designated by the~~ 4363
~~presiding judge or chief justice of that court, and in case~~ 4364
~~there is neither a presiding judge nor a chief justice, by the~~ 4365

~~chief justice of the supreme court. The judges or a majority of
them may decide all questions of fact and law arising upon the
trial; however the accused shall not be found guilty or not
guilty of any offense unless the judges unanimously find the
accused guilty or not guilty. If the accused pleads guilty of
aggravated murder, a court composed of three judges shall
examine the witnesses, determine whether the accused is guilty
of aggravated murder or any other offense, and pronounce
sentence accordingly. The court shall follow the procedures
contained in sections 2929.03 and 2929.04 of the Revised Code in
all cases in which the accused is charged with an offense
punishable by death. If in the composition of the court it is
necessary that a judge from another county be assigned by the
chief justice, the judge from another county shall be
compensated for his services as provided by section 141.07 of
the Revised Code.~~

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

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

(2) ~~Notwithstanding Criminal Rule 24, in capital cases in~~

~~which there is only one defendant, each party, in addition to~~ 4396
~~the challenges for cause authorized by law, may peremptorily~~ 4397
~~challenge twelve of the jurors. If there is more than one~~ 4398
~~defendant, each defendant may peremptorily challenge the same~~ 4399
~~number of jurors as if he were the sole defendant.~~ 4400

~~(3)~~In any case in which there are multiple defendants, 4401
the prosecuting attorney may peremptorily challenge a number of 4402
jurors equal to the total number of peremptory challenges 4403
allowed to all of the defendants. 4404

(B) If any indictments, informations, or complaints are 4405
consolidated for trial, the consolidated cases shall be 4406
considered, for purposes of exercising peremptory challenges, as 4407
though the defendants or offenses had been joined in the same 4408
indictment, information, or complaint. 4409

(C) The exercise of peremptory challenges authorized by 4410
this section shall be in accordance with the procedures of 4411
Criminal Rule 24. 4412

Sec. 2945.25. A person called as a juror in a criminal 4413
case may be challenged for the following causes: 4414

(A) That ~~he~~ the person was a member of the grand jury that 4415
found the indictment in the case; 4416

(B) That ~~he~~ the person is possessed of a state of mind 4417
evinced enmity or bias toward the defendant or the state; but 4418
no person summoned as a juror shall be disqualified by reason of 4419
a previously formed or expressed opinion with reference to the 4420
guilt or innocence of the accused, if the court is satisfied, 4421
from examination of the juror or from other evidence, that ~~he~~ 4422
the juror will render an impartial verdict according to the law 4423
and the evidence submitted to the jury at the trial; 4424

~~(C) In the trial of a capital offense, that~~ 4425
~~he unequivocally states that under no circumstances will he~~ 4426
~~follow the instructions of a trial judge and consider fairly the~~ 4427
~~imposition of a sentence of death in a particular case. A~~ 4428
~~prospective juror's conscientious or religious opposition to the~~ 4429
~~death penalty in and of itself is not grounds for a challenge~~ 4430
~~for cause. All parties shall be given wide latitude in voir dire~~ 4431
~~questioning in this regard.~~ 4432

~~(D) That he the person is related by consanguinity or~~ 4433
~~affinity within the fifth degree to the person alleged to be~~ 4434
~~injured or attempted to be injured by the offense charged, or to~~ 4435
~~the person on whose complaint the prosecution was instituted, or~~ 4436
~~to the defendant;~~ 4437

~~(E) (D) That he the person served on a petit jury drawn in~~ 4438
~~the same cause against the same defendant, and that jury was~~ 4439
~~discharged after hearing the evidence or rendering a verdict on~~ 4440
~~the evidence that was set aside;~~ 4441

~~(F) (E) That he the person served as a juror in a civil~~ 4442
~~case brought against the defendant for the same act;~~ 4443

~~(G) (F) That he the person has been subpoenaed in good~~ 4444
~~faith as a witness in the case;~~ 4445

~~(H) (G) That he the person is a chronic alcoholic, or drug~~ 4446
~~dependent person;~~ 4447

~~(I) (H) That he the person has been convicted of a crime~~ 4448
~~that by law disqualifies him the person from serving on a jury;~~ 4449

~~(J) (I) That he the person has an action pending between~~ 4450
~~him the person and the state or the defendant;~~ 4451

~~(K) (J) That he the person or his the person's spouse is a~~ 4452

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;

~~(I)~~ (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

court. Such officer shall not communicate to any person, before 4482
the verdict is delivered, any matter in relation to their 4483
deliberation. Upon the trial of any prosecution for misdemeanor, 4484
the court may permit the jury to separate during their 4485
deliberation, or upon adjournment of the court overnight. 4486

~~In cases where the offense charged may be punished by 4487
death, after the case is finally submitted to the jury, the 4488
jurors shall be kept in charge of the proper officer and proper 4489
arrangements for their care and maintenance shall be made as 4490
under section 2945.31 of the Revised Code. 4491~~

Sec. 2945.38. (A) If the issue of a defendant's competence 4492
to stand trial is raised and if the court, upon conducting the 4493
hearing provided for in section 2945.37 of the Revised Code, 4494
finds that the defendant is competent to stand trial, the 4495
defendant shall be proceeded against as provided by law. If the 4496
court finds the defendant competent to stand trial and the 4497
defendant is receiving psychotropic drugs or other medication, 4498
the court may authorize the continued administration of the 4499
drugs or medication or other appropriate treatment in order to 4500
maintain the defendant's competence to stand trial, unless the 4501
defendant's attending physician advises the court against 4502
continuation of the drugs, other medication, or treatment. 4503

(B) (1) (a) If, after taking into consideration all relevant 4504
reports, information, and other evidence, the court finds that 4505
the defendant is incompetent to stand trial and that there is a 4506
substantial probability that the defendant will become competent 4507
to stand trial within one year if the defendant is provided with 4508
a course of treatment, the court shall order the defendant to 4509
undergo treatment. If the defendant has been charged with a 4510
felony offense and if, after taking into consideration all 4511

relevant reports, information, and other evidence, the court 4512
finds that the defendant is incompetent to stand trial, but the 4513
court is unable at that time to determine whether there is a 4514
substantial probability that the defendant will become competent 4515
to stand trial within one year if the defendant is provided with 4516
a course of treatment, the court shall order continuing 4517
evaluation and treatment of the defendant for a period not to 4518
exceed four months to determine whether there is a substantial 4519
probability that the defendant will become competent to stand 4520
trial within one year if the defendant is provided with a course 4521
of treatment. 4522

(b) The court order for the defendant to undergo treatment 4523
or continuing evaluation and treatment under division (B) (1) (a) 4524
of this section shall specify that the defendant, if determined 4525
to require mental health treatment or continuing evaluation and 4526
treatment, either shall be committed to the department of mental 4527
health and addiction services for treatment or continuing 4528
evaluation and treatment at a hospital, facility, or agency, as 4529
determined to be clinically appropriate by the department of 4530
mental health and addiction services or shall be committed to a 4531
facility certified by the department of mental health and 4532
addiction services as being qualified to treat mental illness, 4533
to a public or community mental health facility, or to a 4534
psychiatrist or another mental health professional for treatment 4535
or continuing evaluation and treatment. Prior to placing the 4536
defendant, the department of mental health and addiction 4537
services shall obtain court approval for that placement 4538
following a hearing. The court order for the defendant to 4539
undergo treatment or continuing evaluation and treatment under 4540
division (B) (1) (a) of this section shall specify that the 4541
defendant, if determined to require treatment or continuing 4542

evaluation and treatment for mental retardation, shall receive 4543
treatment or continuing evaluation and treatment at an 4544
institution or facility operated by the department of 4545
developmental disabilities, at a facility certified by the 4546
department of developmental disabilities as being qualified to 4547
treat mental retardation, at a public or private mental 4548
retardation facility, or by a psychiatrist or another mental 4549
retardation professional. In any case, the order may restrict 4550
the defendant's freedom of movement as the court considers 4551
necessary. The prosecutor in the defendant's case shall send to 4552
the chief clinical officer of the hospital, facility, or agency 4553
where the defendant is placed by the department of mental health 4554
and addiction services, or to the managing officer of the 4555
institution, the director of the program or facility, or the 4556
person to which the defendant is committed, copies of relevant 4557
police reports and other background information that pertains to 4558
the defendant and is available to the prosecutor unless the 4559
prosecutor determines that the release of any of the information 4560
in the police reports or any of the other background information 4561
to unauthorized persons would interfere with the effective 4562
prosecution of any person or would create a substantial risk of 4563
harm to any person. 4564

In determining the place of commitment, the court shall 4565
consider the extent to which the person is a danger to the 4566
person and to others, the need for security, and the type of 4567
crime involved and shall order the least restrictive alternative 4568
available that is consistent with public safety and treatment 4569
goals. In weighing these factors, the court shall give 4570
preference to protecting public safety. 4571

(c) If the defendant is found incompetent to stand trial, 4572
if the chief clinical officer of the hospital, facility, or 4573

agency where the defendant is placed, or the managing officer of 4574
the institution, the director of the program or facility, or the 4575
person to which the defendant is committed for treatment or 4576
continuing evaluation and treatment under division (B) (1) (b) of 4577
this section determines that medication is necessary to restore 4578
the defendant's competency to stand trial, and if the defendant 4579
lacks the capacity to give informed consent or refuses 4580
medication, the chief clinical officer of the hospital, 4581
facility, or agency where the defendant is placed, or the 4582
managing officer of the institution, the director of the program 4583
or facility, or the person to which the defendant is committed 4584
for treatment or continuing evaluation and treatment may 4585
petition the court for authorization for the involuntary 4586
administration of medication. The court shall hold a hearing on 4587
the petition within five days of the filing of the petition if 4588
the petition was filed in a municipal court or a county court 4589
regarding an incompetent defendant charged with a misdemeanor or 4590
within ten days of the filing of the petition if the petition 4591
was filed in a court of common pleas regarding an incompetent 4592
defendant charged with a felony offense. Following the hearing, 4593
the court may authorize the involuntary administration of 4594
medication or may dismiss the petition. 4595

(2) If the court finds that the defendant is incompetent 4596
to stand trial and that, even if the defendant is provided with 4597
a course of treatment, there is not a substantial probability 4598
that the defendant will become competent to stand trial within 4599
one year, the court shall order the discharge of the defendant, 4600
unless upon motion of the prosecutor or on its own motion, the 4601
court either seeks to retain jurisdiction over the defendant 4602
pursuant to section 2945.39 of the Revised Code or files an 4603
affidavit in the probate court for the civil commitment of the 4604

defendant pursuant to Chapter 5122. or 5123. of the Revised Code 4605
alleging that the defendant is a mentally ill person subject to 4606
court order or a mentally retarded person subject to 4607
institutionalization by court order. If an affidavit is filed in 4608
the probate court, the trial court shall send to the probate 4609
court copies of all written reports of the defendant's mental 4610
condition that were prepared pursuant to section 2945.371 of the 4611
Revised Code. 4612

The trial court may issue the temporary order of detention 4613
that a probate court may issue under section 5122.11 or 5123.71 4614
of the Revised Code, to remain in effect until the probable 4615
cause or initial hearing in the probate court. Further 4616
proceedings in the probate court are civil proceedings governed 4617
by Chapter 5122. or 5123. of the Revised Code. 4618

(C) No defendant shall be required to undergo treatment, 4619
including any continuing evaluation and treatment, under 4620
division (B)(1) of this section for longer than whichever of the 4621
following periods is applicable: 4622

(1) One year, if the most serious offense with which the 4623
defendant is charged is one of the following offenses: 4624

(a) Aggravated murder, murder, or an offense of violence 4625
for which a sentence of ~~death or~~ life imprisonment may be 4626
imposed; 4627

(b) An offense of violence that is a felony of the first 4628
or second degree; 4629

(c) A conspiracy to commit, an attempt to commit, or 4630
complicity in the commission of an offense described in division 4631
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 4632
complicity is a felony of the first or second degree. 4633

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

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

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

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

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

the defendant is committed. The chief clinical officer of the 4664
hospital or facility where the defendant is placed by the 4665
department of mental health and addiction services or the 4666
managing officer of the institution or director of the facility 4667
to which the defendant is committed, or a designee of any of 4668
those persons, may grant a defendant movement to a medical 4669
facility for an emergency medical situation with appropriate 4670
supervision to ensure the safety of the defendant, staff, and 4671
community during that emergency medical situation. The chief 4672
clinical officer of the hospital or facility where the defendant 4673
is placed by the department of mental health and addiction 4674
services or the managing officer of the institution or director 4675
of the facility to which the defendant is committed shall notify 4676
the court within twenty-four hours of the defendant's movement 4677
to the medical facility for an emergency medical situation under 4678
this division. 4679

(F) The person who supervises the treatment or continuing 4680
evaluation and treatment of a defendant ordered to undergo 4681
treatment or continuing evaluation and treatment under division 4682
(B) (1) (a) of this section shall file a written report with the 4683
court at the following times: 4684

(1) Whenever the person believes the defendant is capable 4685
of understanding the nature and objective of the proceedings 4686
against the defendant and of assisting in the defendant's 4687
defense; 4688

(2) For a felony offense, fourteen days before expiration 4689
of the maximum time for treatment as specified in division (C) 4690
of this section and fourteen days before the expiration of the 4691
maximum time for continuing evaluation and treatment as 4692
specified in division (B) (1) (a) of this section, and, for a 4693

misdemeanor offense, ten days before the expiration of the 4694
maximum time for treatment, as specified in division (C) of this 4695
section; 4696

(3) At a minimum, after each six months of treatment; 4697

(4) Whenever the person who supervises the treatment or 4698
continuing evaluation and treatment of a defendant ordered under 4699
division (B) (1) (a) of this section believes that there is not a 4700
substantial probability that the defendant will become capable 4701
of understanding the nature and objective of the proceedings 4702
against the defendant or of assisting in the defendant's defense 4703
even if the defendant is provided with a course of treatment. 4704

(G) A report under division (F) of this section shall 4705
contain the examiner's findings, the facts in reasonable detail 4706
on which the findings are based, and the examiner's opinion as 4707
to the defendant's capability of understanding the nature and 4708
objective of the proceedings against the defendant and of 4709
assisting in the defendant's defense. If, in the examiner's 4710
opinion, the defendant remains incapable of understanding the 4711
nature and objective of the proceedings against the defendant 4712
and of assisting in the defendant's defense and there is a 4713
substantial probability that the defendant will become capable 4714
of understanding the nature and objective of the proceedings 4715
against the defendant and of assisting in the defendant's 4716
defense if the defendant is provided with a course of treatment, 4717
if in the examiner's opinion the defendant remains mentally ill 4718
or mentally retarded, and if the maximum time for treatment as 4719
specified in division (C) of this section has not expired, the 4720
report also shall contain the examiner's recommendation as to 4721
the least restrictive placement or commitment alternative that 4722
is consistent with the defendant's treatment needs for 4723

restoration to competency and with the safety of the community. 4724
The court shall provide copies of the report to the prosecutor 4725
and defense counsel. 4726

(H) If a defendant is committed pursuant to division (B) 4727
(1) of this section, within ten days after the treating 4728
physician of the defendant or the examiner of the defendant who 4729
is employed or retained by the treating facility advises that 4730
there is not a substantial probability that the defendant will 4731
become capable of understanding the nature and objective of the 4732
proceedings against the defendant or of assisting in the 4733
defendant's defense even if the defendant is provided with a 4734
course of treatment, within ten days after the expiration of the 4735
maximum time for treatment as specified in division (C) of this 4736
section, within ten days after the expiration of the maximum 4737
time for continuing evaluation and treatment as specified in 4738
division (B)(1)(a) of this section, within thirty days after a 4739
defendant's request for a hearing that is made after six months 4740
of treatment, or within thirty days after being advised by the 4741
treating physician or examiner that the defendant is competent 4742
to stand trial, whichever is the earliest, the court shall 4743
conduct another hearing to determine if the defendant is 4744
competent to stand trial and shall do whichever of the following 4745
is applicable: 4746

(1) If the court finds that the defendant is competent to 4747
stand trial, the defendant shall be proceeded against as 4748
provided by law. 4749

(2) If the court finds that the defendant is incompetent 4750
to stand trial, but that there is a substantial probability that 4751
the defendant will become competent to stand trial if the 4752
defendant is provided with a course of treatment, and the 4753

maximum time for treatment as specified in division (C) of this 4754
section has not expired, the court, after consideration of the 4755
examiner's recommendation, shall order that treatment be 4756
continued, may change the facility or program at which the 4757
treatment is to be continued, and shall specify whether the 4758
treatment is to be continued at the same or a different facility 4759
or program. 4760

(3) If the court finds that the defendant is incompetent 4761
to stand trial, if the defendant is charged with an offense 4762
listed in division (C)(1) of this section, and if the court 4763
finds that there is not a substantial probability that the 4764
defendant will become competent to stand trial even if the 4765
defendant is provided with a course of treatment, or if the 4766
maximum time for treatment relative to that offense as specified 4767
in division (C) of this section has expired, further proceedings 4768
shall be as provided in sections 2945.39, 2945.401, and 2945.402 4769
of the Revised Code. 4770

(4) If the court finds that the defendant is incompetent 4771
to stand trial, if the most serious offense with which the 4772
defendant is charged is a misdemeanor or a felony other than a 4773
felony listed in division (C)(1) of this section, and if the 4774
court finds that there is not a substantial probability that the 4775
defendant will become competent to stand trial even if the 4776
defendant is provided with a course of treatment, or if the 4777
maximum time for treatment relative to that offense as specified 4778
in division (C) of this section has expired, the court shall 4779
dismiss the indictment, information, or complaint against the 4780
defendant. A dismissal under this division is not a bar to 4781
further prosecution based on the same conduct. The court shall 4782
discharge the defendant unless the court or prosecutor files an 4783
affidavit in probate court for civil commitment pursuant to 4784

Chapter 5122. or 5123. of the Revised Code. If an affidavit for 4785
civil commitment is filed, the court may detain the defendant 4786
for ten days pending civil commitment. All of the following 4787
provisions apply to persons charged with a misdemeanor or a 4788
felony other than a felony listed in division (C)(1) of this 4789
section who are committed by the probate court subsequent to the 4790
court's or prosecutor's filing of an affidavit for civil 4791
commitment under authority of this division: 4792

(a) The chief clinical officer of the entity, hospital, or 4793
facility, the managing officer of the institution, the director 4794
of the program, or the person to which the defendant is 4795
committed or admitted shall do all of the following: 4796

(i) Notify the prosecutor, in writing, of the discharge of 4797
the defendant, send the notice at least ten days prior to the 4798
discharge unless the discharge is by the probate court, and 4799
state in the notice the date on which the defendant will be 4800
discharged; 4801

(ii) Notify the prosecutor, in writing, when the defendant 4802
is absent without leave or is granted unsupervised, off-grounds 4803
movement, and send this notice promptly after the discovery of 4804
the absence without leave or prior to the granting of the 4805
unsupervised, off-grounds movement, whichever is applicable; 4806

(iii) Notify the prosecutor, in writing, of the change of 4807
the defendant's commitment or admission to voluntary status, 4808
send the notice promptly upon learning of the change to 4809
voluntary status, and state in the notice the date on which the 4810
defendant was committed or admitted on a voluntary status. 4811

(b) Upon receiving notice that the defendant will be 4812
granted unsupervised, off-grounds movement, the prosecutor 4813

either shall re-indict the defendant or promptly notify the 4814
court that the prosecutor does not intend to prosecute the 4815
charges against the defendant. 4816

(I) If a defendant is convicted of a crime and sentenced 4817
to a jail or workhouse, the defendant's sentence shall be 4818
reduced by the total number of days the defendant is confined 4819
for evaluation to determine the defendant's competence to stand 4820
trial or treatment under this section and sections 2945.37 and 4821
2945.371 of the Revised Code or by the total number of days the 4822
defendant is confined for evaluation to determine the 4823
defendant's mental condition at the time of the offense charged. 4824

Sec. 2949.02. (A) If a person is convicted of any bailable 4825
offense, including, but not limited to, a violation of an 4826
ordinance of a municipal corporation, in a municipal or county 4827
court or in a court of common pleas and if the person gives to 4828
the trial judge or magistrate a written notice of the person's 4829
intention to file or apply for leave to file an appeal to the 4830
court of appeals, the trial judge or magistrate may suspend, 4831
~~subject to division (A) (2) (b) of section 2953.09 of the Revised~~ 4832
~~Code,~~ execution of the sentence or judgment imposed for any 4833
fixed time that will give the person time either to prepare and 4834
file, or to apply for leave to file, the appeal. In all bailable 4835
cases, except as provided in division (B) of this section, the 4836
trial judge or magistrate may release the person on bail in 4837
accordance with Criminal Rule 46, and the bail shall at least be 4838
conditioned that the person will appeal without delay and abide 4839
by the judgment and sentence of the court. 4840

(B) Notwithstanding any provision of Criminal Rule 46 to 4841
the contrary, a trial judge of a court of common pleas shall not 4842
release on bail pursuant to division (A) of this section a 4843

person who is convicted of a bailable offense if the person is 4844
sentenced to imprisonment for life or if that offense is a 4845
violation of section 2903.01, 2903.02, 2903.03, 2903.04, 4846
2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 4847
2911.02, or 2911.11 of the Revised Code or is felonious sexual 4848
penetration in violation of former section 2907.12 of the 4849
Revised Code. 4850

(C) If a trial judge of a court of common pleas is 4851
prohibited by division (B) of this section from releasing on 4852
bail pursuant to division (A) of this section a person who is 4853
convicted of a bailable offense and not sentenced to 4854
imprisonment for life, the appropriate court of appeals or two 4855
judges of it, upon motion of such a person and for good cause 4856
shown, may release the person on bail in accordance with 4857
Appellate Rule 8 and Criminal Rule 46, and the bail shall at 4858
least be conditioned as described in division (A) of this 4859
section. 4860

Sec. 2949.03. If a judgment of conviction by a court of 4861
common pleas, municipal court, or county court is affirmed by a 4862
court of appeals and remanded to the trial court for execution 4863
of the sentence or judgment imposed, and the person so convicted 4864
gives notice of ~~his~~ the person's intention to file a notice of 4865
appeal to the supreme court, the trial court, on the filing of a 4866
motion by such person within three days after the rendition by 4867
the court of appeals of the judgment of affirmation, may further 4868
suspend, ~~subject to division (A) (2) (b) of section 2953.09 of the~~ 4869
~~Revised Code,~~ the execution of the sentence or judgment imposed 4870
for a time sufficient to give such person an opportunity to file 4871
a notice of appeal to the supreme court, but the sentence or 4872
judgment imposed shall not be suspended more than thirty days 4873
for that purpose. 4874

Sec. 2953.02. In a ~~capital case in which a sentence of~~ 4875
~~death is imposed for an offense committed before January 1,~~ 4876
~~1995, and in any other~~ criminal case, including a conviction for 4877
the violation of an ordinance of a municipal corporation, the 4878
judgment or final order of a court of record inferior to the 4879
court of appeals may be reviewed in the court of appeals. A 4880
final order of an administrative officer or agency may be 4881
reviewed in the court of common pleas. A judgment or final order 4882
of the court of appeals involving a question arising under the 4883
Constitution of the United States or of this state may be 4884
appealed to the supreme court as a matter of right. This right 4885
of appeal from judgments and final orders of the court of 4886
appeals shall extend to ~~cases in which a sentence of death is~~ 4887
~~imposed for an offense committed before January 1, 1995, and in~~ 4888
~~which the death penalty has been affirmed,~~ felony cases in which 4889
the supreme court has directed the court of appeals to certify 4890
its record, and in all other criminal cases of public or general 4891
interest wherein the supreme court has granted a motion to 4892
certify the record of the court of appeals. ~~In a capital case in~~ 4893
~~which a sentence of death is imposed for an offense committed on~~ 4894
~~or after January 1, 1995, the judgment or final order may be~~ 4895
~~appealed from the trial court directly to the supreme court as a~~ 4896
~~matter of right.~~ The supreme court in criminal cases shall not 4897
be required to determine as to the weight of the evidence, 4898
~~except that, in cases in which a sentence of death is imposed~~ 4899
~~for an offense committed on or after January 1, 1995, and in~~ 4900
~~which the question of the weight of the evidence to support the~~ 4901
~~judgment has been raised on appeal, the supreme court shall~~ 4902
~~determine as to the weight of the evidence to support the~~ 4903
~~judgment and shall determine as to the weight of the evidence to~~ 4904
~~support the sentence of death as provided in section 2929.05 of~~ 4905
~~the Revised Code.~~ 4906

Sec. 2953.07. ~~(A) Upon the hearing of an appeal other than~~ 4907
~~an appeal from a mayor's court, the appellate court may affirm~~ 4908
~~the judgment or reverse it, in whole or in part, or modify it,~~ 4909
~~and order the accused to be discharged or grant a new trial. The~~ 4910
~~appellate court may remand the accused for the sole purpose of~~ 4911
~~correcting a sentence imposed contrary to law, provided that, on~~ 4912
~~an appeal of a sentence imposed upon a person who is convicted~~ 4913
~~of or pleads guilty to a felony that is brought under section~~ 4914
~~2953.08 of the Revised Code, division (G) of that section~~ 4915
~~applies to the court. If the judgment is reversed, the appellant~~ 4916
~~shall recover from the appellee all court costs incurred to~~ 4917
~~secure the reversal, including the cost of transcripts. In~~ 4918
~~capital cases, when the judgment is affirmed and the day fixed~~ 4919
~~for the execution is passed, the appellate court shall appoint a~~ 4920
~~day for it, and the clerk of the appellate court shall issue a~~ 4921
~~warrant under the seal of the appellate court, to the sheriff of~~ 4922
~~the proper county, or the warden of the appropriate state~~ 4923
~~correctional institution, commanding the sheriff or warden to~~ 4924
~~carry the sentence into execution on the day so appointed. The~~ 4925
~~sheriff or warden shall execute and return the warrant as in~~ 4926
~~other cases, and the clerk shall record the warrant and return.~~ 4927

~~(B) As used in this section, "appellate court" means, for~~ 4928
~~a case in which a sentence of death is imposed for an offense~~ 4929
~~committed before January 1, 1995, both the court of appeals and~~ 4930
~~the supreme court, and for a case in which a sentence of death~~ 4931
~~is imposed for an offense committed on or after January 1, 1995,~~ 4932
~~the supreme court.~~ 4933

Sec. 2953.08. (A) In addition to any other right to appeal 4934
and except as provided in division (D) of this section, a 4935
defendant who is convicted of or pleads guilty to a felony may 4936
appeal as a matter of right the sentence imposed upon the 4937

defendant on one of the following grounds: 4938

(1) The sentence consisted of or included the maximum 4939
prison term allowed for the offense by division (A) of section 4940
2929.14 or section 2929.142 of the Revised Code, the maximum 4941
prison term was not required for the offense pursuant to Chapter 4942
2925. or any other provision of the Revised Code, and the court 4943
imposed the sentence under one of the following circumstances: 4944

(a) The sentence was imposed for only one offense. 4945

(b) The sentence was imposed for two or more offenses 4946
arising out of a single incident, and the court imposed the 4947
maximum prison term for the offense of the highest degree. 4948

(2) The sentence consisted of or included a prison term 4949
and the offense for which it was imposed is a felony of the 4950
fourth or fifth degree or is a felony drug offense that is a 4951
violation of a provision of Chapter 2925. of the Revised Code 4952
and that is specified as being subject to division (B) of 4953
section 2929.13 of the Revised Code for purposes of sentencing. 4954
If the court specifies that it found one or more of the factors 4955
in division (B) (1) (b) of section 2929.13 of the Revised Code to 4956
apply relative to the defendant, the defendant is not entitled 4957
under this division to appeal as a matter of right the sentence 4958
imposed upon the offender. 4959

(3) The person was convicted of or pleaded guilty to a 4960
violent sex offense or a designated homicide, assault, or 4961
kidnapping offense, was adjudicated a sexually violent predator 4962
in relation to that offense, and was sentenced pursuant to 4963
division (A) (3) of section 2971.03 of the Revised Code, if the 4964
minimum term of the indefinite term imposed pursuant to division 4965
(A) (3) of section 2971.03 of the Revised Code is the longest 4966

term available for the offense from among the range of terms 4967
listed in section 2929.14 of the Revised Code. As used in this 4968
division, "designated homicide, assault, or kidnapping offense" 4969
and "violent sex offense" have the same meanings as in section 4970
2971.01 of the Revised Code. As used in this division, 4971
"adjudicated a sexually violent predator" has the same meaning 4972
as in section 2929.01 of the Revised Code, and a person is 4973
"adjudicated a sexually violent predator" in the same manner and 4974
the same circumstances as are described in that section. 4975

(4) The sentence is contrary to law. 4976

(5) The sentence consisted of an additional prison term of 4977
ten years imposed pursuant to division (B) (2) (a) of section 4978
2929.14 of the Revised Code. 4979

(B) In addition to any other right to appeal and except as 4980
provided in division (D) of this section, a prosecuting 4981
attorney, a city director of law, village solicitor, or similar 4982
chief legal officer of a municipal corporation, or the attorney 4983
general, if one of those persons prosecuted the case, may appeal 4984
as a matter of right a sentence imposed upon a defendant who is 4985
convicted of or pleads guilty to a felony or, in the 4986
circumstances described in division (B) (3) of this section the 4987
modification of a sentence imposed upon such a defendant, on any 4988
of the following grounds: 4989

(1) The sentence did not include a prison term despite a 4990
presumption favoring a prison term for the offense for which it 4991
was imposed, as set forth in section 2929.13 or Chapter 2925. of 4992
the Revised Code. 4993

(2) The sentence is contrary to law. 4994

(3) The sentence is a modification under section 2929.20 4995

of the Revised Code of a sentence that was imposed for a felony 4996
of the first or second degree. 4997

(C) (1) In addition to the right to appeal a sentence 4998
granted under division (A) or (B) of this section, a defendant 4999
who is convicted of or pleads guilty to a felony may seek leave 5000
to appeal a sentence imposed upon the defendant on the basis 5001
that the sentencing judge has imposed consecutive sentences 5002
under division (C) (3) of section 2929.14 of the Revised Code and 5003
that the consecutive sentences exceed the maximum prison term 5004
allowed by division (A) of that section for the most serious 5005
offense of which the defendant was convicted. Upon the filing of 5006
a motion under this division, the court of appeals may grant 5007
leave to appeal the sentence if the court determines that the 5008
allegation included as the basis of the motion is true. 5009

(2) A defendant may seek leave to appeal an additional 5010
sentence imposed upon the defendant pursuant to division (B) (2) 5011
(a) or (b) of section 2929.14 of the Revised Code if the 5012
additional sentence is for a definite prison term that is longer 5013
than five years. 5014

(D) (1) A sentence imposed upon a defendant is not subject 5015
to review under this section if the sentence is authorized by 5016
law, has been recommended jointly by the defendant and the 5017
prosecution in the case, and is imposed by a sentencing judge. 5018

(2) Except as provided in division (C) (2) of this section, 5019
a sentence imposed upon a defendant is not subject to review 5020
under this section if the sentence is imposed pursuant to 5021
division (B) (2) (b) of section 2929.14 of the Revised Code. 5022
Except as otherwise provided in this division, a defendant 5023
retains all rights to appeal as provided under this chapter or 5024
any other provision of the Revised Code. A defendant has the 5025

right to appeal under this chapter or any other provision of the Revised Code the court's application of division (B) (2) (c) of section 2929.14 of the Revised Code.

(3) A sentence imposed for aggravated murder or murder pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised Code is not subject to review under this section.

(E) A defendant, prosecuting attorney, city director of law, village solicitor, or chief municipal legal officer shall file an appeal of a sentence under this section to a court of appeals within the time limits specified in Rule 4(B) of the Rules of Appellate Procedure, provided that if the appeal is pursuant to division (B) (3) of this section, the time limits specified in that rule shall not commence running until the court grants the motion that makes the sentence modification in question. A sentence appeal under this section shall be consolidated with any other appeal in the case. If no other appeal is filed, the court of appeals may review only the portions of the trial record that pertain to sentencing.

(F) On the appeal of a sentence under this section, the record to be reviewed shall include all of the following, as applicable:

(1) Any presentence, psychiatric, or other investigative report that was submitted to the court in writing before the sentence was imposed. An appellate court that reviews a presentence investigation report prepared pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in connection with the appeal of a sentence under this section shall comply with division (D) (3) of section 2951.03 of the Revised Code when the appellate court is not using the presentence investigation report, and the appellate court's use

of a presentence investigation report of that nature in 5056
connection with the appeal of a sentence under this section does 5057
not affect the otherwise confidential character of the contents 5058
of that report as described in division (D) (1) of section 5059
2951.03 of the Revised Code and does not cause that report to 5060
become a public record, as defined in section 149.43 of the 5061
Revised Code, following the appellate court's use of the report. 5062

(2) The trial record in the case in which the sentence was 5063
imposed; 5064

(3) Any oral or written statements made to or by the court 5065
at the sentencing hearing at which the sentence was imposed; 5066

(4) Any written findings that the court was required to 5067
make in connection with the modification of the sentence 5068
pursuant to a judicial release under division (I) of section 5069
2929.20 of the Revised Code. 5070

(G) (1) If the sentencing court was required to make the 5071
findings required by division (B) or (D) of section 2929.13 or 5072
division (I) of section 2929.20 of the Revised Code, or to state 5073
the findings of the trier of fact required by division (B) (2) (e) 5074
of section 2929.14 of the Revised Code, relative to the 5075
imposition or modification of the sentence, and if the 5076
sentencing court failed to state the required findings on the 5077
record, the court hearing an appeal under division (A), (B), or 5078
(C) of this section shall remand the case to the sentencing 5079
court and instruct the sentencing court to state, on the record, 5080
the required findings. 5081

(2) The court hearing an appeal under division (A), (B), 5082
or (C) of this section shall review the record, including the 5083
findings underlying the sentence or modification given by the 5084

sentencing court. 5085

The appellate court may increase, reduce, or otherwise 5086
modify a sentence that is appealed under this section or may 5087
vacate the sentence and remand the matter to the sentencing 5088
court for resentencing. The appellate court's standard for 5089
review is not whether the sentencing court abused its 5090
discretion. The appellate court may take any action authorized 5091
by this division if it clearly and convincingly finds either of 5092
the following: 5093

(a) That the record does not support the sentencing 5094
court's findings under division (B) or (D) of section 2929.13, 5095
division (B) (2) (e) or (C) (4) of section 2929.14, or division (I) 5096
of section 2929.20 of the Revised Code, whichever, if any, is 5097
relevant; 5098

(b) That the sentence is otherwise contrary to law. 5099

(H) A judgment or final order of a court of appeals under 5100
this section may be appealed, by leave of court, to the supreme 5101
court. 5102

Sec. 2953.09. (A) (1) Upon filing an appeal in the supreme 5103
court, the execution of the sentence or judgment imposed in 5104
cases of felony is suspended. 5105

(2) ~~(a)~~ If a notice of appeal is filed pursuant to the 5106
Rules of Appellate Procedure by a defendant who is convicted in 5107
a municipal or county court or a court of common pleas of a 5108
felony or misdemeanor under the Revised Code or an ordinance of 5109
a municipal corporation, the filing of the notice of appeal does 5110
not suspend execution of the sentence or judgment imposed. 5111
However, consistent with divisions (A) (2) (b), (B), and (C) of 5112
this section, Appellate Rule 8, and Criminal Rule 46, the 5113

municipal or county court, court of common pleas, or court of 5114
appeals may suspend execution of the sentence or judgment 5115
imposed during the pendency of the appeal and shall determine 5116
whether that defendant is entitled to bail and the amount and 5117
nature of any bail that is required. The bail shall at least be 5118
conditioned that the defendant will prosecute the appeal without 5119
delay and abide by the judgment and sentence of the court. 5120

~~(b) (i) A court of common pleas or court of appeals may 5121
suspend the execution of a sentence of death imposed for an 5122
offense committed before January 1, 1995, only if no date for 5123
execution has been set by the supreme court, good cause is shown 5124
for the suspension, the defendant files a motion requesting the 5125
suspension, and notice has been given to the prosecuting 5126
attorney of the appropriate county. 5127~~

~~(ii) A court of common pleas may suspend the execution of 5128
a sentence of death imposed for an offense committed on or after 5129
January 1, 1995, only if no date for execution has been set by 5130
the supreme court, good cause is shown, the defendant files a 5131
motion requesting the suspension, and notice has been given to 5132
the prosecuting attorney of the appropriate county. 5133~~

~~(iii) A court of common pleas or court of appeals may 5134
suspend the execution of the sentence or judgment imposed for a 5135
felony in a capital case in which a sentence of death is not 5136
imposed only if no date for execution of the sentence has been 5137
set by the supreme court, good cause is shown for the 5138
suspension, the defendant files a motion requesting the 5139
suspension, and only after notice has been given to the 5140
prosecuting attorney of the appropriate county. 5141~~

(B) Notwithstanding any provision of Criminal Rule 46 to 5142
the contrary, a trial judge of a court of common pleas shall not 5143

release on bail pursuant to division (A) (2) (a) of this section a 5144
defendant who is convicted of a bailable offense if the 5145
defendant is sentenced to imprisonment for life or if that 5146
offense is a violation of section 2903.01, 2903.02, 2903.03, 5147
2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 5148
2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious 5149
sexual penetration in violation of former section 2907.12 of the 5150
Revised Code. 5151

(C) If a trial judge of a court of common pleas is 5152
prohibited by division (B) of this section from releasing on 5153
bail pursuant to division (A) (2) (a) of this section a defendant 5154
who is convicted of a bailable offense and not sentenced to 5155
imprisonment for life, the appropriate court of appeals or two 5156
judges of it, upon motion of the defendant and for good cause 5157
shown, may release the defendant on bail in accordance with 5158
division (A) (2) of this section. 5159

Sec. 2953.10. When an appeal is taken from a court of 5160
appeals to the supreme court, the supreme court has the same 5161
power and authority to suspend the execution of sentence during 5162
the pendency of the appeal and admit the defendant to bail as 5163
does the court of appeals unless another section of the Revised 5164
Code or the Rules of Practice of the Supreme Court specify a 5165
distinct bail or suspension of sentence authority. 5166

~~When an appeal in a case in which a sentence of death is~~ 5167
~~imposed for an offense committed on or after January 1, 1995, is~~ 5168
~~taken directly from the trial court to the supreme court, the~~ 5169
~~supreme court has the same power and authority to suspend the~~ 5170
~~execution of the sentence during the pendency of the appeal and~~ 5171
~~admit the defendant to bail as does the court of appeals for~~ 5172
~~cases in which a sentence of death is imposed for an offense~~ 5173

~~committed before January 1, 1995, unless another section of the~~ 5174
~~Revised Code or the Rules of Practice of the Supreme Court~~ 5175
~~specify a distinct bail or suspension of sentence authority.~~ 5176

Sec. 2953.21. (A) (1) (a) Any person who has been convicted 5177
of a criminal offense or adjudicated a delinquent child and who 5178
claims that there was such a denial or infringement of the 5179
person's rights as to render the judgment void or voidable under 5180
the Ohio Constitution or the Constitution of the United States, 5181
and any person who has been convicted of a criminal offense that 5182
is a felony and who is an offender for whom DNA testing that was 5183
performed under sections 2953.71 to 2953.81 of the Revised Code 5184
or under former section 2953.82 of the Revised Code and analyzed 5185
in the context of and upon consideration of all available 5186
admissible evidence related to the person's case as described in 5187
division (D) of section 2953.74 of the Revised Code provided 5188
results that establish, by clear and convincing evidence, actual 5189
innocence of that felony offense ~~or, if the person was sentenced~~ 5190
~~to death, establish, by clear and convincing evidence, actual~~ 5191
~~innocence of the aggravating circumstance or circumstances the~~ 5192
~~person was found guilty of committing and that is or are the~~ 5193
~~basis of that sentence of death,~~ may file a petition in the 5194
court that imposed sentence, stating the grounds for relief 5195
relied upon, and asking the court to vacate or set aside the 5196
judgment or sentence or to grant other appropriate relief. The 5197
petitioner may file a supporting affidavit and other documentary 5198
evidence in support of the claim for relief. 5199

(b) As used in division (A) (1) (a) of this section, "actual 5200
innocence" means that, had the results of the DNA testing 5201
conducted under sections 2953.71 to 2953.81 of the Revised Code 5202
or under former section 2953.82 of the Revised Code been 5203
presented at trial, and had those results been analyzed in the 5204

context of and upon consideration of all available admissible 5205
evidence related to the person's case as described in division 5206
(D) of section 2953.74 of the Revised Code, no reasonable 5207
factfinder would have found the petitioner guilty of the offense 5208
of which the petitioner was convicted, ~~or, if the person was~~ 5209
~~sentenced to death, no reasonable factfinder would have found~~ 5210
~~the petitioner guilty of the aggravating circumstance or~~ 5211
~~circumstances the petitioner was found guilty of committing and~~ 5212
~~that is or are the basis of that sentence of death.~~ 5213

(c) As used in divisions (A) (1) (a) and (b) of this 5214
section, "former section 2953.82 of the Revised Code" means 5215
section 2953.82 of the Revised Code as it existed prior to ~~the~~ 5216
~~effective date of this amendment~~ July 6, 2010. 5217

(2) Except as otherwise provided in section 2953.23 of the 5218
Revised Code, a petition under division (A) (1) of this section 5219
shall be filed no later than one hundred eighty days after the 5220
date on which the trial transcript is filed in the court of 5221
appeals in the direct appeal of the judgment of conviction or 5222
adjudication ~~or, if the direct appeal involves a sentence of~~ 5223
~~death, the date on which the trial transcript is filed in the~~ 5224
~~supreme court~~. If no appeal is taken, except as otherwise 5225
provided in section 2953.23 of the Revised Code, the petition 5226
shall be filed no later than one hundred eighty days after the 5227
expiration of the time for filing the appeal. 5228

~~(3) In a petition filed under division (A) of this~~ 5229
~~section, a person who has been sentenced to death may ask the~~ 5230
~~court to render void or voidable the judgment with respect to~~ 5231
~~the conviction of aggravated murder or the specification of an~~ 5232
~~aggravating circumstance or the sentence of death.~~ 5233

~~(4)~~ A petitioner shall state in the original or amended 5234

petition filed under division (A) of this section all grounds 5235
for relief claimed by the petitioner. Except as provided in 5236
section 2953.23 of the Revised Code, any ground for relief that 5237
is not so stated in the petition is waived. 5238

~~(5)~~(4) If the petitioner in a petition filed under 5239
division (A) of this section was convicted of or pleaded guilty 5240
to a felony, the petition may include a claim that the 5241
petitioner was denied the equal protection of the laws in 5242
violation of the Ohio Constitution or the United States 5243
Constitution because the sentence imposed upon the petitioner 5244
for the felony was part of a consistent pattern of disparity in 5245
sentencing by the judge who imposed the sentence, with regard to 5246
the petitioner's race, gender, ethnic background, or religion. 5247
If the supreme court adopts a rule requiring a court of common 5248
pleas to maintain information with regard to an offender's race, 5249
gender, ethnic background, or religion, the supporting evidence 5250
for the petition shall include, but shall not be limited to, a 5251
copy of that type of information relative to the petitioner's 5252
sentence and copies of that type of information relative to 5253
sentences that the same judge imposed upon other persons. 5254

(B) The clerk of the court in which the petition is filed 5255
shall docket the petition and bring it promptly to the attention 5256
of the court. The clerk of the court in which the petition is 5257
filed immediately shall forward a copy of the petition to the 5258
prosecuting attorney of that county. 5259

(C) The court shall consider a petition that is timely 5260
filed under division (A) (2) of this section even if a direct 5261
appeal of the judgment is pending. Before granting a hearing on 5262
a petition filed under division (A) of this section, the court 5263
shall determine whether there are substantive grounds for 5264

relief. In making such a determination, the court shall 5265
consider, in addition to the petition, the supporting 5266
affidavits, and the documentary evidence, all the files and 5267
records pertaining to the proceedings against the petitioner, 5268
including, but not limited to, the indictment, the court's 5269
journal entries, the journalized records of the clerk of the 5270
court, and the court reporter's transcript. The court reporter's 5271
transcript, if ordered and certified by the court, shall be 5272
taxed as court costs. If the court dismisses the petition, it 5273
shall make and file findings of fact and conclusions of law with 5274
respect to such dismissal. 5275

(D) Within ten days after the docketing of the petition, 5276
or within any further time that the court may fix for good cause 5277
shown, the prosecuting attorney shall respond by answer or 5278
motion. Within twenty days from the date the issues are raised, 5279
either party may move for summary judgment. The right to summary 5280
judgment shall appear on the face of the record. 5281

(E) Unless the petition and the files and records of the 5282
case show the petitioner is not entitled to relief, the court 5283
shall proceed to a prompt hearing on the issues even if a direct 5284
appeal of the case is pending. If the court notifies the parties 5285
that it has found grounds for granting relief, either party may 5286
request an appellate court in which a direct appeal of the 5287
judgment is pending to remand the pending case to the court. 5288

(F) At any time before the answer or motion is filed, the 5289
petitioner may amend the petition with or without leave or 5290
prejudice to the proceedings. The petitioner may amend the 5291
petition with leave of court at any time thereafter. 5292

(G) If the court does not find grounds for granting 5293
relief, it shall make and file findings of fact and conclusions 5294

of law and shall enter judgment denying relief on the petition. 5295
If no direct appeal of the case is pending and the court finds 5296
grounds for relief or if a pending direct appeal of the case has 5297
been remanded to the court pursuant to a request made pursuant 5298
to division (E) of this section and the court finds grounds for 5299
granting relief, it shall make and file findings of fact and 5300
conclusions of law and shall enter a judgment that vacates and 5301
sets aside the judgment in question, and, in the case of a 5302
petitioner who is a prisoner in custody, shall discharge or 5303
resentence the petitioner or grant a new trial as the court 5304
determines appropriate. The court also may make supplementary 5305
orders to the relief granted, concerning such matters as 5306
rearraignment, retrial, custody, and bail. If the trial court's 5307
order granting the petition is reversed on appeal and if the 5308
direct appeal of the case has been remanded from an appellate 5309
court pursuant to a request under division (E) of this section, 5310
the appellate court reversing the order granting the petition 5311
shall notify the appellate court in which the direct appeal of 5312
the case was pending at the time of the remand of the reversal 5313
and remand of the trial court's order. Upon the reversal and 5314
remand of the trial court's order granting the petition, 5315
regardless of whether notice is sent or received, the direct 5316
appeal of the case that was remanded is reinstated. 5317

~~(H) Upon the filing of a petition pursuant to division (A) 5318
of this section by a person sentenced to death, only the supreme 5319
court may stay execution of the sentence of death. 5320~~

~~(I) (1) If a person sentenced to death intends to file a 5321
petition under this section, the court shall appoint counsel to 5322
represent the person upon a finding that the person is indigent 5323
and that the person either accepts the appointment of counsel or 5324
is unable to make a competent decision whether to accept or 5325~~

~~reject the appointment of counsel. The court may decline to~~ 5326
~~appoint counsel for the person only upon a finding, after a~~ 5327
~~hearing if necessary, that the person rejects the appointment of~~ 5328
~~counsel and understands the legal consequences of that decision~~ 5329
~~or upon a finding that the person is not indigent.~~ 5330

~~(2) The court shall not appoint as counsel under division~~ 5331
~~(I) (1) of this section an attorney who represented the~~ 5332
~~petitioner at trial in the case to which the petition relates~~ 5333
~~unless the person and the attorney expressly request the~~ 5334
~~appointment. The court shall appoint as counsel under division~~ 5335
~~(I) (1) of this section only an attorney who is certified under~~ 5336
~~Rule 20 of the Rules of Superintendence for the Courts of Ohio~~ 5337
~~to represent indigent defendants charged with or convicted of an~~ 5338
~~offense for which the death penalty can be or has been imposed.~~ 5339
~~The ineffectiveness or incompetence of counsel during~~ 5340
~~proceedings under this section does not constitute grounds for~~ 5341
~~relief in a proceeding under this section, in an appeal of any~~ 5342
~~action under this section, or in an application to reopen a~~ 5343
~~direct appeal.~~ 5344

~~(3) Division (I) of this section does not preclude~~ 5345
~~attorneys who represent the state of Ohio from invoking the~~ 5346
~~provisions of 28 U.S.C. 154 with respect to capital cases that~~ 5347
~~were pending in federal habeas corpus proceedings prior to July~~ 5348
~~1, 1996, insofar as the petitioners in those cases were~~ 5349
~~represented in proceedings under this section by one or more~~ 5350
~~counsel appointed by the court under this section or section~~ 5351
~~120.06, 120.16, 120.26, or 120.33 of the Revised Code and those~~ 5352
~~appointed counsel meet the requirements of division (I) (2) of~~ 5353
~~this section.~~ 5354

~~(J) Subject to the appeal of a sentence for a felony that~~ 5355

is authorized by section 2953.08 of the Revised Code, the remedy 5356
set forth in this section is the exclusive remedy by which a 5357
person may bring a collateral challenge to the validity of a 5358
conviction or sentence in a criminal case or to the validity of 5359
an adjudication of a child as a delinquent child for the 5360
commission of an act that would be a criminal offense if 5361
committed by an adult or the validity of a related order of 5362
disposition. 5363

Sec. 2953.23. (A) Whether a hearing is or is not held on a 5364
petition filed pursuant to section 2953.21 of the Revised Code, 5365
a court may not entertain a petition filed after the expiration 5366
of the period prescribed in division (A) of that section or a 5367
second petition or successive petitions for similar relief on 5368
behalf of a petitioner unless division (A) (1) or (2) of this 5369
section applies: 5370

(1) Both of the following apply: 5371

(a) Either the petitioner shows that the petitioner was 5372
unavoidably prevented from discovery of the facts upon which the 5373
petitioner must rely to present the claim for relief, or, 5374
subsequent to the period prescribed in division (A) (2) of 5375
section 2953.21 of the Revised Code or to the filing of an 5376
earlier petition, the United States Supreme Court recognized a 5377
new federal or state right that applies retroactively to persons 5378
in the petitioner's situation, and the petition asserts a claim 5379
based on that right. 5380

(b) The petitioner shows by clear and convincing evidence 5381
that, but for constitutional error at trial, no reasonable 5382
factfinder would have found the petitioner guilty of the offense 5383
of which the petitioner was convicted ~~or, if the claim~~ 5384
~~challenges a sentence of death that, but for constitutional~~ 5385

~~error at the sentencing hearing, no reasonable factfinder would~~ 5386
~~have found the petitioner eligible for the death sentence.~~ 5387

(2) The petitioner was convicted of a felony, the 5388
petitioner is an offender for whom DNA testing was performed 5389
under sections 2953.71 to 2953.81 of the Revised Code or under 5390
former section 2953.82 of the Revised Code and analyzed in the 5391
context of and upon consideration of all available admissible 5392
evidence related to the inmate's case as described in division 5393
(D) of section 2953.74 of the Revised Code, and the results of 5394
the DNA testing establish, by clear and convincing evidence, 5395
actual innocence of that felony offense ~~or, if the person was~~ 5396
~~sentenced to death, establish, by clear and convincing evidence,~~ 5397
~~actual innocence of the aggravating circumstance or~~ 5398
~~circumstances the person was found guilty of committing and that~~ 5399
~~is or are the basis of that sentence of death.~~ 5400

As used in this division, "actual innocence" has the same 5401
meaning as in division (A) (1) (b) of section 2953.21 of the 5402
Revised Code, and "former section 2953.82 of the Revised Code" 5403
has the same meaning as in division (A) (1) (c) of section 2953.21 5404
of the Revised Code. 5405

(B) An order awarding or denying relief sought in a 5406
petition filed pursuant to section 2953.21 of the Revised Code 5407
is a final judgment and may be appealed pursuant to Chapter 5408
2953. of the Revised Code. 5409

Sec. 2953.71. As used in sections 2953.71 to 2953.83 of 5410
the Revised Code: 5411

(A) "Application" or "application for DNA testing" means a 5412
request through postconviction relief for the state to do DNA 5413
testing on biological material from the case in which the 5414

offender was convicted of the offense for which the offender is 5415
an eligible offender and is requesting the DNA testing under 5416
sections 2953.71 to 2953.81 of the Revised Code. 5417

(B) "Biological material" means any product of a human 5418
body containing DNA. 5419

(C) "Chain of custody" means a record or other evidence 5420
that tracks a subject sample of biological material from the 5421
time the biological material was first obtained until the time 5422
it currently exists in its place of storage and, in relation to 5423
a DNA sample, a record or other evidence that tracks the DNA 5424
sample from the time it was first obtained until it currently 5425
exists in its place of storage. For purposes of this division, 5426
examples of when biological material or a DNA sample is first 5427
obtained include, but are not limited to, obtaining the material 5428
or sample at the scene of a crime, from a victim, from an 5429
offender, or in any other manner or time as is appropriate in 5430
the facts and circumstances present. 5431

(D) "Custodial agency" means the group or entity that has 5432
the responsibility to maintain biological material in question. 5433

(E) "Custodian" means the person who is the primary 5434
representative of a custodial agency. 5435

(F) "Eligible offender" means an offender who is eligible 5436
under division (C) of section 2953.72 of the Revised Code to 5437
request DNA testing to be conducted under sections 2953.71 to 5438
2953.81 of the Revised Code. 5439

(G) "Exclusion" or "exclusion result" means a result of 5440
DNA testing that scientifically precludes or forecloses the 5441
subject offender as a contributor of biological material 5442
recovered from the crime scene or victim in question, in 5443

relation to the offense for which the offender is an eligible 5444
offender and for which the ~~sentence of death or prison~~ term was 5445
imposed upon the offender. 5446

(H) "Extracting personnel" means medically approved 5447
personnel who are employed to physically obtain an offender's 5448
DNA specimen for purposes of DNA testing under sections 2953.71 5449
to 2953.81 of the Revised Code. 5450

(I) "Inclusion" or "inclusion result" means a result of 5451
DNA testing that scientifically cannot exclude, or that holds 5452
accountable, the subject offender as a contributor of biological 5453
material recovered from the crime scene or victim in question, 5454
in relation to the offense for which the offender is an eligible 5455
offender and for which the ~~sentence of death or prison~~ term was 5456
imposed upon the offender. 5457

(J) "Inconclusive" or "inconclusive result" means a result 5458
of DNA testing that is rendered when a scientifically 5459
appropriate and definitive DNA analysis or result, or both, 5460
cannot be determined. 5461

(K) "Offender" means a criminal offender who was sentenced 5462
by a court, or by a jury and a court, of this state. 5463

(L) "Outcome determinative" means that had the results of 5464
DNA testing of the subject offender been presented at the trial 5465
of the subject offender requesting DNA testing and been found 5466
relevant and admissible with respect to the felony offense for 5467
which the offender is an eligible offender and is requesting the 5468
DNA testing, and had those results been analyzed in the context 5469
of and upon consideration of all available admissible evidence 5470
related to the offender's case as described in division (D) of 5471
section 2953.74 of the Revised Code, there is a strong 5472

probability that no reasonable factfinder would have found the 5473
offender guilty of that offense ~~or, if the offender was~~ 5474
~~sentenced to death relative to that offense, would have found~~ 5475
~~the offender guilty of the aggravating circumstance or~~ 5476
~~circumstances the offender was found guilty of committing and~~ 5477
~~that is or are the basis of that sentence of death.~~ 5478

(M) "Parent sample" means the biological material first 5479
obtained from a crime scene or a victim of an offense for which 5480
an offender is an eligible offender, and from which a sample 5481
will be presently taken to do a DNA comparison to the DNA of the 5482
subject offender under sections 2953.71 to 2953.81 of the 5483
Revised Code. 5484

(N) "Prison" and "community control sanction" have the 5485
same meanings as in section 2929.01 of the Revised Code. 5486

(O) "Prosecuting attorney" means the prosecuting attorney 5487
who, or whose office, prosecuted the case in which the subject 5488
offender was convicted of the offense for which the offender is 5489
an eligible offender and is requesting the DNA testing. 5490

(P) "Prosecuting authority" means the prosecuting attorney 5491
or the attorney general. 5492

(Q) "Reasonable diligence" means a degree of diligence 5493
that is comparable to the diligence a reasonable person would 5494
employ in searching for information regarding an important 5495
matter in the person's own life. 5496

(R) "Testing authority" means a laboratory at which DNA 5497
testing will be conducted under sections 2953.71 to 2953.81 of 5498
the Revised Code. 5499

(S) "Parole" and "post-release control" have the same 5500
meanings as in section 2967.01 of the Revised Code. 5501

(T) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.

(U) "Definitive DNA test" means a DNA test that clearly establishes that biological material from the perpetrator of the crime was recovered from the crime scene and also clearly establishes whether or not the biological material is that of the eligible offender. A prior DNA test is not definitive if the eligible offender proves by a preponderance of the evidence that because of advances in DNA technology there is a possibility of discovering new biological material from the perpetrator that the prior DNA test may have failed to discover. Prior testing may have been a prior "definitive DNA test" as to some biological evidence but may not have been a prior "definitive DNA test" as to other biological evidence.

Sec. 2953.72. (A) Any eligible offender who wishes to request DNA testing under sections 2953.71 to 2953.81 of the Revised Code shall submit an application for the testing to the court of common pleas specified in section 2953.73 of the Revised Code, on a form prescribed by the attorney general for this purpose. The eligible offender shall submit the application in accordance with the procedures set forth in section 2953.73 of the Revised Code. The eligible offender shall specify on the application the offense or offenses for which the offender is an eligible offender and is requesting the DNA testing. Along with the application, the eligible offender shall submit an acknowledgment that is on a form prescribed by the attorney general for this purpose and that is signed by the offender. The acknowledgment shall set forth all of the following:

(1) That sections 2953.71 to 2953.81 of the Revised Code

contemplate applications for DNA testing of an eligible offender 5532
at a stage of a prosecution or case after the offender has been 5533
sentenced, that any exclusion or inclusion result of DNA testing 5534
rendered pursuant to those sections may be used by a party in 5535
any proceeding as described in section 2953.81 of the Revised 5536
Code, and that all requests for any DNA testing made at trial 5537
will continue to be handled by the prosecuting attorney in the 5538
case; 5539

(2) That the process of conducting postconviction DNA 5540
testing for an eligible offender under sections 2953.71 to 5541
2953.81 of the Revised Code begins when the offender submits an 5542
application under section 2953.73 of the Revised Code and the 5543
acknowledgment described in this section; 5544

(3) That the eligible offender must submit the application 5545
and acknowledgment to the court of common pleas that heard the 5546
case in which the offender was convicted of the offense for 5547
which the offender is an eligible offender and is requesting the 5548
DNA testing; 5549

(4) That the state has established a set of criteria set 5550
forth in section 2953.74 of the Revised Code by which eligible 5551
offender applications for DNA testing will be screened and that 5552
a judge of a court of common pleas upon receipt of a properly 5553
filed application and accompanying acknowledgment will apply 5554
those criteria to determine whether to accept or reject the 5555
application; 5556

(5) That the results of DNA testing conducted under 5557
sections 2953.71 to 2953.81 of the Revised Code will be provided 5558
as described in section 2953.81 of the Revised Code to all 5559
parties in the postconviction proceedings and will be reported 5560
to various courts; 5561

(6) That, if DNA testing is conducted with respect to an 5562
offender under sections 2953.71 to 2953.81 of the Revised Code, 5563
the state will not offer the offender a retest if an inclusion 5564
result is achieved relative to the testing and that, if the 5565
state were to offer a retest after an inclusion result, the 5566
policy would create an atmosphere in which endless testing could 5567
occur and in which postconviction proceedings could be stalled 5568
for many years; 5569

(7) That, if the court rejects an eligible offender's 5570
application for DNA testing because the offender does not 5571
satisfy the acceptance criteria described in division (A) (4) of 5572
this section, the court will not accept or consider subsequent 5573
applications; 5574

(8) That the acknowledgment memorializes the provisions of 5575
sections 2953.71 to 2953.81 of the Revised Code with respect to 5576
the application of postconviction DNA testing to offenders, that 5577
those provisions do not give any offender any additional 5578
constitutional right that the offender did not already have, 5579
that the court has no duty or obligation to provide 5580
postconviction DNA testing to offenders, that the court of 5581
common pleas has the sole discretion subject to an appeal as 5582
described in this division to determine whether an offender is 5583
an eligible offender and whether an eligible offender's 5584
application for DNA testing satisfies the acceptance criteria 5585
described in division (A) (4) of this section and whether the 5586
application should be accepted or rejected, that if the court of 5587
common pleas rejects an eligible offender's application, the 5588
offender may ~~seek leave of the supreme court to appeal the~~ 5589
~~rejection to that court if the offender was sentenced to death~~ 5590
~~for the offense for which the offender is requesting the DNA~~ 5591
~~testing and, if the offender was not sentenced to death for that~~ 5592

~~offense, may~~ appeal the rejection to the court of appeals, and 5593
that no determination otherwise made by the court of common 5594
pleas in the exercise of its discretion regarding the 5595
eligibility of an offender or regarding postconviction DNA 5596
testing under those provisions is reviewable by or appealable to 5597
any court; 5598

(9) That the manner in which sections 2953.71 to 2953.81 5599
of the Revised Code with respect to the offering of 5600
postconviction DNA testing to offenders are carried out does not 5601
confer any constitutional right upon any offender, that the 5602
state has established guidelines and procedures relative to 5603
those provisions to ensure that they are carried out with both 5604
justice and efficiency in mind, and that an offender who 5605
participates in any phase of the mechanism contained in those 5606
provisions, including, but not limited to, applying for DNA 5607
testing and being rejected, having an application for DNA 5608
testing accepted and not receiving the test, or having DNA 5609
testing conducted and receiving unfavorable results, does not 5610
gain as a result of the participation any constitutional right 5611
to challenge, or, except as provided in division (A)(8) of this 5612
section, any right to any review or appeal of, the manner in 5613
which those provisions are carried out; 5614

(10) That the most basic aspect of sections 2953.71 to 5615
2953.81 of the Revised Code is that, in order for DNA testing to 5616
occur, there must be an offender sample against which other 5617
evidence may be compared, that, if an eligible offender's 5618
application is accepted but the offender subsequently refuses to 5619
submit to the collection of the sample of biological material 5620
from the offender or hinders the state from obtaining a sample 5621
of biological material from the offender, the goal of those 5622
provisions will be frustrated, and that an offender's refusal or 5623

hindrance shall cause the court to rescind its prior acceptance 5624
of the application for DNA testing for the offender and deny the 5625
application. 5626

(B) The attorney general shall prescribe a form to be used 5627
to make an application for DNA testing under division (A) of 5628
this section and section 2953.73 of the Revised Code and a form 5629
to be used to provide the acknowledgment described in division 5630
(A) of this section. The forms shall include all information 5631
described in division (A) of this section, spaces for an 5632
offender to insert all information necessary to complete the 5633
forms, including, but not limited to, specifying the offense or 5634
offenses for which the offender is an eligible offender and is 5635
requesting the DNA testing, and any other information or 5636
material the attorney general determines is necessary or 5637
relevant. The attorney general shall distribute copies of the 5638
prescribed forms to the department of rehabilitation and 5639
correction, the department shall ensure that each prison in 5640
which offenders are housed has a supply of copies of the forms, 5641
and the department shall ensure that copies of the forms are 5642
provided free of charge to any offender who requests them. 5643

(C) (1) An offender is eligible to request DNA testing to 5644
be conducted under sections 2953.71 to 2953.81 of the Revised 5645
Code only if all of the following apply: 5646

(a) The offense for which the offender claims to be an 5647
eligible offender is a felony, and the offender was convicted by 5648
a judge or jury of that offense. 5649

(b) One of the following applies: 5650

(i) The offender was sentenced to a prison term ~~or~~ 5651
~~sentence of death~~ for the felony described in division (C) (1) (a) 5652

of this section, and the offender is in prison serving that 5653
prison term ~~or under that sentence of death~~, has been paroled or 5654
is on probation regarding that felony, is under post-release 5655
control regarding that felony, or has been released from that 5656
prison term and is under a community control sanction regarding 5657
that felony. 5658

(ii) The offender was not sentenced to a prison term ~~or~~ 5659
~~sentence of death~~ for the felony described in division (C) (1) (a) 5660
of this section, but was sentenced to a community control 5661
sanction for that felony and is under that community control 5662
sanction. 5663

(iii) The felony described in division (C) (1) (a) of this 5664
section was a sexually oriented offense or child-victim oriented 5665
offense, and the offender has a duty to comply with sections 5666
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 5667
relative to that felony. 5668

(2) An offender is not an eligible offender under division 5669
(C) (1) of this section regarding any offense to which the 5670
offender pleaded guilty or no contest. 5671

(3) An offender is not an eligible offender under division 5672
(C) (1) of this section regarding any offense if the offender 5673
dies prior to submitting an application for DNA testing related 5674
to that offense under section 2953.73 of the Revised Code. 5675

Sec. 2953.73. (A) An eligible offender who wishes to 5676
request DNA testing to be conducted under sections 2953.71 to 5677
2953.81 of the Revised Code shall submit an application for DNA 5678
testing on a form prescribed by the attorney general for this 5679
purpose and shall submit the form to the court of common pleas 5680
that sentenced the offender for the offense for which the 5681

offender is an eligible offender and is requesting DNA testing. 5682

(B) If an eligible offender submits an application for DNA 5683
testing under division (A) of this section, upon the submission 5684
of the application, all of the following apply: 5685

(1) The eligible offender shall serve a copy of the 5686
application on the prosecuting attorney and the attorney 5687
general. 5688

(2) The application shall be assigned to the judge of that 5689
court of common pleas who was the trial judge in the case in 5690
which the eligible offender was convicted of the offense for 5691
which the offender is requesting DNA testing, or, if that judge 5692
no longer is a judge of that court, it shall be assigned 5693
according to court rules. The judge to whom the application is 5694
assigned shall decide the application. The application shall 5695
become part of the file in the case. 5696

(C) If an eligible offender submits an application for DNA 5697
testing under division (A) of this section, regardless of 5698
whether the offender has commenced any federal habeas corpus 5699
proceeding relative to the case in which the offender was 5700
convicted of the offense for which the offender is an eligible 5701
offender and is requesting DNA testing, any response to the 5702
application by the prosecuting attorney or the attorney general 5703
shall be filed not later than forty-five days after the date on 5704
which the eligible offender submits the application. The 5705
prosecuting attorney or the attorney general, or both, may, but 5706
are not required to, file a response to the application. If the 5707
prosecuting attorney or the attorney general files a response 5708
under this division, the prosecuting attorney or attorney 5709
general, whoever filed the response, shall serve a copy of the 5710
response on the eligible offender. 5711

(D) If an eligible offender submits an application for DNA 5712
testing under division (A) of this section, the court shall make 5713
the determination as to whether the application should be 5714
accepted or rejected. The court shall expedite its review of the 5715
application. The court shall make the determination in 5716
accordance with the criteria and procedures set forth in 5717
sections 2953.74 to 2953.81 of the Revised Code and, in making 5718
the determination, shall consider the application, the 5719
supporting affidavits, and the documentary evidence and, in 5720
addition to those materials, shall consider all the files and 5721
records pertaining to the proceedings against the applicant, 5722
including, but not limited to, the indictment, the court's 5723
journal entries, the journalized records of the clerk of the 5724
court, and the court reporter's transcript and all responses to 5725
the application filed under division (C) of this section by a 5726
prosecuting attorney or the attorney general, unless the 5727
application and the files and records show the applicant is not 5728
entitled to DNA testing, in which case the application may be 5729
denied. The court is not required to conduct an evidentiary 5730
hearing in conducting its review of, and in making its 5731
determination as to whether to accept or reject, the 5732
application. Upon making its determination, the court shall 5733
enter a judgment and order that either accepts or rejects the 5734
application and that includes within the judgment and order the 5735
reasons for the acceptance or rejection as applied to the 5736
criteria and procedures set forth in sections 2953.71 to 2953.81 5737
of the Revised Code. The court shall send a copy of the judgment 5738
and order to the eligible offender who filed it, the prosecuting 5739
attorney, and the attorney general. 5740

(E) A judgment and order of a court entered under division 5741
(D) of this section is appealable only as provided in this 5742

division. If an eligible offender submits an application for DNA testing under section 2953.73 of the Revised Code and the court of common pleas rejects the application under division (D) of this section, ~~one of the following applies:~~

~~(1) If the offender was sentenced to death for the offense for which the offender claims to be an eligible offender and is requesting DNA testing, the offender may seek leave of the supreme court to appeal the rejection to the supreme court. Courts of appeals do not have jurisdiction to review any rejection if the offender was sentenced to death for the offense for which the offender claims to be an eligible offender and is requesting DNA testing.~~

~~(2) If the offender was not sentenced to death for the offense for which the offender claims to be an eligible offender and is requesting DNA testing, the rejection is a final appealable order, and the offender may appeal it to the court of appeals of the district in which is located that court of common pleas.~~

(F) Notwithstanding any provision of law regarding fees and costs, no filing fee shall be required of, and no court costs shall be assessed against, an eligible offender who is indigent and who submits an application under this section.

(G) If a court rejects an eligible offender's application for DNA testing under division (D) of this section, unless the rejection is overturned on appeal, no court shall require the state to administer a DNA test under sections 2953.71 to 2953.81 of the Revised Code on the eligible offender.

Sec. 2953.81. If an eligible offender submits an application for DNA testing under section 2953.73 of the Revised

Code and if DNA testing is performed based on that application, 5772
upon completion of the testing, all of the following apply: 5773

(A) The court or a designee of the court shall require the 5774
state to maintain the results of the testing and to maintain and 5775
preserve both the parent sample of the biological material used 5776
and the offender sample of the biological material used. The 5777
testing authority may be designated as the person to maintain 5778
the results of the testing or to maintain and preserve some or 5779
all of the samples, or both. The results of the testing remain 5780
state's evidence. The samples shall be preserved during the 5781
entire period of time for which the offender is imprisoned or 5782
confined relative to the sentence in question, is on parole or 5783
probation relative to that sentence, is under post-release 5784
control or a community control sanction relative to that 5785
sentence, or has a duty to comply with sections 2950.04, 5786
2950.041, 2950.05, and 2950.06 of the Revised Code relative to 5787
that sentence. Additionally, if the prison term or confinement 5788
under the sentence in question expires, ~~if the sentence in~~ 5789
~~question is a sentence of death and the offender is executed,~~ or 5790
if the parole or probation period, the period of post-release 5791
control, the community control sanction, or the duty to comply 5792
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 5793
Revised Code under the sentence in question ends, the samples 5794
shall be preserved for a reasonable period of time of not less 5795
than twenty-four months after the term or confinement expires, ~~or~~ 5796
~~the offender is executed,~~ or the parole or probation period, the 5797
period of post-release control, the community control sanction, 5798
or the duty to comply with sections 2950.04, 2950.041, 2950.05, 5799
and 2950.06 of the Revised Code ends, whichever is applicable. 5800
The court shall determine the period of time that is reasonable 5801
for purposes of this division, provided that the period shall 5802

not be less than twenty-four months after the term or 5803
confinement expires, ~~the offender is executed,~~ or the parole or 5804
probation period, the period of post-release control, the 5805
community control sanction, or the duty to comply with sections 5806
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 5807
ends, whichever is applicable. 5808

(B) The results of the testing are a public record. 5809

(C) The court or the testing authority shall provide a 5810
copy of the results of the testing to the prosecuting attorney, 5811
the attorney general, and the subject offender. 5812

(D) If the postconviction proceeding in question is 5813
pending at that time in a court of this state, the court of 5814
common pleas that decided the DNA application or the testing 5815
authority shall provide a copy of the results of the testing to 5816
any court of this state, and, if it is pending in a federal 5817
court, the court of common pleas that decided the DNA 5818
application or the testing authority shall provide a copy of the 5819
results of the testing to that federal court. 5820

(E) The testing authority shall provide a copy of the 5821
results of the testing to the court of common pleas that decided 5822
the DNA application. 5823

(F) The offender or the state may enter the results of the 5824
testing into any proceeding. 5825

Sec. 2967.03. The adult parole authority may exercise its 5826
functions and duties in relation to the pardon, commutation of 5827
sentence, or reprieve of a convict upon direction of the 5828
governor or upon its own initiative. It may exercise its 5829
functions and duties in relation to the parole of a prisoner who 5830
is eligible for parole upon the initiative of the head of the 5831

institution in which the prisoner is confined or upon its own 5832
initiative. When a prisoner becomes eligible for parole, the 5833
head of the institution in which the prisoner is confined shall 5834
notify the authority in the manner prescribed by the authority. 5835
The authority may investigate and examine, or cause the 5836
investigation and examination of, prisoners confined in state 5837
correctional institutions concerning their conduct in the 5838
institutions, their mental and moral qualities and 5839
characteristics, their knowledge of a trade or profession, their 5840
former means of livelihood, their family relationships, and any 5841
other matters affecting their fitness to be at liberty without 5842
being a threat to society. 5843

The authority may recommend to the governor the pardon, 5844
commutation of sentence, or reprieve of any convict or prisoner 5845
or grant a parole to any prisoner for whom parole is authorized, 5846
if in its judgment there is reasonable ground to believe that 5847
granting a pardon, commutation, or reprieve to the convict or 5848
paroling the prisoner would further the interests of justice and 5849
be consistent with the welfare and security of society. However, 5850
the authority shall not recommend a pardon or commutation of 5851
sentence, or grant a parole to, any convict or prisoner until 5852
the authority has complied with the applicable notice 5853
requirements of sections 2930.16 and 2967.12 of the Revised Code 5854
and until it has considered any statement made by a victim or a 5855
victim's representative that is relevant to the convict's or 5856
prisoner's case and that was sent to the authority pursuant to 5857
section 2930.17 of the Revised Code, any other statement made by 5858
a victim or a victim's representative that is relevant to the 5859
convict's or prisoner's case and that was received by the 5860
authority after it provided notice of the pendency of the action 5861
under sections 2930.16 and 2967.12 of the Revised Code, and any 5862

written statement of any person submitted to the court pursuant 5863
to division ~~(I)~~(H) of section 2967.12 of the Revised Code. If a 5864
victim, victim's representative, or the victim's spouse, parent, 5865
sibling, or child appears at a full board hearing of the parole 5866
board and gives testimony as authorized by section 5149.101 of 5867
the Revised Code, the authority shall consider the testimony in 5868
determining whether to grant a parole. The trial judge and 5869
prosecuting attorney of the trial court in which a person was 5870
convicted shall furnish to the authority, at the request of the 5871
authority, a summarized statement of the facts proved at the 5872
trial and of all other facts having reference to the propriety 5873
of recommending a pardon or commutation or granting a parole, 5874
together with a recommendation for or against a pardon, 5875
commutation, or parole, and the reasons for the recommendation. 5876
The trial judge, the prosecuting attorney, specified law 5877
enforcement agency members, and a representative of the prisoner 5878
may appear at a full board hearing of the parole board and give 5879
testimony in regard to the grant of a parole to the prisoner as 5880
authorized by section 5149.101 of the Revised Code. All state 5881
and local officials shall furnish information to the authority, 5882
when so requested by it in the performance of its duties. 5883

The adult parole authority shall exercise its functions 5884
and duties in relation to the release of prisoners who are 5885
serving a stated prison term in accordance with section 2967.28 5886
of the Revised Code. 5887

Sec. 2967.05. (A) As used in this section: 5888

(1) "Imminent danger of death" means that the inmate has a 5889
medically diagnosable condition that will cause death to occur 5890
within a short period of time. 5891

As used in division (A) (1) of this section, "within a 5892

short period of time" means generally within six months. 5893

(2) (a) "Medically incapacitated" means any diagnosable 5894
medical condition, including mental dementia and severe, 5895
permanent medical or cognitive disability, that prevents the 5896
inmate from completing activities of daily living without 5897
significant assistance, that incapacitates the inmate to the 5898
extent that institutional confinement does not offer additional 5899
restrictions, that is likely to continue throughout the entire 5900
period of parole, and that is unlikely to improve noticeably. 5901

(b) "Medically incapacitated" does not include conditions 5902
related solely to mental illness unless the mental illness is 5903
accompanied by injury, disease, or organic defect. 5904

(3) (a) "Terminal illness" means a condition that satisfies 5905
all of the following criteria: 5906

(i) The condition is irreversible and incurable and is 5907
caused by disease, illness, or injury from which the inmate is 5908
unlikely to recover. 5909

(ii) In accordance with reasonable medical standards and a 5910
reasonable degree of medical certainty, the condition is likely 5911
to cause death to the inmate within twelve months. 5912

(iii) Institutional confinement of the inmate does not 5913
offer additional protections for public safety or against the 5914
inmate's risk to reoffend. 5915

(b) The department of rehabilitation and correction shall 5916
adopt rules pursuant to Chapter 119. of the Revised Code to 5917
implement the definition of "terminal illness" in division (A) 5918
(3) (a) of this section. 5919

(B) Upon the recommendation of the director of 5920

rehabilitation and correction, accompanied by a certificate of 5921
the attending physician that an inmate is terminally ill, 5922
medically incapacitated, or in imminent danger of death, the 5923
governor may order the inmate's release as if on parole, 5924
reserving the right to return the inmate to the institution 5925
pursuant to this section. If, subsequent to the inmate's 5926
release, the inmate's health improves so that the inmate is no 5927
longer terminally ill, medically incapacitated, or in imminent 5928
danger of death, the inmate shall be returned, by order of the 5929
governor, to the institution from which the inmate was released. 5930
If the inmate violates any rules or conditions applicable to the 5931
inmate, the inmate may be returned to an institution under the 5932
control of the department of rehabilitation and correction. The 5933
governor may direct the adult parole authority to investigate or 5934
cause to be investigated the inmate and make a recommendation. 5935
An inmate released under this section shall be subject to 5936
supervision by the adult parole authority in accordance with any 5937
recommendation of the adult parole authority that is approved by 5938
the governor. The adult parole authority shall adopt rules 5939
pursuant to section 119.03 of the Revised Code to establish the 5940
procedure for medical release of an inmate when an inmate is 5941
terminally ill, medically incapacitated, or in imminent danger 5942
of death. 5943

(C) No inmate is eligible for release under this section 5944
if the inmate is serving ~~a death sentence,~~ a sentence of life 5945
without parole, a sentence under Chapter 2971. of the Revised 5946
Code for a felony of the first or second degree, a sentence for 5947
aggravated murder or murder, or a mandatory prison term for an 5948
offense of violence or any specification described in Chapter 5949
2941. of the Revised Code. 5950

Sec. 2967.12. (A) Except as provided in division (G) of 5951

this section, at least sixty days before the adult parole 5952
authority recommends any pardon or commutation of sentence, or 5953
grants any parole, the authority shall provide a notice of the 5954
pendency of the pardon, commutation, or parole, setting forth 5955
the name of the person on whose behalf it is made, the offense 5956
of which the person was convicted or to which the person pleaded 5957
guilty, the time of conviction or the guilty plea, and the term 5958
of the person's sentence, to the prosecuting attorney and the 5959
judge of the court of common pleas of the county in which the 5960
indictment against the person was found. If there is more than 5961
one judge of that court of common pleas, the authority shall 5962
provide the notice to the presiding judge. Upon the request of 5963
the prosecuting attorney or of any law enforcement agency, the 5964
authority shall provide to the requesting prosecuting attorney 5965
and law enforcement agencies an institutional summary report 5966
that covers the subject person's participation while confined in 5967
a state correctional institution in training, work, and other 5968
rehabilitative activities and any disciplinary action taken 5969
against the person while so confined. The department of 5970
rehabilitation and correction may utilize electronic means to 5971
provide this notice. The department of rehabilitation and 5972
correction, at the same time that it provides the notice to the 5973
prosecuting attorney and judge under this division, also shall 5974
post on the database it maintains pursuant to section 5120.66 of 5975
the Revised Code the offender's name and all of the information 5976
specified in division (A) (1) (c) (iii) of that section. 5977

(B) If a request for notification has been made pursuant 5978
to section 2930.16 of the Revised Code or if division (H) of 5979
this section applies, the office of victim services or the adult 5980
parole authority also shall provide notice to the victim or the 5981
victim's representative at least sixty days prior to 5982

recommending any pardon or commutation of sentence for, or 5983
granting any parole to, the person. The notice shall include the 5984
information required by division (A) of this section and may be 5985
provided by telephone or through electronic means. The notice 5986
also shall inform the victim or the victim's representative that 5987
the victim or representative may send a written statement 5988
relative to the victimization and the pending action to the 5989
adult parole authority and that, if the authority receives any 5990
written statement prior to recommending a pardon or commutation 5991
or granting a parole for a person, the authority will consider 5992
the statement before it recommends a pardon or commutation or 5993
grants a parole. If the person is being considered for parole, 5994
the notice shall inform the victim or the victim's 5995
representative that a full board hearing of the parole board may 5996
be held and that the victim or victim's representative may 5997
contact the office of victims' services for further information. 5998
If the person being considered for parole was convicted of or 5999
pleaded guilty to a violation of section 2903.01 or 2903.02 of 6000
the Revised Code, an offense of violence that is a felony of the 6001
first, second, or third degree, or an offense punished by a 6002
sentence of life imprisonment, the notice shall inform the 6003
victim of that offense, the victim's representative, or a member 6004
of the victim's immediate family that the victim, the victim's 6005
representative, and the victim's immediate family have the right 6006
to give testimony at a full board hearing of the parole board 6007
and that the victim or victim's representative may contact the 6008
office of victims' services for further information. 6009

(C) When notice of the pendency of any pardon, commutation 6010
of sentence, or parole has been provided to a judge or 6011
prosecutor or posted on the database as required in division (A) 6012
of this section and a hearing on the pardon, commutation, or 6013

parole is continued to a date certain, the authority shall 6014
provide notice of the further consideration of the pardon, 6015
commutation, or parole at least sixty days before the further 6016
consideration. The notice of the further consideration shall be 6017
provided to the proper judge and prosecuting attorney at least 6018
sixty days before the further consideration, and may be provided 6019
using electronic means, and, if the initial notice was posted on 6020
the database as provided in division (A) of this section, the 6021
notice of the further consideration shall be posted on the 6022
database at least sixty days before the further consideration. 6023
If the prosecuting attorney or a law enforcement agency was 6024
provided a copy of the institutional summary report relative to 6025
the subject person under division (A) of this section, the 6026
authority shall include with the notice of the further 6027
consideration sent to the prosecuting attorney any new 6028
information with respect to the person that relates to 6029
activities and actions of the person that are of a type covered 6030
by the report and shall send to the law enforcement agency a 6031
report that provides notice of the further consideration and 6032
includes any such new information with respect to the person. 6033
When notice of the pendency of any pardon, commutation, or 6034
parole has been given as provided in division (B) of this 6035
section and the hearing on it is continued to a date certain, 6036
the authority shall give notice of the further consideration to 6037
the victim or the victim's representative in accordance with 6038
section 2930.03 of the Revised Code. 6039

~~(D) In case of an application for the pardon or 6040
commutation of sentence of a person sentenced to capital 6041
punishment, the governor may modify the requirements of 6042
notification and publication if there is not sufficient time for 6043
compliance with the requirements before the date fixed for the 6044~~

~~execution of sentence.~~ 6045

~~(E)~~ If an offender is serving a prison term imposed under 6046
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 6047
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 6048
Code and if the parole board terminates its control over the 6049
offender's service of that term pursuant to section 2971.04 of 6050
the Revised Code, the parole board immediately shall provide 6051
written notice of its termination of control or the transfer of 6052
control to the entities and persons specified in section 2971.04 6053
of the Revised Code. 6054

~~(F)~~ (E) The failure of the adult parole authority to 6055
comply with the notice or posting provisions of division (A), 6056
(B), or (C) of this section or the failure of the parole board 6057
to comply with the notice provisions of division ~~(E)~~ (D) of this 6058
section do not give any rights or any grounds for appeal or 6059
post-conviction relief to the person serving the sentence. 6060

~~(G)~~ (F) Divisions (A), (B), and (C) of this section do not 6061
apply to any release of a person that is of the type described 6062
in division (B) (2) (b) of section 5120.031 of the Revised Code. 6063

~~(H)~~ (G) If a defendant is incarcerated for the commission 6064
of aggravated murder, murder, or an offense of violence that is 6065
a felony of the first, second, or third degree or is under a 6066
sentence of life imprisonment, except as otherwise provided in 6067
this division, the notice described in division (B) of this 6068
section shall be given to the victim or victim's representative 6069
regardless of whether the victim or victim's representative has 6070
made a request for notification. The notice described in 6071
division (B) of this section shall not be given under this 6072
division to a victim or victim's representative if the victim or 6073
victim's representative has requested pursuant to division (B) 6074

(2) of section 2930.03 of the Revised Code that the victim or 6075
the victim's representative not be provided the notice. The 6076
notice described in division (B) of this section does not have 6077
to be given under this division to a victim or victim's 6078
representative if notice was given to the victim or victim's 6079
representative with respect to at least two prior considerations 6080
of pardon, commutation, or parole of a person and the victim or 6081
victim's representative did not provide any written statement 6082
relative to the victimization and the pending action, did not 6083
attend any hearing conducted relative to the pending action, and 6084
did not otherwise respond to the office with respect to the 6085
pending action. Regardless of whether the victim or victim's 6086
representative has requested that the notice described in 6087
division (B) of this section be provided or not be provided, the 6088
office of victim services or adult parole authority shall give 6089
similar notice to the law enforcement agency that arrested the 6090
defendant if any officer of that agency was a victim of the 6091
offense and to any member of the victim's immediate family who 6092
requests notification. If notice is to be given under this 6093
division, the office or authority may give the notice by any 6094
reasonable means, including regular mail, telephone, and 6095
electronic mail, in accordance with division (D)(1) of section 6096
2930.16 of the Revised Code. If the notice is based on an 6097
offense committed prior to ~~the effective date of this amendment~~ 6098
March 22, 2013, the notice to the victim or victim's 6099
representative also shall include the opt-out information 6100
described in division (D)(1) of section 2930.16 of the Revised 6101
Code. The office or authority, in accordance with division (D) 6102
(2) of section 2930.16 of the Revised Code, shall keep a record 6103
of all attempts to provide the notice, and of all notices 6104
provided, under this division. 6105

Division ~~(H)~~(G) of this section, and the notice-related 6106
provisions of divisions (E) (2) and (K) of section 2929.20, 6107
division (D) (1) of section 2930.16, division (E) (1) (b) of 6108
section 2967.19, division (A) (3) (b) of section 2967.26, division 6109
(D) (1) of section 2967.28, and division (A) (2) of section 6110
5149.101 of the Revised Code enacted in the act in which 6111
division ~~(H)~~(G) of this section was enacted, shall be known as 6112
"Roberta's Law." 6113

~~(I)~~(H) In addition to and independent of the right of a 6114
victim to make a statement as described in division (A) of this 6115
section or pursuant to section 2930.17 of the Revised Code or to 6116
otherwise make a statement, the authority for a judge or 6117
prosecuting attorney to furnish statements and information, make 6118
recommendations, and give testimony as described in division (A) 6119
of this section, the right of a prosecuting attorney, judge, or 6120
victim to give testimony or submit a statement at a full parole 6121
board hearing pursuant to section 5149.101 of the Revised Code, 6122
and any other right or duty of a person to present information 6123
or make a statement, any person may send to the adult parole 6124
authority at any time prior to the authority's recommending a 6125
pardon or commutation or granting a parole for the offender a 6126
written statement relative to the offense and the pending 6127
action. 6128

~~(J)~~(I) As used in this section, "victim's immediate 6129
family" means the mother, father, spouse, sibling, or child of 6130
the victim, provided that in no case does "victim's immediate 6131
family" include the offender with respect to whom the notice in 6132
question applies. 6133

Sec. 2967.13. (A) Except as provided in division (G) of 6134
this section, a prisoner serving a sentence of imprisonment for 6135

life for an offense committed on or after July 1, 1996, is not 6136
entitled to any earned credit under section 2967.193 of the 6137
Revised Code and becomes eligible for parole as follows: 6138

(1) If a sentence of imprisonment for life was imposed for 6139
the offense of murder, at the expiration of the prisoner's 6140
minimum term; 6141

(2) If a sentence of imprisonment for life with parole 6142
eligibility after serving twenty years of imprisonment was 6143
imposed pursuant to section 2929.02 or former section 2929.022 6144
or 2929.03 of the Revised Code, after serving a term of twenty 6145
years; 6146

(3) If a sentence of imprisonment for life with parole 6147
eligibility after serving twenty-five full years of imprisonment 6148
was imposed pursuant to section 2929.02 or former section 6149
2929.022 or 2929.03 of the Revised Code, after serving a term of 6150
twenty-five full years; 6151

(4) If a sentence of imprisonment for life with parole 6152
eligibility after serving thirty full years of imprisonment was 6153
imposed pursuant to section 2929.02 or former section 2929.022 6154
or 2929.03 of the Revised Code, after serving a term of thirty 6155
full years; 6156

(5) If a sentence of imprisonment for life was imposed for 6157
rape, after serving a term of ten full years' imprisonment; 6158

(6) If a sentence of imprisonment for life with parole 6159
eligibility after serving fifteen years of imprisonment was 6160
imposed for a violation of section 2927.24 of the Revised Code, 6161
after serving a term of fifteen years. 6162

(B) Except as provided in division (G) of this section, a 6163
prisoner serving a sentence of imprisonment for life with parole 6164

eligibility after serving twenty years of imprisonment or a 6165
sentence of imprisonment for life with parole eligibility after 6166
serving twenty-five full years or thirty full years of 6167
imprisonment imposed pursuant to section 2929.02 or former 6168
section 2929.022 or 2929.03 of the Revised Code for an offense 6169
committed on or after July 1, 1996, consecutively to any other 6170
term of imprisonment, becomes eligible for parole after serving 6171
twenty years, twenty full years, or thirty full years, as 6172
applicable, as to each such sentence of life imprisonment, which 6173
shall not be reduced for earned credits under section 2967.193 6174
of the Revised Code, plus the term or terms of the other 6175
sentences consecutively imposed or, if one of the other 6176
sentences is another type of life sentence with parole 6177
eligibility, the number of years before parole eligibility for 6178
that sentence. 6179

(C) Except as provided in division (G) of this section, a 6180
prisoner serving consecutively two or more sentences in which an 6181
indefinite term of imprisonment is imposed becomes eligible for 6182
parole upon the expiration of the aggregate of the minimum terms 6183
of the sentences. 6184

(D) Except as provided in division (G) of this section, a 6185
prisoner serving a term of imprisonment who is described in 6186
division (A) of section 2967.021 of the Revised Code becomes 6187
eligible for parole as described in that division or, if the 6188
prisoner is serving a definite term of imprisonment, shall be 6189
released as described in that division. 6190

(E) A prisoner serving a sentence of life imprisonment 6191
without parole imposed pursuant to section 2907.02 or 2929.02 or 6192
former section 2929.03 or 2929.06 of the Revised Code is not 6193
eligible for parole and shall be imprisoned until death. 6194

(F) A prisoner serving a stated prison term shall be 6195
released in accordance with section 2967.28 of the Revised Code. 6196

(G) A prisoner serving a prison term or term of life 6197
imprisonment without parole imposed pursuant to section 2971.03 6198
of the Revised Code never becomes eligible for parole during 6199
that term of imprisonment. 6200

Sec. 2967.19. (A) As used in this section: 6201

(1) "Deadly weapon" and "dangerous ordnance" have the same 6202
meanings as in section 2923.11 of the Revised Code. 6203

(2) "Disqualifying prison term" means any of the 6204
following: 6205

(a) A prison term imposed for aggravated murder, murder, 6206
voluntary manslaughter, involuntary manslaughter, felonious 6207
assault, kidnapping, rape, aggravated arson, aggravated 6208
burglary, or aggravated robbery; 6209

(b) A prison term imposed for complicity in, an attempt to 6210
commit, or conspiracy to commit any offense listed in division 6211
(A) (2) (a) of this section; 6212

(c) A prison term of life imprisonment, including any term 6213
of life imprisonment that has parole eligibility; 6214

(d) A prison term imposed for any felony other than 6215
carrying a concealed weapon an essential element of which is any 6216
conduct or failure to act expressly involving any deadly weapon 6217
or dangerous ordnance; 6218

(e) A prison term imposed for any violation of section 6219
2925.03 of the Revised Code that is a felony of the first or 6220
second degree; 6221

(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 that is an offense of violence and that is not described in division (A) (2) (a) or (b) of this section, an attempt to commit

a felony of the first or second degree that is an offense of 6250
violence and that is not described in division (A) (2) (a) or (b) 6251
of this section if the attempt is a felony of the first or 6252
second degree, or an offense under an existing or former law of 6253
this state, another state, or the United States that is or was 6254
substantially equivalent to any other offense described in this 6255
division. 6256

(ii) The offender previously was convicted of or pleaded 6257
guilty to any offense listed in division (A) (2) or (A) (4) (d) (i) 6258
of this section. 6259

(5) "Sexually oriented offense" has the same meaning as in 6260
section 2950.01 of the Revised Code. 6261

(B) The director of the department of rehabilitation and 6262
correction may recommend in writing to the sentencing court that 6263
the court consider releasing from prison any offender who, on or 6264
after September 30, 2011, is confined in a state correctional 6265
institution, who is serving a stated prison term of one year or 6266
more, and who is eligible under division (C) of this section for 6267
a release under this section. If the director wishes to 6268
recommend that the sentencing court consider releasing an 6269
offender under this section, the director shall notify the 6270
sentencing court in writing of the offender's eligibility not 6271
earlier than ninety days prior to the date on which the offender 6272
becomes eligible as described in division (C) of this section. 6273
The director's submission of the written notice constitutes a 6274
recommendation by the director that the court strongly consider 6275
release of the offender consistent with the purposes and 6276
principles of sentencing set forth in sections 2929.11 and 6277
2929.13 of the Revised Code. Only an offender recommended by the 6278
director under division (B) of this section may be considered 6279

for early release under this section. 6280

(C) (1) An offender serving a stated prison term of one 6281
year or more and who has commenced service of that stated prison 6282
term becomes eligible for release from prison under this section 6283
only as described in this division. An offender serving a stated 6284
prison term that includes a disqualifying prison term is not 6285
eligible for release from prison under this section. An offender 6286
serving a stated prison term that consists solely of one or more 6287
restricting prison terms is not eligible for release under this 6288
section. An offender serving a stated prison term of one year or 6289
more that includes one or more restricting prison terms and one 6290
or more eligible prison terms becomes eligible for release under 6291
this section after having fully served all restricting prison 6292
terms and having served eighty per cent of the stated prison 6293
term that remains to be served after all restricting prison 6294
terms have been fully served. An offender serving a stated 6295
prison term that consists solely of one or more eligible prison 6296
terms becomes eligible for release under this section after 6297
having served eighty per cent of that stated prison term. For 6298
purposes of determining an offender's eligibility for release 6299
under this section, if the offender's stated prison term 6300
includes consecutive prison terms, any restricting prison terms 6301
shall be deemed served prior to any eligible prison terms that 6302
run consecutively to the restricting prison terms, and the 6303
eligible prison terms are deemed to commence after all of the 6304
restricting prison terms have been fully served. 6305

An offender serving a stated prison term of one year or 6306
more that includes a mandatory prison term that is not a 6307
disqualifying prison term and is not a restricting prison term 6308
is not automatically ineligible as a result of the offender's 6309
service of that mandatory term for release from prison under 6310

this section, and the offender's eligibility for release from 6311
prison under this section is determined in accordance with this 6312
division. 6313

(2) If an offender confined in a state correctional 6314
institution under a stated prison term is eligible for release 6315
under this section as described in division (C)(1) of this 6316
section, the director of the department of rehabilitation and 6317
correction may recommend in writing that the sentencing court 6318
consider releasing the offender from prison under this section 6319
by submitting to the sentencing court the written notice 6320
described in division (B) of this section. 6321

(D) The director shall include with any notice submitted 6322
to the sentencing court under division (B) of this section an 6323
institutional summary report that covers the offender's 6324
participation while confined in a state correctional institution 6325
in school, training, work, treatment, and other rehabilitative 6326
activities and any disciplinary action taken against the 6327
offender while so confined. The director shall include with the 6328
notice any other documentation requested by the court, if 6329
available. 6330

(E) (1) When the director submits a written notice to a 6331
sentencing court that an offender is eligible to be considered 6332
for early release under this section, the department promptly 6333
shall provide to the prosecuting attorney of the county in which 6334
the offender was indicted a copy of the written notice, a copy 6335
of the institutional summary report, and any other information 6336
provided to the court and shall provide a copy of the 6337
institutional summary report to any law enforcement agency that 6338
requests the report. The department also promptly shall do 6339
whichever of the following is applicable: 6340

(a) Subject to division (E) (1) (b) of this section, give
written notice of the submission to any victim of the offender
or victim's representative of any victim of the offender who is
registered with the office of victim's services.

(b) If the offense was aggravated murder, murder, an
offense of violence that is a felony of the first, second, or
third degree, or an offense punished by a sentence of life
imprisonment, except as otherwise provided in this division,
notify the victim or the victim's representative of the filing
of the petition regardless of whether the victim or victim's
representative has registered with the office of victim's
services. The notice of the filing of the petition shall not be
given under this division to a victim or victim's representative
if the victim or victim's representative has requested pursuant
to division (B) (2) of section 2930.03 of the Revised Code that
the victim or the victim's representative not be provided the
notice. If notice is to be provided to a victim or victim's
representative under this division, the department 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 ~~the effective date of~~
~~this amendment~~ 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 department, in accordance with
division (D) (2) of section 2930.16 of the Revised Code, shall
keep a record of all attempts to provide the notice, and of all
notices provided, under this division.

Division (E) (1) (b) of this section, and the notice-related
provisions of divisions (E) (2) and (K) of section 2929.20,
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section

2967.12, division (A) (3) (b) of section 2967.26, division (D) (1) 6372
of section 2967.28, and division (A) (2) of section 5149.101 of 6373
the Revised Code enacted in the act in which division (E) (2) of 6374
this section was enacted, shall be known as "Roberta's Law." 6375

(2) When the director submits a petition under this 6376
section, the department also promptly shall post a copy of the 6377
written notice on the database it maintains under section 6378
5120.66 of the Revised Code and include information on where a 6379
person may send comments regarding the recommendation of early 6380
release. 6381

The information provided to the court, the prosecutor, and 6382
the victim or victim's representative under divisions (D) and 6383
(E) of this section shall include the name and contact 6384
information of a specific department of rehabilitation and 6385
correction employee who is available to answer questions about 6386
the offender who is the subject of the written notice submitted 6387
by the director, including, but not limited to, the offender's 6388
institutional conduct and rehabilitative activities while 6389
incarcerated. 6390

(F) Upon receipt of a written notice submitted by the 6391
director under division (B) of this section, the court either 6392
shall, on its own motion, schedule a hearing to consider 6393
releasing the offender who is the subject of the notice or shall 6394
inform the department that it will not be conducting a hearing 6395
relative to the offender. The court shall not grant an early 6396
release to an offender without holding a hearing. If a court 6397
declines to hold a hearing relative to an offender with respect 6398
to a written notice submitted by the director, the court may 6399
later consider release of that offender under this section on 6400
its own motion by scheduling a hearing for that purpose. Within 6401

thirty days after the written notice is submitted, the court 6402
shall inform the department whether or not the court is 6403
scheduling a hearing on the offender who is the subject of the 6404
notice. 6405

(G) If the court schedules a hearing upon receiving a 6406
written notice submitted under division (B) of this section or 6407
upon its own motion under division (F) of this section, the 6408
court shall notify the head of the state correctional 6409
institution in which the offender is confined of the hearing 6410
prior to the hearing. If the court makes a journal entry 6411
ordering the offender to be conveyed to the hearing, except as 6412
otherwise provided in this division, the head of the 6413
correctional institution shall deliver the offender to the 6414
sheriff of the county in which the hearing is to be held, and 6415
the sheriff shall convey the offender to and from the hearing. 6416
Upon the court's own motion or the motion of the offender or the 6417
prosecuting attorney of the county in which the offender was 6418
indicted, the court may permit the offender to appear at the 6419
hearing by video conferencing equipment if equipment of that 6420
nature is available and compatible. 6421

Upon receipt of notice from a court of a hearing on the 6422
release of an offender under this division, the head of the 6423
state correctional institution in which the offender is confined 6424
immediately shall notify the appropriate person at the 6425
department of rehabilitation and correction of the hearing, and 6426
the department within twenty-four hours after receipt of the 6427
notice shall post on the database it maintains pursuant to 6428
section 5120.66 of the Revised Code the offender's name and all 6429
of the information specified in division (A) (1) (c) (i) of that 6430
section. If the court schedules a hearing under this section, 6431
the court promptly shall give notice of the hearing to the 6432

prosecuting attorney of the county in which the offender was 6433
indicted. Upon receipt of the notice from the court, the 6434
prosecuting attorney shall notify pursuant to section 2930.16 of 6435
the Revised Code any victim of the offender or the victim's 6436
representative of the hearing. 6437

(H) If the court schedules a hearing under this section, 6438
at the hearing, the court shall afford the offender and the 6439
offender's attorney an opportunity to present written 6440
information and, if present, oral information relevant to the 6441
offender's early release. The court shall afford a similar 6442
opportunity to the prosecuting attorney, victim or victim's 6443
representative, as defined in section 2930.01 of the Revised 6444
Code, and any other person the court determines is likely to 6445
present additional relevant information. If the court pursuant 6446
to division (G) of this section permits the offender to appear 6447
at the hearing by video conferencing equipment, the offender's 6448
opportunity to present oral information shall be as a part of 6449
the video conferencing. The court shall consider any statement 6450
of a victim made under section 2930.14 or 2930.17 of the Revised 6451
Code, any victim impact statement prepared under section 6452
2947.051 of the Revised Code, and any report and other 6453
documentation submitted by the director under division (D) of 6454
this section. After ruling on whether to grant the offender 6455
early release, the court shall notify the victim in accordance 6456
with sections 2930.03 and 2930.16 of the Revised Code. 6457

(I) If the court grants an offender early release under 6458
this section, it shall order the release of the offender, shall 6459
place the offender under one or more appropriate community 6460
control sanctions, under appropriate conditions, and under the 6461
supervision of the department of probation that serves the 6462
court, and shall reserve the right to reimpose the sentence that 6463

it reduced and from which the offender was released if the 6464
offender violates the sanction. The court shall not make a 6465
release under this section effective prior to the date on which 6466
the offender becomes eligible as described in division (C) of 6467
this section. If the sentence under which the offender is 6468
confined in a state correctional institution and from which the 6469
offender is being released was imposed for a felony of the first 6470
or second degree, the court shall consider ordering that the 6471
offender be monitored by means of a global positioning device. 6472
If the court reimposes the sentence that it reduced and from 6473
which the offender was released and if the violation of the 6474
sanction is a new offense, the court may order that the 6475
reimposed sentence be served either concurrently with, or 6476
consecutive to, any new sentence imposed upon the offender as a 6477
result of the violation that is a new offense. The period of all 6478
community control sanctions imposed under this division shall 6479
not exceed five years. The court, in its discretion, may reduce 6480
the period of community control sanctions by the amount of time 6481
the offender spent in jail or prison for the offense. 6482

If the court grants an offender early release under this 6483
section, it shall notify the appropriate person at the 6484
department of rehabilitation and correction of the release, and 6485
the department shall post notice of the release on the database 6486
it maintains pursuant to section 5120.66 of the Revised Code. 6487

(J) The department shall adopt under Chapter 119. of the 6488
Revised Code any rules necessary to implement this section. 6489

Sec. 2967.193. (A) (1) Except as provided in division (C) 6490
of this section and subject to the maximum aggregate total 6491
specified in division (A) (2) of this section, a person confined 6492
in a state correctional institution may provisionally earn one 6493

day or five days of credit, based on the category set forth in 6494
division (D) (1), (2), (3), (4), or (5) of this section in which 6495
the person is included, toward satisfaction of the person's 6496
stated prison term for each completed month during which the 6497
person productively participates in an education program, 6498
vocational training, employment in prison industries, treatment 6499
for substance abuse, or any other constructive program developed 6500
by the department with specific standards for performance by 6501
prisoners. Except as provided in division (C) of this section 6502
and subject to the maximum aggregate total specified in division 6503
(A) (2) of this section, a person so confined who successfully 6504
completes two programs or activities of that type may, in 6505
addition, provisionally earn up to five days of credit toward 6506
satisfaction of the person's stated prison term for the 6507
successful completion of the second program or activity. The 6508
person shall not be awarded any provisional days of credit for 6509
the successful completion of the first program or activity or 6510
for the successful completion of any program or activity that is 6511
completed after the second program or activity. At the end of 6512
each calendar month in which a prisoner productively 6513
participates in a program or activity listed in this division or 6514
successfully completes a program or activity listed in this 6515
division, the department of rehabilitation and correction shall 6516
determine and record the total number of days credit that the 6517
prisoner provisionally earned in that calendar month. If the 6518
prisoner violates prison rules, the department may deny the 6519
prisoner a credit that otherwise could have been provisionally 6520
awarded to the prisoner or may withdraw one or more credits 6521
previously provisionally earned by the prisoner. Days of credit 6522
provisionally earned by a prisoner shall be finalized and 6523
awarded by the department subject to administrative review by 6524
the department of the prisoner's conduct. 6525

(2) The aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion under this section and the aggregate days of credit finally credited to a person under this section shall not exceed eight per cent of the total number of days in the person's stated prison term.

(B) The department of rehabilitation and correction shall adopt rules that specify the programs or activities for which credit may be earned under this section, the criteria for determining productive participation in, or completion of, the programs or activities and the criteria for awarding credit, including criteria for awarding additional credit for successful program or activity completion, and the criteria for denying or withdrawing previously provisionally earned credit as a result of a violation of prison rules.

(C) No person confined in a state correctional institution to whom any of the following applies shall be awarded any days of credit under division (A) of this section:

(1) The person is serving a prison term that section 2929.13 or section 2929.14 of the Revised Code specifies cannot be reduced pursuant to this section or this chapter or is serving a sentence for which section 2967.13 or division (B) of section 2929.143 of the Revised Code specifies that the person is not entitled to any earned credit under this section.

(2) The person is ~~sentenced to death or is~~ serving a prison term or a term of life imprisonment for aggravated murder, murder, or a conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder.

(3) The person is serving a sentence of life imprisonment

without parole imposed pursuant to section 2929.02 or former 6555
section 2929.03 or 2929.06 of the Revised Code, a prison term or 6556
a term of life imprisonment without parole imposed pursuant to 6557
section 2971.03 of the Revised Code, or a sentence for a 6558
sexually oriented offense that was committed on or after 6559
September 30, 2011. 6560

(D) This division does not apply to a determination of 6561
whether a person confined in a state correctional institution 6562
may earn any days of credit under division (A) of this section 6563
for successful completion of a second program or activity. The 6564
determination of whether a person confined in a state 6565
correctional institution may earn one day of credit or five days 6566
of credit under division (A) of this section for each completed 6567
month during which the person productively participates in a 6568
program or activity specified under that division shall be made 6569
in accordance with the following: 6570

(1) The offender may earn one day of credit under division 6571
(A) of this section, except as provided in division (C) of this 6572
section, if the most serious offense for which the offender is 6573
confined is any of the following that is a felony of the first 6574
or second degree: 6575

(a) A violation of division (A) of section 2903.04 or of 6576
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 6577
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 6578
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.151, 2919.22, 6579
2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, or 6580
2927.24 of the Revised Code; 6581

(b) A conspiracy or attempt to commit, or complicity in 6582
committing, any other offense for which the maximum penalty is 6583
imprisonment for life or any offense listed in division (D)(1) 6584

(a) of this section. 6585

(2) The offender may earn one day of credit under division 6586
(A) of this section, except as provided in division (C) of this 6587
section, if the offender is serving a stated prison term that 6588
includes a prison term imposed for a sexually oriented offense 6589
that the offender committed prior to September 30, 2011. 6590

(3) The offender may earn one day of credit under division 6591
(A) of this section, except as provided in division (C) of this 6592
section, if the offender is serving a stated prison term that 6593
includes a prison term imposed for a felony other than carrying 6594
a concealed weapon an essential element of which is any conduct 6595
or failure to act expressly involving any deadly weapon or 6596
dangerous ordnance. 6597

(4) Except as provided in division (C) of this section, if 6598
the most serious offense for which the offender is confined is a 6599
felony of the first or second degree and divisions (D)(1), (2), 6600
and (3) of this section do not apply to the offender, the 6601
offender may earn one day of credit under division (A) of this 6602
section if the offender committed that offense prior to 6603
September 30, 2011, and the offender may earn five days of 6604
credit under division (A) of this section if the offender 6605
committed that offense on or after September 30, 2011. 6606

(5) Except as provided in division (C) of this section, if 6607
the most serious offense for which the offender is confined is a 6608
felony of the third, fourth, or fifth degree or an unclassified 6609
felony and neither division (D)(2) nor (3) of this section 6610
applies to the offender, the offender may earn one day of credit 6611
under division (A) of this section if the offender committed 6612
that offense prior to September 30, 2011, and the offender may 6613
earn five days of credit under division (A) of this section if 6614

the offender committed that offense on or after September 30, 6615
2011. 6616

(E) The department annually shall seek and consider the 6617
written feedback of the Ohio prosecuting attorneys association, 6618
the Ohio judicial conference, the Ohio public defender, the Ohio 6619
association of criminal defense lawyers, and other organizations 6620
and associations that have an interest in the operation of the 6621
corrections system and the earned credits program under this 6622
section as part of its evaluation of the program and in 6623
determining whether to modify the program. 6624

(F) As used in this section, "sexually oriented offense" 6625
has the same meaning as in section 2950.01 of the Revised Code. 6626

Sec. 2967.26. (A) (1) The department of rehabilitation and 6627
correction, by rule, may establish a transitional control 6628
program for the purpose of closely monitoring a prisoner's 6629
adjustment to community supervision during the final one hundred 6630
eighty days of the prisoner's confinement. If the department 6631
establishes a transitional control program under this division, 6632
the division of parole and community services of the department 6633
of rehabilitation and correction may transfer eligible prisoners 6634
to transitional control status under the program during the 6635
final one hundred eighty days of their confinement and under the 6636
terms and conditions established by the department, shall 6637
provide for the confinement as provided in this division of each 6638
eligible prisoner so transferred, and shall supervise each 6639
eligible prisoner so transferred in one or more community 6640
control sanctions. Each eligible prisoner who is transferred to 6641
transitional control status under the program shall be confined 6642
in a suitable facility that is licensed pursuant to division (C) 6643
of section 2967.14 of the Revised Code, or shall be confined in 6644

a residence the department has approved for this purpose and be 6645
monitored pursuant to an electronic monitoring device, as 6646
defined in section 2929.01 of the Revised Code. If the 6647
department establishes a transitional control program under this 6648
division, the rules establishing the program shall include 6649
criteria that define which prisoners are eligible for the 6650
program, criteria that must be satisfied to be approved as a 6651
residence that may be used for confinement under the program of 6652
a prisoner that is transferred to it and procedures for the 6653
department to approve residences that satisfy those criteria, 6654
and provisions of the type described in division (C) of this 6655
section. At a minimum, the criteria that define which prisoners 6656
are eligible for the program shall provide all of the following: 6657

(a) That a prisoner is eligible for the program if the 6658
prisoner is serving a prison term or term of imprisonment for an 6659
offense committed prior to March 17, 1998, and if, at the time 6660
at which eligibility is being determined, the prisoner would 6661
have been eligible for a furlough under this section as it 6662
existed immediately prior to March 17, 1998, or would have been 6663
eligible for conditional release under former section 2967.23 of 6664
the Revised Code as that section existed immediately prior to 6665
March 17, 1998; 6666

(b) That no prisoner who is serving a mandatory prison 6667
term is eligible for the program until after expiration of the 6668
mandatory term; 6669

(c) That no prisoner who is serving a prison term or term 6670
of life imprisonment without parole imposed pursuant to section 6671
2971.03 of the Revised Code is eligible for the program. 6672

(2) At least sixty days prior to transferring to 6673
transitional control under this section a prisoner who is 6674

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6675 serving a term of imprisonment or prison term of two years or
6676 less for an offense committed on or after July 1, 1996, the
6677 division of parole and community services of the department of
6678 rehabilitation and correction shall give notice of the pendency
6679 of the transfer to transitional control to the court of common
6680 pleas of the county in which the indictment against the prisoner
6681 was found and of the fact that the court may disapprove the
6682 transfer of the prisoner to transitional control and shall
6683 include the institutional summary report prepared by the head of
6684 the state correctional institution in which the prisoner is
6685 confined. The head of the state correctional institution in
6686 which the prisoner is confined, upon the request of the division
6687 of parole and community services, shall provide to the division
6688 for inclusion in the notice sent to the court under this
6689 division an institutional summary report on the prisoner's
6690 conduct in the institution and in any institution from which the
6691 prisoner may have been transferred. The institutional summary
6692 report shall cover the prisoner's participation in school,
6693 vocational training, work, treatment, and other rehabilitative
6694 activities and any disciplinary action taken against the
6695 prisoner. If the court disapproves of the transfer of the
6696 prisoner to transitional control, the court shall notify the
6697 division of the disapproval within thirty days after receipt of
6698 the notice. If the court timely disapproves the transfer of the
6699 prisoner to transitional control, the division shall not proceed
6700 with the transfer. If the court does not timely disapprove the
6701 transfer of the prisoner to transitional control, the division
6702 may transfer the prisoner to transitional control.

6703 (3) (a) If the victim of an offense for which a prisoner
6704 was sentenced to a prison term or term of imprisonment has
6705 requested notification under section 2930.16 of the Revised Code

and has provided the department of rehabilitation and correction 6706
with the victim's name and address or if division (A) (3) (b) of 6707
this section applies, the division of parole and community 6708
services, at least sixty days prior to transferring the prisoner 6709
to transitional control pursuant to this section, shall notify 6710
the victim of the pendency of the transfer and of the victim's 6711
right to submit a statement to the division regarding the impact 6712
of the transfer of the prisoner to transitional control. If the 6713
victim subsequently submits a statement of that nature to the 6714
division, the division shall consider the statement in deciding 6715
whether to transfer the prisoner to transitional control. 6716

(b) If a prisoner is incarcerated for the commission of 6717
aggravated murder, murder, or an offense of violence that is a 6718
felony of the first, second, or third degree or under a sentence 6719
of life imprisonment, except as otherwise provided in this 6720
division, the notice described in division (A) (3) (a) of this 6721
section shall be given regardless of whether the victim has 6722
requested the notification. The notice described in division (A) 6723
(3) (a) of this section shall not be given under this division to 6724
a victim if the victim has requested pursuant to division (B) (2) 6725
of section 2930.03 of the Revised Code that the victim not be 6726
provided the notice. If notice is to be provided to a victim 6727
under this division, the authority may give the notice by any 6728
reasonable means, including regular mail, telephone, and 6729
electronic mail, in accordance with division (D) (1) of section 6730
2930.16 of the Revised Code. If the notice is based on an 6731
offense committed prior to March 22, 2013, the notice also shall 6732
include the opt-out information described in division (D) (1) of 6733
section 2930.16 of the Revised Code. The authority, in 6734
accordance with division (D) (2) of section 2930.16 of the 6735
Revised Code, shall keep a record of all attempts to provide the 6736

notice, and of all notices provided, under this division. 6737

Division (A) (3) (b) of this section, and the notice-related 6738
provisions of divisions (E) (2) and (K) of section 2929.20, 6739
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 6740
2967.12, division (E) (1) (b) of section 2967.19, division (D) (1) 6741
of section 2967.28, and division (A) (2) of section 5149.101 of 6742
the Revised Code enacted in the act in which division (A) (3) (b) 6743
of this section was enacted, shall be known as "Roberta's Law." 6744

(4) The department of rehabilitation and correction, at 6745
least sixty days prior to transferring a prisoner to 6746
transitional control pursuant to this section, shall post on the 6747
database it maintains pursuant to section 5120.66 of the Revised 6748
Code the prisoner's name and all of the information specified in 6749
division (A) (1) (c) (iv) of that section. In addition to and 6750
independent of the right of a victim to submit a statement as 6751
described in division (A) (3) of this section or to otherwise 6752
make a statement and in addition to and independent of any other 6753
right or duty of a person to present information or make a 6754
statement, any person may send to the division of parole and 6755
community services at any time prior to the division's transfer 6756
of the prisoner to transitional control a written statement 6757
regarding the transfer of the prisoner to transitional control. 6758
In addition to the information, reports, and statements it 6759
considers under divisions (A) (2) and (3) of this section or that 6760
it otherwise considers, the division shall consider each 6761
statement submitted in accordance with this division in deciding 6762
whether to transfer the prisoner to transitional control. 6763

(B) Each prisoner transferred to transitional control 6764
under this section shall be confined in the manner described in 6765
division (A) of this section during any period of time that the 6766

prisoner is not actually working at the prisoner's approved 6767
employment, engaged in a vocational training or another 6768
educational program, engaged in another program designated by 6769
the director, or engaged in other activities approved by the 6770
department. 6771

(C) The department of rehabilitation and correction shall 6772
adopt rules for transferring eligible prisoners to transitional 6773
control, supervising and confining prisoners so transferred, 6774
administering the transitional control program in accordance 6775
with this section, and using the moneys deposited into the 6776
transitional control fund established under division (E) of this 6777
section. 6778

(D) The department of rehabilitation and correction may 6779
adopt rules for the issuance of passes for the limited purposes 6780
described in this division to prisoners who are transferred to 6781
transitional control under this section. If the department 6782
adopts rules of that nature, the rules shall govern the granting 6783
of the passes and shall provide for the supervision of prisoners 6784
who are temporarily released pursuant to one of those passes. 6785
Upon the adoption of rules under this division, the department 6786
may issue passes to prisoners who are transferred to 6787
transitional control status under this section in accordance 6788
with the rules and the provisions of this division. All passes 6789
issued under this division shall be for a maximum of forty-eight 6790
hours and may be issued only for the following purposes: 6791

(1) To visit a relative in imminent danger of death; 6792

(2) To have a private viewing of the body of a deceased 6793
relative; 6794

(3) To visit with family; 6795

(4) To otherwise aid in the rehabilitation of the 6796
prisoner. 6797

(E) The division of parole and community services may 6798
require a prisoner who is transferred to transitional control to 6799
pay to the division the reasonable expenses incurred by the 6800
division in supervising or confining the prisoner while under 6801
transitional control. Inability to pay those reasonable expenses 6802
shall not be grounds for refusing to transfer an otherwise 6803
eligible prisoner to transitional control. Amounts received by 6804
the division of parole and community services under this 6805
division shall be deposited into the transitional control fund, 6806
which is hereby created in the state treasury and which hereby 6807
replaces and succeeds the furlough services fund that formerly 6808
existed in the state treasury. All moneys that remain in the 6809
furlough services fund on March 17, 1998, shall be transferred 6810
on that date to the transitional control fund. The transitional 6811
control fund shall be used solely to pay costs related to the 6812
operation of the transitional control program established under 6813
this section. The director of rehabilitation and correction 6814
shall adopt rules in accordance with section 111.15 of the 6815
Revised Code for the use of the fund. 6816

(F) A prisoner who violates any rule established by the 6817
department of rehabilitation and correction under division (A), 6818
(C), or (D) of this section may be transferred to a state 6819
correctional institution pursuant to rules adopted under 6820
division (A), (C), or (D) of this section, but the prisoner 6821
shall receive credit towards completing the prisoner's sentence 6822
for the time spent under transitional control. 6823

If a prisoner is transferred to transitional control under 6824
this section, upon successful completion of the period of 6825

transitional control, the prisoner may be released on parole or 6826
under post-release control pursuant to section 2967.13 or 6827
2967.28 of the Revised Code and rules adopted by the department 6828
of rehabilitation and correction. If the prisoner is released 6829
under post-release control, the duration of the post-release 6830
control, the type of post-release control sanctions that may be 6831
imposed, the enforcement of the sanctions, and the treatment of 6832
prisoners who violate any sanction applicable to the prisoner 6833
are governed by section 2967.28 of the Revised Code. 6834

Sec. 2967.28. (A) As used in this section: 6835

(1) "Monitored time" means the monitored time sanction 6836
specified in section 2929.17 of the Revised Code. 6837

(2) "Deadly weapon" and "dangerous ordnance" have the same 6838
meanings as in section 2923.11 of the Revised Code. 6839

(3) "Felony sex offense" means a violation of a section 6840
contained in Chapter 2907. of the Revised Code that is a felony. 6841

(4) "Risk reduction sentence" means a prison term imposed 6842
by a court, when the court recommends pursuant to section 6843
2929.143 of the Revised Code that the offender serve the 6844
sentence under section 5120.036 of the Revised Code, and the 6845
offender may potentially be released from imprisonment prior to 6846
the expiration of the prison term if the offender successfully 6847
completes all assessment and treatment or programming required 6848
by the department of rehabilitation and correction under section 6849
5120.036 of the Revised Code. 6850

(5) "Victim's immediate family" has the same meaning as in 6851
section 2967.12 of the Revised Code. 6852

(B) Each sentence to a prison term for a felony of the 6853
first degree, for a felony of the second degree, for a felony 6854

sex offense, or for a felony of the third degree that is an 6855
offense of violence and is not a felony sex offense shall 6856
include a requirement that the offender be subject to a period 6857
of post-release control imposed by the parole board after the 6858
offender's release from imprisonment. This division applies with 6859
respect to all prison terms of a type described in this 6860
division, including a term of any such type that is a risk 6861
reduction sentence. If a court imposes a sentence including a 6862
prison term of a type described in this division on or after 6863
July 11, 2006, the failure of a sentencing court to notify the 6864
offender pursuant to division (B) (2) (c) of section 2929.19 of 6865
the Revised Code of this requirement or to include in the 6866
judgment of conviction entered on the journal a statement that 6867
the offender's sentence includes this requirement does not 6868
negate, limit, or otherwise affect the mandatory period of 6869
supervision that is required for the offender under this 6870
division. Section 2929.191 of the Revised Code applies if, prior 6871
to July 11, 2006, a court imposed a sentence including a prison 6872
term of a type described in this division and failed to notify 6873
the offender pursuant to division (B) (2) (c) of section 2929.19 6874
of the Revised Code regarding post-release control or to include 6875
in the judgment of conviction entered on the journal or in the 6876
sentence pursuant to division (D) (1) of section 2929.14 of the 6877
Revised Code a statement regarding post-release control. Unless 6878
reduced by the parole board pursuant to division (D) of this 6879
section when authorized under that division, a period of post- 6880
release control required by this division for an offender shall 6881
be of one of the following periods: 6882

(1) For a felony of the first degree or for a felony sex 6883
offense, five years; 6884

(2) For a felony of the second degree that is not a felony 6885

sex offense, three years; 6886

(3) For a felony of the third degree that is an offense of 6887
violence and is not a felony sex offense, three years. 6888

(C) Any sentence to a prison term for a felony of the 6889
third, fourth, or fifth degree that is not subject to division 6890
(B) (1) or (3) of this section shall include a requirement that 6891
the offender be subject to a period of post-release control of 6892
up to three years after the offender's release from 6893
imprisonment, if the parole board, in accordance with division 6894
(D) of this section, determines that a period of post-release 6895
control is necessary for that offender. This division applies 6896
with respect to all prison terms of a type described in this 6897
division, including a term of any such type that is a risk 6898
reduction sentence. Section 2929.191 of the Revised Code applies 6899
if, prior to July 11, 2006, a court imposed a sentence including 6900
a prison term of a type described in this division and failed to 6901
notify the offender pursuant to division (B) (2) (d) of section 6902
2929.19 of the Revised Code regarding post-release control or to 6903
include in the judgment of conviction entered on the journal or 6904
in the sentence pursuant to division (D) (2) of section 2929.14 6905
of the Revised Code a statement regarding post-release control. 6906
Pursuant to an agreement entered into under section 2967.29 of 6907
the Revised Code, a court of common pleas or parole board may 6908
impose sanctions or conditions on an offender who is placed on 6909
post-release control under this division. 6910

(D) (1) Before the prisoner is released from imprisonment, 6911
the parole board or, pursuant to an agreement under section 6912
2967.29 of the Revised Code, the court shall impose upon a 6913
prisoner described in division (B) of this section, shall impose 6914
upon a prisoner described in division (C) of this section who is 6915

to be released before the expiration of the prisoner's stated 6916
prison term under a risk reduction sentence, may impose upon a 6917
prisoner described in division (C) of this section who is not to 6918
be released before the expiration of the prisoner's stated 6919
prison term under a risk reduction sentence, and shall impose 6920
upon a prisoner described in division (B) (2) (b) of section 6921
5120.031 or in division (B) (1) of section 5120.032 of the 6922
Revised Code, one or more post-release control sanctions to 6923
apply during the prisoner's period of post-release control. 6924
Whenever the board or court imposes one or more post-release 6925
control sanctions upon a prisoner, the board or court, in 6926
addition to imposing the sanctions, also shall include as a 6927
condition of the post-release control that the offender not 6928
leave the state without permission of the court or the 6929
offender's parole or probation officer and that the offender 6930
abide by the law. The board or court may impose any other 6931
conditions of release under a post-release control sanction that 6932
the board or court considers appropriate, and the conditions of 6933
release may include any community residential sanction, 6934
community nonresidential sanction, or financial sanction that 6935
the sentencing court was authorized to impose pursuant to 6936
sections 2929.16, 2929.17, and 2929.18 of the Revised Code. 6937
Prior to the release of a prisoner for whom it will impose one 6938
or more post-release control sanctions under this division, the 6939
parole board or court shall review the prisoner's criminal 6940
history, results from the single validated risk assessment tool 6941
selected by the department of rehabilitation and correction 6942
under section 5120.114 of the Revised Code, all juvenile court 6943
adjudications finding the prisoner, while a juvenile, to be a 6944
delinquent child, and the record of the prisoner's conduct while 6945
imprisoned. The parole board or court shall consider any 6946
recommendation regarding post-release control sanctions for the 6947

prisoner made by the office of victims' services. After 6948
considering those materials, the board or court shall determine, 6949
for a prisoner described in division (B) of this section, 6950
division (B) (2) (b) of section 5120.031, or division (B) (1) of 6951
section 5120.032 of the Revised Code and for a prisoner 6952
described in division (C) of this section who is to be released 6953
before the expiration of the prisoner's stated prison term under 6954
a risk reduction sentence, which post-release control sanction 6955
or combination of post-release control sanctions is reasonable 6956
under the circumstances or, for a prisoner described in division 6957
(C) of this section who is not to be released before the 6958
expiration of the prisoner's stated prison term under a risk 6959
reduction sentence, whether a post-release control sanction is 6960
necessary and, if so, which post-release control sanction or 6961
combination of post-release control sanctions is reasonable 6962
under the circumstances. In the case of a prisoner convicted of 6963
a felony of the fourth or fifth degree other than a felony sex 6964
offense, the board or court shall presume that monitored time is 6965
the appropriate post-release control sanction unless the board 6966
or court determines that a more restrictive sanction is 6967
warranted. A post-release control sanction imposed under this 6968
division takes effect upon the prisoner's release from 6969
imprisonment. 6970

Regardless of whether the prisoner was sentenced to the 6971
prison term prior to, on, or after July 11, 2006, prior to the 6972
release of a prisoner for whom it will impose one or more post- 6973
release control sanctions under this division, the parole board 6974
shall notify the prisoner that, if the prisoner violates any 6975
sanction so imposed or any condition of post-release control 6976
described in division (B) of section 2967.131 of the Revised 6977
Code that is imposed on the prisoner, the parole board may 6978

impose a prison term of up to one-half of the stated prison term 6979
originally imposed upon the prisoner. 6980

At least thirty days before the prisoner is released from 6981
imprisonment, except as otherwise provided in this paragraph, 6982
the department of rehabilitation and correction shall notify the 6983
victim and the victim's immediate family of the date on which 6984
the prisoner will be released, the period for which the prisoner 6985
will be under post-release control supervision, and the terms 6986
and conditions of the prisoner's post-release control regardless 6987
of whether the victim or victim's immediate family has requested 6988
the notification. The notice described in this paragraph shall 6989
not be given to a victim or victim's immediate family if the 6990
victim or the victim's immediate family has requested pursuant 6991
to division (B)(2) of section 2930.03 of the Revised Code that 6992
the notice not be provided to the victim or the victim's 6993
immediate family. At least thirty days before the prisoner is 6994
released from imprisonment and regardless of whether the victim 6995
or victim's immediate family has requested that the notice 6996
described in this paragraph be provided or not be provided to 6997
the victim or the victim's immediate family, the department also 6998
shall provide notice of that nature to the prosecuting attorney 6999
in the case and the law enforcement agency that arrested the 7000
prisoner if any officer of that agency was a victim of the 7001
offense. 7002

If the notice given under the preceding paragraph to the 7003
victim or the victim's immediate family is based on an offense 7004
committed prior to ~~the effective date of this amendment~~ March 7005
22, 2013, and if the department of rehabilitation and correction 7006
has not previously successfully provided any notice to the 7007
victim or the victim's immediate family under division (B), (C), 7008
or (D) of section 2930.16 of the Revised Code with respect to 7009

that offense and the offender who committed it, the notice also 7010
shall inform the victim or the victim's immediate family that 7011
the victim or the victim's immediate family may request that the 7012
victim or the victim's immediate family not be provided any 7013
further notices with respect to that offense and the offender 7014
who committed it and shall describe the procedure for making 7015
that request. The department may give the notices to which the 7016
preceding paragraph applies by any reasonable means, including 7017
regular mail, telephone, and electronic mail. If the department 7018
attempts to provide notice to any specified person under the 7019
preceding paragraph but the attempt is unsuccessful because the 7020
department is unable to locate the specified person, is unable 7021
to provide the notice by its chosen method because it cannot 7022
determine the mailing address, electronic mail address, or 7023
telephone number at which to provide the notice, or, if the 7024
notice is sent by mail, the notice is returned, the department 7025
shall make another attempt to provide the notice to the 7026
specified person. If the second attempt is unsuccessful, the 7027
department shall make at least one more attempt to provide the 7028
notice. If the notice is based on an offense committed prior to 7029
~~the effective date of this amendment~~ March 22, 2013, in each 7030
attempt to provide the notice to the victim or victim's 7031
immediate family, the notice shall include the opt-out 7032
information described in this paragraph. The department, in the 7033
manner described in division (D)(2) of section 2930.16 of the 7034
Revised Code, shall keep a record of all attempts to provide the 7035
notice, and of all notices provided, under this paragraph and 7036
the preceding paragraph. The record shall be considered as if it 7037
was kept under division (D)(2) of section 2930.16 of the Revised 7038
Code. This paragraph, the preceding paragraph, and the notice- 7039
related provisions of divisions (E)(2) and (K) of section 7040
2929.20, division (D)(1) of section 2930.16, division ~~(H)~~ (G) of 7041

section 2967.12, division (E) (1) (b) of section 2967.19, division 7042
(A) (3) (b) of section 2967.26, and division (A) (2) of section 7043
5149.101 of the Revised Code enacted in the act in which this 7044
paragraph and the preceding paragraph were enacted, shall be 7045
known as "Roberta's Law." 7046

(2) If a prisoner who is placed on post-release control 7047
under this section is released before the expiration of the 7048
prisoner's stated prison term by reason of credit earned under 7049
section 2967.193 of the Revised Code and if the prisoner earned 7050
sixty or more days of credit, the adult parole authority shall 7051
supervise the offender with an active global positioning system 7052
device for the first fourteen days after the offender's release 7053
from imprisonment. This division does not prohibit or limit the 7054
imposition of any post-release control sanction otherwise 7055
authorized by this section. 7056

(3) At any time after a prisoner is released from 7057
imprisonment and during the period of post-release control 7058
applicable to the releasee, the adult parole authority or, 7059
pursuant to an agreement under section 2967.29 of the Revised 7060
Code, the court may review the releasee's behavior under the 7061
post-release control sanctions imposed upon the releasee under 7062
this section. The authority or court may determine, based upon 7063
the review and in accordance with the standards established 7064
under division (E) of this section, that a more restrictive or a 7065
less restrictive sanction is appropriate and may impose a 7066
different sanction. The authority also may recommend that the 7067
parole board or court increase or reduce the duration of the 7068
period of post-release control imposed by the court. If the 7069
authority recommends that the board or court increase the 7070
duration of post-release control, the board or court shall 7071
review the releasee's behavior and may increase the duration of 7072

the period of post-release control imposed by the court up to 7073
eight years. If the authority recommends that the board or court 7074
reduce the duration of control for an offense described in 7075
division (B) or (C) of this section, the board or court shall 7076
review the releasee's behavior and may reduce the duration of 7077
the period of control imposed by the court. In no case shall the 7078
board or court reduce the duration of the period of control 7079
imposed for an offense described in division (B) (1) of this 7080
section to a period less than the length of the stated prison 7081
term originally imposed, and in no case shall the board or court 7082
permit the releasee to leave the state without permission of the 7083
court or the releasee's parole or probation officer. 7084

(E) The department of rehabilitation and correction, in 7085
accordance with Chapter 119. of the Revised Code, shall adopt 7086
rules that do all of the following: 7087

(1) Establish standards for the imposition by the parole 7088
board of post-release control sanctions under this section that 7089
are consistent with the overriding purposes and sentencing 7090
principles set forth in section 2929.11 of the Revised Code and 7091
that are appropriate to the needs of releasees; 7092

(2) Establish standards that provide for a period of post- 7093
release control of up to three years for all prisoners described 7094
in division (C) of this section who are to be released before 7095
the expiration of their stated prison term under a risk 7096
reduction sentence and standards by which the parole board can 7097
determine which prisoners described in division (C) of this 7098
section who are not to be released before the expiration of 7099
their stated prison term under a risk reduction sentence should 7100
be placed under a period of post-release control; 7101

(3) Establish standards to be used by the parole board in 7102

reducing the duration of the period of post-release control 7103
imposed by the court when authorized under division (D) of this 7104
section, in imposing a more restrictive post-release control 7105
sanction than monitored time upon a prisoner convicted of a 7106
felony of the fourth or fifth degree other than a felony sex 7107
offense, or in imposing a less restrictive control sanction upon 7108
a releasee based on the releasee's activities including, but not 7109
limited to, remaining free from criminal activity and from the 7110
abuse of alcohol or other drugs, successfully participating in 7111
approved rehabilitation programs, maintaining employment, and 7112
paying restitution to the victim or meeting the terms of other 7113
financial sanctions; 7114

(4) Establish standards to be used by the adult parole 7115
authority in modifying a releasee's post-release control 7116
sanctions pursuant to division (D)(2) of this section; 7117

(5) Establish standards to be used by the adult parole 7118
authority or parole board in imposing further sanctions under 7119
division (F) of this section on releasees who violate post- 7120
release control sanctions, including standards that do the 7121
following: 7122

(a) Classify violations according to the degree of 7123
seriousness; 7124

(b) Define the circumstances under which formal action by 7125
the parole board is warranted; 7126

(c) Govern the use of evidence at violation hearings; 7127

(d) Ensure procedural due process to an alleged violator; 7128

(e) Prescribe nonresidential community control sanctions 7129
for most misdemeanor and technical violations; 7130

(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control. 7131
7132

(F) (1) Whenever the parole board imposes one or more post-release control sanctions upon an offender under this section, 7133
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the offender upon release from imprisonment shall be under the 7135
7136
general jurisdiction of the adult parole authority and generally 7137
7138
shall be supervised by the field services section through its 7139
7140
staff of parole and field officers as described in section 7141
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5149.04 of the Revised Code, as if the offender had been placed 7143
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on parole. If the offender upon release from imprisonment 7145
7146
violates the post-release control sanction or any conditions 7147
7148
described in division (A) of section 2967.131 of the Revised 7149
7150
Code that are imposed on the offender, the public or private 7151
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person or entity that operates or administers the sanction or 7153
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the program or activity that comprises the sanction shall report 7155
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the violation directly to the adult parole authority or to the 7157
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officer of the authority who supervises the offender. The 7159
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authority's officers may treat the offender as if the offender 7161
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were on parole and in violation of the parole, and otherwise
shall comply with this section.

(2) If the adult parole authority or, pursuant to an agreement under section 2967.29 of the Revised Code, the court determines that a releasee has violated a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code imposed upon the releasee and that a more restrictive sanction is appropriate, the authority or court may impose a more restrictive sanction upon the releasee, in accordance with the standards established under division (E) of this section or in accordance with the agreement made under section 2967.29 of the Revised Code, or may report the violation to the parole board for a hearing pursuant to division (F) (3) of

this section. The authority or court may not, pursuant to this 7162
division, increase the duration of the releasee's post-release 7163
control or impose as a post-release control sanction a 7164
residential sanction that includes a prison term, but the 7165
authority or court may impose on the releasee any other 7166
residential sanction, nonresidential sanction, or financial 7167
sanction that the sentencing court was authorized to impose 7168
pursuant to sections 2929.16, 2929.17, and 2929.18 of the 7169
Revised Code. 7170

(3) The parole board or, pursuant to an agreement under 7171
section 2967.29 of the Revised Code, the court may hold a 7172
hearing on any alleged violation by a releasee of a post-release 7173
control sanction or any conditions described in division (A) of 7174
section 2967.131 of the Revised Code that are imposed upon the 7175
releasee. If after the hearing the board or court finds that the 7176
releasee violated the sanction or condition, the board or court 7177
may increase the duration of the releasee's post-release control 7178
up to the maximum duration authorized by division (B) or (C) of 7179
this section or impose a more restrictive post-release control 7180
sanction. When appropriate, the board or court may impose as a 7181
post-release control sanction a residential sanction that 7182
includes a prison term. The board or court shall consider a 7183
prison term as a post-release control sanction imposed for a 7184
violation of post-release control when the violation involves a 7185
deadly weapon or dangerous ordnance, physical harm or attempted 7186
serious physical harm to a person, or sexual misconduct, or when 7187
the releasee committed repeated violations of post-release 7188
control sanctions. Unless a releasee's stated prison term was 7189
reduced pursuant to section 5120.032 of the Revised Code, the 7190
period of a prison term that is imposed as a post-release 7191
control sanction under this division shall not exceed nine 7192

months, and the maximum cumulative prison term for all 7193
violations under this division shall not exceed one-half of the 7194
stated prison term originally imposed upon the offender as part 7195
of this sentence. If a releasee's stated prison term was reduced 7196
pursuant to section 5120.032 of the Revised Code, the period of 7197
a prison term that is imposed as a post-release control sanction 7198
under this division and the maximum cumulative prison term for 7199
all violations under this division shall not exceed the period 7200
of time not served in prison under the sentence imposed by the 7201
court. The period of a prison term that is imposed as a post- 7202
release control sanction under this division shall not count as, 7203
or be credited toward, the remaining period of post-release 7204
control. 7205

If an offender is imprisoned for a felony committed while 7206
under post-release control supervision and is again released on 7207
post-release control for a period of time determined by division 7208
(F) (4) (d) of this section, the maximum cumulative prison term 7209
for all violations under this division shall not exceed one-half 7210
of the total stated prison terms of the earlier felony, reduced 7211
by any prison term administratively imposed by the parole board 7212
or court, plus one-half of the total stated prison term of the 7213
new felony. 7214

(4) Any period of post-release control shall commence upon 7215
an offender's actual release from prison. If an offender is 7216
serving an indefinite prison term or a life sentence in addition 7217
to a stated prison term, the offender shall serve the period of 7218
post-release control in the following manner: 7219

(a) If a period of post-release control is imposed upon 7220
the offender and if the offender also is subject to a period of 7221
parole under a life sentence or an indefinite sentence, and if 7222

the period of post-release control ends prior to the period of 7223
parole, the offender shall be supervised on parole. The offender 7224
shall receive credit for post-release control supervision during 7225
the period of parole. The offender is not eligible for final 7226
release under section 2967.16 of the Revised Code until the 7227
post-release control period otherwise would have ended. 7228

(b) If a period of post-release control is imposed upon 7229
the offender and if the offender also is subject to a period of 7230
parole under an indefinite sentence, and if the period of parole 7231
ends prior to the period of post-release control, the offender 7232
shall be supervised on post-release control. The requirements of 7233
parole supervision shall be satisfied during the post-release 7234
control period. 7235

(c) If an offender is subject to more than one period of 7236
post-release control, the period of post-release control for all 7237
of the sentences shall be the period of post-release control 7238
that expires last, as determined by the parole board or court. 7239
Periods of post-release control shall be served concurrently and 7240
shall not be imposed consecutively to each other. 7241

(d) The period of post-release control for a releasee who 7242
commits a felony while under post-release control for an earlier 7243
felony shall be the longer of the period of post-release control 7244
specified for the new felony under division (B) or (C) of this 7245
section or the time remaining under the period of post-release 7246
control imposed for the earlier felony as determined by the 7247
parole board or court. 7248

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 7249
section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or 7250
another section of the Revised Code, other than divisions (B) 7251
and (C) of section 2929.14 of the Revised Code, that authorizes 7252

or requires a specified prison term or a mandatory prison term 7253
for a person who is convicted of or pleads guilty to a felony or 7254
that specifies the manner and place of service of a prison term 7255
or term of imprisonment, the court shall impose a sentence upon 7256
a person who is convicted of or pleads guilty to a violent sex 7257
offense and who also is convicted of or pleads guilty to a 7258
sexually violent predator specification that was included in the 7259
indictment, count in the indictment, or information charging 7260
that offense, and upon a person who is convicted of or pleads 7261
guilty to a designated homicide, assault, or kidnapping offense 7262
and also is convicted of or pleads guilty to both a sexual 7263
motivation specification and a sexually violent predator 7264
specification that were included in the indictment, count in the 7265
indictment, or information charging that offense, as follows: 7266

(1) If the offense for which the sentence is being imposed 7267
is aggravated murder ~~and if the court does not impose upon the~~ 7268
~~offender a sentence of death,~~ it shall impose upon the offender 7269
a term of life imprisonment without parole. ~~If the court~~ 7270
~~sentences the offender to death and the sentence of death is~~ 7271
~~vacated, overturned, or otherwise set aside, the court shall~~ 7272
~~impose upon the offender a term of life imprisonment without~~ 7273
~~parole.~~ 7274

(2) If the offense for which the sentence is being imposed 7275
is murder; or if the offense is rape committed in violation of 7276
division (A) (1) (b) of section 2907.02 of the Revised Code when 7277
the offender purposely compelled the victim to submit by force 7278
or threat of force, when the victim was less than ten years of 7279
age, when the offender previously has been convicted of or 7280
pleaded guilty to either rape committed in violation of that 7281
division or a violation of an existing or former law of this 7282
state, another state, or the United States that is substantially 7283

similar to division (A) (1) (b) of section 2907.02 of the Revised Code, or when the offender during or immediately after the commission of the rape caused serious physical harm to the victim; or if the offense is an offense other than aggravated murder or murder for which a term of life imprisonment may be imposed, it shall impose upon the offender a term of life imprisonment without parole.

(3) (a) Except as otherwise provided in division (A) (3) (b), (c), (d), or (e) or (A) (4) of this section, if the offense for which the sentence is being imposed is an offense other than aggravated murder, murder, or rape and other than an offense for which a term of life imprisonment may be imposed, it shall impose an indefinite prison term consisting of a minimum term fixed by the court from among the range of terms available as a definite term for the offense, but not less than two years, and a maximum term of life imprisonment.

(b) Except as otherwise provided in division (A) (4) of this section, if the offense for which the sentence is being imposed is kidnapping that is a felony of the first degree, it shall impose an indefinite prison term as follows:

(i) If the kidnapping is committed on or after January 1, 2008, and the victim of the offense is less than thirteen years of age, except as otherwise provided in this division, it shall impose an indefinite prison term consisting of a minimum term of fifteen years and a maximum term of life imprisonment. If the kidnapping is committed on or after January 1, 2008, the victim of the offense is less than thirteen years of age, and the offender released the victim in a safe place unharmed, it shall impose an indefinite prison term consisting of a minimum term of ten years and a maximum term of life imprisonment.

(ii) If the kidnapping is committed prior to January 1, 2008, or division (A) (3) (b) (i) of this section does not apply, it shall impose an indefinite term consisting of a minimum term fixed by the court that is not less than ten years and a maximum term of life imprisonment.

(c) Except as otherwise provided in division (A) (4) of this section, if the offense for which the sentence is being imposed is kidnapping that is a felony of the second degree, it shall impose an indefinite prison term consisting of a minimum term fixed by the court that is not less than eight years, and a maximum term of life imprisonment.

(d) Except as otherwise provided in division (A) (4) of this section, if the offense for which the sentence is being imposed is rape for which a term of life imprisonment is not imposed under division (A) (2) of this section or division (B) of section 2907.02 of the Revised Code, it shall impose an indefinite prison term as follows:

(i) If the rape is committed on or after January 2, 2007, in violation of division (A) (1) (b) of section 2907.02 of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of twenty-five years and a maximum term of life imprisonment.

(ii) If the rape is committed prior to January 2, 2007, or the rape is committed on or after January 2, 2007, other than in violation of division (A) (1) (b) of section 2907.02 of the Revised Code, it shall impose an indefinite prison term 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 7343
is attempted rape, it shall impose an indefinite prison term as 7344
follows: 7345

(i) Except as otherwise provided in division (A) (3) (e) 7346
(ii), (iii), or (iv) of this section, it shall impose an 7347
indefinite prison term pursuant to division (A) (3) (a) of this 7348
section. 7349

(ii) If the attempted rape for which sentence is being 7350
imposed was committed on or after January 2, 2007, and if the 7351
offender also is convicted of or pleads guilty to a 7352
specification of the type described in section 2941.1418 of the 7353
Revised Code, it shall impose an indefinite prison term 7354
consisting of a minimum term of five years and a maximum term of 7355
twenty-five years. 7356

(iii) If the attempted rape for which sentence is being 7357
imposed was committed on or after January 2, 2007, and if the 7358
offender also is convicted of or pleads guilty to a 7359
specification of the type described in section 2941.1419 of the 7360
Revised Code, it shall impose an indefinite prison term 7361
consisting of a minimum term of ten years and a maximum of life 7362
imprisonment. 7363

(iv) If the attempted rape for which sentence is being 7364
imposed was committed on or after January 2, 2007, and if the 7365
offender also is convicted of or pleads guilty to a 7366
specification of the type described in section 2941.1420 of the 7367
Revised Code, it shall impose an indefinite prison term 7368
consisting of a minimum term of fifteen years and a maximum of 7369
life imprisonment. 7370

(4) For any offense for which the sentence is being 7371

imposed, if the offender previously has been convicted of or 7372
pleaded guilty to a violent sex offense and also to a sexually 7373
violent predator specification that was included in the 7374
indictment, count in the indictment, or information charging 7375
that offense, or previously has been convicted of or pleaded 7376
guilty to a designated homicide, assault, or kidnapping offense 7377
and also to both a sexual motivation specification and a 7378
sexually violent predator specification that were included in 7379
the indictment, count in the indictment, or information charging 7380
that offense, it shall impose upon the offender a term of life 7381
imprisonment without parole. 7382

(B) (1) Notwithstanding section 2929.13, division (A) or 7383
(D) of section 2929.14, or another section of the Revised Code 7384
other than division (B) of section 2907.02 or divisions (B) and 7385
(C) of section 2929.14 of the Revised Code that authorizes or 7386
requires a specified prison term or a mandatory prison term for 7387
a person who is convicted of or pleads guilty to a felony or 7388
that specifies the manner and place of service of a prison term 7389
or term of imprisonment, if a person is convicted of or pleads 7390
guilty to a violation of division (A) (1) (b) of section 2907.02 7391
of the Revised Code committed on or after January 2, 2007, if 7392
division (A) of this section does not apply regarding the 7393
person, and if the court does not impose a sentence of life 7394
without parole when authorized pursuant to division (B) of 7395
section 2907.02 of the Revised Code, the court shall impose upon 7396
the person an indefinite prison term consisting of one of the 7397
following: 7398

(a) Except as otherwise required in division (B) (1) (b) or 7399
(c) of this section, a minimum term of ten years and a maximum 7400
term of life imprisonment. 7401

(b) If the victim was less than ten years of age, a 7402
minimum term of fifteen years and a maximum of life 7403
imprisonment. 7404

(c) If the offender purposely compels the victim to submit 7405
by force or threat of force, or if the offender previously has 7406
been convicted of or pleaded guilty to violating division (A) (1) 7407
(b) of section 2907.02 of the Revised Code or to violating an 7408
existing or former law of this state, another state, or the 7409
United States that is substantially similar to division (A) (1) 7410
(b) of that section, or if the offender during or immediately 7411
after the commission of the offense caused serious physical harm 7412
to the victim, a minimum term of twenty-five years and a maximum 7413
of life imprisonment. 7414

(2) Notwithstanding section 2929.13, division (A) or (D) 7415
of section 2929.14, or another section of the Revised Code other 7416
than divisions (B) and (C) of section 2929.14 of the Revised 7417
Code that authorizes or requires a specified prison term or a 7418
mandatory prison term for a person who is convicted of or pleads 7419
guilty to a felony or that specifies the manner and place of 7420
service of a prison term or term of imprisonment and except as 7421
otherwise provided in division (B) of section 2907.02 of the 7422
Revised Code, if a person is convicted of or pleads guilty to 7423
attempted rape committed on or after January 2, 2007, and if 7424
division (A) of this section does not apply regarding the 7425
person, the court shall impose upon the person an indefinite 7426
prison term consisting of one of the following: 7427

(a) If the person also is convicted of or pleads guilty to 7428
a specification of the type described in section 2941.1418 of 7429
the Revised Code, the court shall impose upon the person an 7430
indefinite prison term consisting of a minimum term of five 7431

years and a maximum term of twenty-five years. 7432

(b) If the person also is convicted of or pleads guilty to 7433
a specification of the type described in section 2941.1419 of 7434
the Revised Code, the court shall impose upon the person an 7435
indefinite prison term consisting of a minimum term of ten years 7436
and a maximum term of life imprisonment. 7437

(c) If the person also is convicted of or pleads guilty to 7438
a specification of the type described in section 2941.1420 of 7439
the Revised Code, the court shall impose upon the person an 7440
indefinite prison term consisting of a minimum term of fifteen 7441
years and a maximum term of life imprisonment. 7442

(3) Notwithstanding section 2929.13, division (A) or (D) 7443
of section 2929.14, or another section of the Revised Code other 7444
than divisions (B) and (C) of section 2929.14 of the Revised 7445
Code that authorizes or requires a specified prison term or a 7446
mandatory prison term for a person who is convicted of or pleads 7447
guilty to a felony or that specifies the manner and place of 7448
service of a prison term or term of imprisonment, if a person is 7449
convicted of or pleads guilty to an offense described in 7450
division (B) (3) (a), (b), (c), or (d) of this section committed 7451
on or after January 1, 2008, if the person also is convicted of 7452
or pleads guilty to a sexual motivation specification that was 7453
included in the indictment, count in the indictment, or 7454
information charging that offense, and if division (A) of this 7455
section does not apply regarding the person, the court shall 7456
impose upon the person an indefinite prison term consisting of 7457
one of the following: 7458

(a) An indefinite prison term consisting of a minimum of 7459
ten years and a maximum term of life imprisonment if the offense 7460
for which the sentence is being imposed is kidnapping, the 7461

victim of the offense is less than thirteen years of age, and 7462
the offender released the victim in a safe place unharmed; 7463

(b) An indefinite prison term consisting of a minimum of 7464
fifteen years and a maximum term of life imprisonment if the 7465
offense for which the sentence is being imposed is kidnapping 7466
when the victim of the offense is less than thirteen years of 7467
age and division (B) (3) (a) of this section does not apply; 7468

(c) An indefinite term consisting of a minimum of thirty 7469
years and a maximum term of life imprisonment if the offense for 7470
which the sentence is being imposed is aggravated murder, when 7471
the victim of the offense is less than thirteen years of age, a 7472
sentence of ~~death or~~ life imprisonment without parole is not 7473
imposed for the offense, and division ~~(A) (2) (b) (ii) of section~~ 7474
~~2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D)~~ 7475
~~(2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or~~ 7476
~~division (A) or (B) (C) of section 2929.06-2929.02~~ of the 7477
Revised Code requires that the sentence for the offense be 7478
imposed pursuant to this division; 7479

(d) An indefinite prison term consisting of a minimum of 7480
thirty years and a maximum term of life imprisonment if the 7481
offense for which the sentence is being imposed is murder when 7482
the victim of the offense is less than thirteen years of age. 7483

(C) (1) If the offender is sentenced to a prison term 7484
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 7485
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 7486
parole board shall have control over the offender's service of 7487
the term during the entire term unless the parole board 7488
terminates its control in accordance with section 2971.04 of the 7489
Revised Code. 7490

(2) Except as provided in division (C) (3) of this section, 7491
an offender sentenced to a prison term or term of life 7492
imprisonment without parole pursuant to division (A) of this 7493
section shall serve the entire prison term or term of life 7494
imprisonment in a state correctional institution. The offender 7495
is not eligible for judicial release under section 2929.20 of 7496
the Revised Code. 7497

(3) For a prison term imposed pursuant to division (A) (3), 7498
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 7499
(b), (c), or (d) of this section, the court, in accordance with 7500
section 2971.05 of the Revised Code, may terminate the prison 7501
term or modify the requirement that the offender serve the 7502
entire term in a state correctional institution if all of the 7503
following apply: 7504

(a) The offender has served at least the minimum term 7505
imposed as part of that prison term. 7506

(b) The parole board, pursuant to section 2971.04 of the 7507
Revised Code, has terminated its control over the offender's 7508
service of that prison term. 7509

(c) The court has held a hearing and found, by clear and 7510
convincing evidence, one of the following: 7511

(i) In the case of termination of the prison term, that 7512
the offender is unlikely to commit a sexually violent offense in 7513
the future; 7514

(ii) In the case of modification of the requirement, that 7515
the offender does not represent a substantial risk of physical 7516
harm to others. 7517

(4) An offender who has been sentenced to a term of life 7518
imprisonment without parole pursuant to division (A) (1), (2), or 7519

(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 were included in the indictment, count in the indictment, or

information charging that offense, the conviction of or plea of 7550
guilty to the offense and the sexually violent predator 7551
specification automatically classifies the offender as a tier 7552
III sex offender/child-victim offender for purposes of Chapter 7553
2950. of the Revised Code. 7554

(2) If an offender is convicted of or pleads guilty to 7555
committing on or after January 2, 2007, a violation of division 7556
(A) (1) (b) of section 2907.02 of the Revised Code and either the 7557
offender is sentenced under section 2971.03 of the Revised Code 7558
or a sentence of life without parole is imposed under division 7559
(B) of section 2907.02 of the Revised Code, the conviction of or 7560
plea of guilty to the offense automatically classifies the 7561
offender as a tier III sex offender/child-victim offender for 7562
purposes of Chapter 2950. of the Revised Code. 7563

(3) If a person is convicted of or pleads guilty to 7564
committing on or after January 2, 2007, attempted rape and also 7565
is convicted of or pleads guilty to a specification of the type 7566
described in section 2941.1418, 2941.1419, or 2941.1420 of the 7567
Revised Code, the conviction of or plea of guilty to the offense 7568
and the specification automatically classify the offender as a 7569
tier III sex offender/child-victim offender for purposes of 7570
Chapter 2950. of the Revised Code. 7571

(4) If a person is convicted of or pleads guilty to one of 7572
the offenses described in division (B) (3) (a), (b), (c), or (d) 7573
of this section and a sexual motivation specification related to 7574
the offense and the victim of the offense is less than thirteen 7575
years of age, the conviction of or plea of guilty to the offense 7576
automatically classifies the offender as a tier III sex 7577
offender/child-victim offender for purposes of Chapter 2950. of 7578
the Revised Code. 7579

Sec. 2971.07. (A) This chapter does not apply to any 7580
offender unless the offender is one of the following: 7581

(1) The offender is convicted of or pleads guilty to a 7582
violent sex offense and also is convicted of or pleads guilty to 7583
a sexually violent predator specification that was included in 7584
the indictment, count in the indictment, or information charging 7585
that offense. 7586

(2) The offender is convicted of or pleads guilty to a 7587
designated homicide, assault, or kidnapping offense and also is 7588
convicted of or pleads guilty to both a sexual motivation 7589
specification and a sexually violent predator specification that 7590
were included in the indictment, count in the indictment, or 7591
information charging that offense. 7592

(3) The offender is convicted of or pleads guilty to a 7593
violation of division (A) (1) (b) of section 2907.02 of the 7594
Revised Code committed on or after January 2, 2007, and the 7595
court does not sentence the offender to a term of life without 7596
parole pursuant to division (B) of section 2907.02 of the 7597
Revised Code or division (B) of that section prohibits the court 7598
from sentencing the offender pursuant to section 2971.03 of the 7599
Revised Code. 7600

(4) The offender is convicted of or pleads guilty to 7601
attempted rape committed on or after January 2, 2007, and also 7602
is convicted of or pleads guilty to a specification of the type 7603
described in section 2941.1418, 2941.1419, or 2941.1420 of the 7604
Revised Code. 7605

(5) The offender is convicted of or pleads guilty to a 7606
violation of section 2905.01 of the Revised Code and also is 7607
convicted of or pleads guilty to a sexual motivation 7608

specification that was included in the indictment, count in the indictment, or information charging that offense, and that section requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(6) The offender is convicted of or pleads guilty to aggravated murder and also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging that offense, and ~~division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ of the Revised Code requires a court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

(7) The offender is convicted of or pleads guilty to murder and also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging that offense, and ~~division (B) (2) (C)~~ of section 2929.02 of the Revised Code requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(B) This chapter does not limit or affect a court in imposing upon an offender described in divisions (A) (1) to (9) of this section any financial sanction under section 2929.18 or any other section of the Revised Code, or, except as specifically provided in this chapter, any other sanction that is authorized or required for the offense or violation by any other provision of law.

(C) If an offender is sentenced to a prison term 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, pursuant to section 2971.05 of the Revised Code, the court modifies the requirement that the offender serve the entire prison term in a state correctional institution or places the offender on conditional release that involves the placement of the offender under the supervision of the adult parole authority, authorized field officers of the authority who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the offender, the place of residence of the offender, and a motor vehicle, another item of tangible or intangible personal property, or any other real property in which the offender has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the field officer has reasonable grounds to believe that the offender is not abiding by the law or otherwise is not complying with the terms and conditions of the offender's modification or release. The authority shall provide each offender with a written notice that informs the offender that authorized field officers of the authority who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of the modification or release if they have reasonable grounds to believe that the offender is not abiding by the law or otherwise is not complying with the terms and conditions of the offender's modification or release.

Sec. 5120.113. (A) For each inmate committed to the department of rehabilitation and correction, except as provided in division (B) of this section, the department shall prepare a written reentry plan for the inmate to help guide the inmate's rehabilitation program during imprisonment, to assist in the

inmate's reentry into the community, and to assess the inmate's needs upon release. 7670
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(B) Division (A) of this section does not apply to an inmate who has been sentenced to life imprisonment without parole ~~or who has been sentenced to death~~. Division (A) of this section does not apply to any inmate who is expected to be imprisoned for thirty days or less, but the department may prepare a written reentry plan of the type described in that division if the department determines that the plan is needed. 7672
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(C) The department may collect, if available, any social and other information that will aid in the preparation of reentry plans under this section. 7679
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(D) In the event the department does not prepare a written reentry plan as specified in division (A) of this section, or makes a decision to not prepare a written reentry plan under division (B) of this section or to not collect information under division (C) of this section, that fact does not give rise to a claim for damages against the state, the department, the director of the department, or any employee of the department. 7682
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Sec. 5120.53. (A) If a treaty between the United States and a foreign country provides for the transfer or exchange, from one of the signatory countries to the other signatory country, of convicted offenders who are citizens or nationals of the other signatory country, the governor, subject to and in accordance with the terms of the treaty, may authorize the director of rehabilitation and correction to allow the transfer or exchange of convicted offenders and to take any action necessary to initiate participation in the treaty. If the governor grants the director the authority described in this division, the director may take the necessary action to initiate 7689
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participation in the treaty and, subject to and in accordance 7700
with division (B) of this section and the terms of the treaty, 7701
may allow the transfer or exchange to a foreign country that has 7702
signed the treaty of any convicted offender who is a citizen or 7703
national of that signatory country. 7704

(B) (1) No convicted offender who is serving a term of 7705
imprisonment in this state for aggravated murder, murder, or a 7706
felony of the first or second degree, who is serving a mandatory 7707
prison term imposed under section 2925.03 or 2925.11 of the 7708
Revised Code in circumstances in which the court was required to 7709
impose as the mandatory prison term the maximum prison term 7710
authorized for the degree of offense committed, or who is 7711
serving a term of imprisonment in this state imposed for an 7712
offense committed prior to ~~the effective date of this amendment~~ 7713
July 1, 1996, that was an aggravated felony of the first or 7714
second degree or that was aggravated trafficking in violation of 7715
division (A) (9) or (10) of section 2925.03 of the Revised Code, ~~—~~ 7716
~~or who has been sentenced to death in this state~~ shall be 7717
transferred or exchanged to another country pursuant to a treaty 7718
of the type described in division (A) of this section. 7719

(2) If a convicted offender is serving a term of 7720
imprisonment in this state and the offender is a citizen or 7721
national of a foreign country that has signed a treaty of the 7722
type described in division (A) of this section, if the governor 7723
has granted the director of rehabilitation and correction the 7724
authority described in that division, and if the transfer or 7725
exchange of the offender is not barred by division (B) (1) of 7726
this section, the director or the director's designee may 7727
approve the offender for transfer or exchange pursuant to the 7728
treaty if the director or the designee, after consideration of 7729
the factors set forth in the rules adopted by the department 7730

under division (D) of this section and all other relevant 7731
factors, determines that the transfer or exchange of the 7732
offender is appropriate. 7733

(C) Notwithstanding any provision of the Revised Code 7734
regarding the parole eligibility of, or the duration or 7735
calculation of a sentence of imprisonment imposed upon, an 7736
offender, if a convicted offender is serving a term of 7737
imprisonment in this state and the offender is a citizen or 7738
national of a foreign country that has signed a treaty of the 7739
type described in division (A) of this section, if the offender 7740
is serving an indefinite term of imprisonment, if the offender 7741
is barred from being transferred or exchanged pursuant to the 7742
treaty due to the indefinite nature of the offender's term of 7743
imprisonment, and if in accordance with division (B) (2) of this 7744
section the director of rehabilitation and correction or the 7745
director's designee approves the offender for transfer or 7746
exchange pursuant to the treaty, the parole board, pursuant to 7747
rules adopted by the director, shall set a date certain for the 7748
release of the offender. To the extent possible, the date 7749
certain that is set shall be reasonably proportionate to the 7750
indefinite term of imprisonment that the offender is serving. 7751
The date certain that is set for the release of the offender 7752
shall be considered only for purposes of facilitating the 7753
international transfer or exchange of the offender, shall not be 7754
viable or actionable for any other purpose, and shall not create 7755
any expectation or guarantee of release. If an offender for whom 7756
a date certain for release is set under this division is not 7757
transferred to or exchanged with the foreign country pursuant to 7758
the treaty, the date certain is null and void, and the 7759
offender's release shall be determined pursuant to the laws and 7760
rules of this state pertaining to parole eligibility and the 7761

duration and calculation of an indefinite sentence of 7762
imprisonment. 7763

(D) If the governor, pursuant to division (A) of this 7764
section, authorizes the director of rehabilitation and 7765
correction to allow any transfer or exchange of convicted 7766
offenders as described in that division, the director shall 7767
adopt rules under Chapter 119. of the Revised Code to implement 7768
the provisions of this section. The rules shall include a rule 7769
that requires the director or the director's designee, in 7770
determining whether to approve a convicted offender who is 7771
serving a term of imprisonment in this state for transfer or 7772
exchange pursuant to a treaty of the type described in division 7773
(A) of this section, to consider all of the following factors: 7774

(1) The nature of the offense for which the offender is 7775
serving the term of imprisonment in this state; 7776

(2) The likelihood that, if the offender is transferred or 7777
exchanged to a foreign country pursuant to the treaty, the 7778
offender will serve a shorter period of time in imprisonment in 7779
the foreign country than the offender would serve if the 7780
offender is not transferred or exchanged to the foreign country 7781
pursuant to the treaty; 7782

(3) The likelihood that, if the offender is transferred or 7783
exchanged to a foreign country pursuant to the treaty, the 7784
offender will return or attempt to return to this state after 7785
the offender has been released from imprisonment in the foreign 7786
country; 7787

(4) The degree of any shock to the conscience of justice 7788
and society that will be experienced in this state if the 7789
offender is transferred or exchanged to a foreign country 7790

pursuant to the treaty; 7791

(5) All other factors that the department determines are 7792
relevant to the determination. 7793

Sec. 5120.61. (A) (1) Not later than ninety days after 7794
January 1, 1997, the department of rehabilitation and correction 7795
shall adopt standards that it will use under this section to 7796
assess the following criminal offenders and may periodically 7797
revise the standards: 7798

(a) A criminal offender who is convicted of or pleads 7799
guilty to a violent sex offense or designated homicide, assault, 7800
or kidnapping offense and is adjudicated a sexually violent 7801
predator in relation to that offense; 7802

(b) A criminal offender who is convicted of or pleads 7803
guilty to a violation of division (A) (1) (b) of section 2907.02 7804
of the Revised Code committed on or after January 2, 2007, and 7805
either who is sentenced under section 2971.03 of the Revised 7806
Code or upon whom a sentence of life without parole is imposed 7807
under division (B) of section 2907.02 of the Revised Code; 7808

(c) A criminal offender who is convicted of or pleads 7809
guilty to attempted rape committed on or after January 2, 2007, 7810
and a specification of the type described in section 2941.1418, 7811
2941.1419, or 2941.1420 of the Revised Code; 7812

(d) A criminal offender who is convicted of or pleads 7813
guilty to a violation of section 2905.01 of the Revised Code and 7814
also is convicted of or pleads guilty to a sexual motivation 7815
specification that was included in the indictment, count in the 7816
indictment, or information charging that offense, and who is 7817
sentenced pursuant to section 2971.03 of the Revised Code; 7818

(e) A criminal offender who is convicted of or pleads 7819

guilty to aggravated murder and also is convicted of or pleads 7820
guilty to a sexual motivation specification that was included in 7821
the indictment, count in the indictment, or information charging 7822
that offense, and who pursuant to division ~~(A) (2) (b) (ii)~~ of 7823
section ~~2929.022~~, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) 7824
~~(ii)~~, (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section ~~2929.03~~, 7825
or division (A) or (B) (C) of section ~~2929.06~~ 2929.02 of the 7826
Revised Code is sentenced pursuant to division (B) (3) of section 7827
2971.03 of the Revised Code; 7828

(f) A criminal offender who is convicted of or pleads 7829
guilty to murder and also is convicted of or pleads guilty to a 7830
sexual motivation specification that was included in the 7831
indictment, count in the indictment, or information charging 7832
that offense, and who pursuant to division ~~(B) (2)~~ (C) (1) of 7833
section 2929.02 of the Revised Code is sentenced pursuant to 7834
section 2971.03 of the Revised Code. 7835

(2) When the department is requested by the parole board 7836
or the court to provide a risk assessment report of the offender 7837
under section 2971.04 or 2971.05 of the Revised Code, it shall 7838
assess the offender and complete the assessment as soon as 7839
possible after the offender has commenced serving the prison 7840
term or term of life imprisonment without parole imposed under 7841
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 7842
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 7843
Code. Thereafter, the department shall update a risk assessment 7844
report pertaining to an offender as follows: 7845

(a) Periodically, in the discretion of the department, 7846
provided that each report shall be updated no later than two 7847
years after its initial preparation or most recent update; 7848

(b) Upon the request of the parole board for use in 7849

determining pursuant to section 2971.04 of the Revised Code 7850
whether it should terminate its control over an offender's 7851
service of a prison term imposed upon the offender under 7852
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 7853
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 7854
Code; 7855

(c) Upon the request of the court. 7856

(3) After the department of rehabilitation and correction 7857
assesses an offender pursuant to division (A) (2) of this 7858
section, it shall prepare a report that contains its risk 7859
assessment for the offender or, if a risk assessment report 7860
previously has been prepared, it shall update the risk 7861
assessment report. 7862

(4) The department of rehabilitation and correction shall 7863
provide each risk assessment report that it prepares or updates 7864
pursuant to this section regarding an offender to all of the 7865
following: 7866

(a) The parole board for its use in determining pursuant 7867
to section 2971.04 of the Revised Code whether it should 7868
terminate its control over an offender's service of a prison 7869
term imposed upon the offender under division (A) (3), (B) (1) (a), 7870
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 7871
(d) of section 2971.03 of the Revised Code, if the parole board 7872
has not terminated its control over the offender; 7873

(b) The court for use in determining, pursuant to section 7874
2971.05 of the Revised Code, whether to modify the requirement 7875
that the offender serve the entire prison term imposed upon the 7876
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 7877
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 7878

2971.03 of the Revised Code in a state correctional institution, 7879
whether to revise any modification previously made, or whether 7880
to terminate the prison term; 7881

(c) The prosecuting attorney who prosecuted the case, or 7882
the successor in office to that prosecuting attorney; 7883

(d) The offender. 7884

(B) When the department of rehabilitation and correction 7885
provides a risk assessment report regarding an offender to the 7886
parole board or court pursuant to division (A) (4) (a) or (b) of 7887
this section, the department, prior to the parole board's or 7888
court's hearing, also shall provide to the offender or to the 7889
offender's attorney of record a copy of the report and a copy of 7890
any other relevant documents the department possesses regarding 7891
the offender that the department does not consider to be 7892
confidential. 7893

(C) As used in this section: 7894

(1) "Adjudicated a sexually violent predator" has the same 7895
meaning as in section 2929.01 of the Revised Code, and a person 7896
is "adjudicated a sexually violent predator" in the same manner 7897
and the same circumstances as are described in that section. 7898

(2) "Designated homicide, assault, or kidnapping offense" 7899
and "violent sex offense" have the same meanings as in section 7900
2971.01 of the Revised Code. 7901

Sec. 5139.04. The department of youth services shall do 7902
all of the following: 7903

(A) Support service districts through a central 7904
administrative office that shall have as its administrative head 7905
a deputy director who shall be appointed by the director of the 7906

department. When a vacancy occurs in the office of that deputy 7907
director, an assistant deputy director shall act as that deputy 7908
director until the vacancy is filled. The position of deputy 7909
director and assistant deputy director described in this 7910
division shall be in the unclassified civil service of the 7911
state. 7912

(B) Receive custody of all children committed to it under 7913
Chapter 2152. of the Revised Code, cause a study to be made of 7914
those children, and issue any orders, as it considers best 7915
suited to the needs of any of those children and the interest of 7916
the public, for the treatment of each of those children; 7917

(C) Obtain personnel necessary for the performance of its 7918
duties; 7919

(D) Adopt rules that regulate its organization and 7920
operation, that implement sections 5139.34 and 5139.41 to 7921
5139.43 of the Revised Code, and that pertain to the 7922
administration of other sections of this chapter; 7923

(E) Submit reports of its operations to the governor and 7924
the general assembly by the thirty-first day of January of each 7925
odd-numbered year; 7926

(F) Conduct a program of research in diagnosis, training, 7927
and treatment of delinquent children to evaluate the 7928
effectiveness of the department's services and to develop more 7929
adequate methods; 7930

(G) Develop a standard form for the disposition 7931
investigation report that a juvenile court is required pursuant 7932
to section 2152.18 of the Revised Code to complete and provide 7933
to the department when the court commits a child to the legal 7934
custody of the department; 7935

(H) Provide the state public defender the reasonable 7936
access authorized under division ~~(I)~~(H) of section 120.06 of 7937
the Revised Code in order to fulfill the department's 7938
constitutional obligation to provide juveniles who have been 7939
committed to the department's care access to the courts. 7940

(I) Do all other acts necessary or desirable to carry out 7941
this chapter. 7942

Sec. 5149.101. (A) (1) A board hearing officer, a board 7943
member, or the office of victims' services may petition the 7944
board for a full board hearing that relates to the proposed 7945
parole or re-parole of a prisoner. At a meeting of the board at 7946
which a majority of board members are present, the majority of 7947
those present shall determine whether a full board hearing shall 7948
be held. 7949

(2) A victim of a violation of section 2903.01 or 2903.02 7950
of the Revised Code, an offense of violence that is a felony of 7951
the first, second, or third degree, or an offense punished by a 7952
sentence of life imprisonment, the victim's representative, or 7953
any person described in division (B) (5) of this section may 7954
request the board to hold a full board hearing that relates to 7955
the proposed parole or re-parole of the person that committed 7956
the violation. If a victim, victim's representative, or other 7957
person requests a full board hearing pursuant to this division, 7958
the board shall hold a full board hearing. 7959

At least thirty days before the full hearing, except as 7960
otherwise provided in this division, the board shall give notice 7961
of the date, time, and place of the hearing to the victim 7962
regardless of whether the victim has requested the notification. 7963
The notice of the date, time, and place of the hearing shall not 7964
be given under this division to a victim if the victim has 7965

requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the notice not be provided to the victim. At least thirty days before the full board hearing and regardless of whether the victim has requested that the notice be provided or not be provided under this division to the victim, the board shall give similar notice to the prosecuting attorney in the case, the law enforcement agency that arrested the prisoner if any officer of that agency was a victim of the offense, and, if different than the victim, the person who requested the full hearing. If the prosecuting attorney has not previously been sent an institutional summary report with respect to the prisoner, upon the request of the prosecuting attorney, the board shall include with the notice sent to the prosecuting attorney an institutional summary report that covers the offender's participation while confined in a state correctional institution in training, work, and other rehabilitative activities and any disciplinary action taken against the offender while so confined. Upon the request of a law enforcement agency that has not previously been sent an institutional summary report with respect to the prisoner, the board also shall send a copy of the institutional summary report to the law enforcement agency. If notice is to be provided as described in this division, the board 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 ~~the effective date of this amendment~~ 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 board, in accordance with division (D)(2) of section 2930.16 of the Revised Code, shall keep a record of all attempts to provide the notice, and of all notices provided,

under this division. 7998

The preceding paragraph, and the notice-related provisions 7999
of divisions (E) (2) and (K) of section 2929.20, division (D) (1) 8000
of section 2930.16, division ~~(H)~~ (G) of section 2967.12, 8001
division (E) (1) (b) of section 2967.19, division (A) (3) (b) of 8002
section 2967.26, and division (D) (1) of section 2967.28 of the 8003
Revised Code enacted in the act in which this paragraph was 8004
enacted, shall be known as "Roberta's Law." 8005

(B) At a full board hearing that relates to the proposed 8006
parole or re-parole of a prisoner and that has been petitioned 8007
for or requested in accordance with division (A) of this 8008
section, the parole board shall permit the following persons to 8009
appear and to give testimony or to submit written statements: 8010

(1) The prosecuting attorney of the county in which the 8011
original indictment against the prisoner was found and members 8012
of any law enforcement agency that assisted in the prosecution 8013
of the original offense; 8014

(2) The judge of the court of common pleas who imposed the 8015
original sentence of incarceration upon the prisoner, or the 8016
judge's successor; 8017

(3) The victim of the original offense for which the 8018
prisoner is serving the sentence or the victim's representative 8019
designated pursuant to section 2930.02 of the Revised Code; 8020

(4) The victim of any behavior that resulted in parole 8021
being revoked; 8022

(5) With respect to a full board hearing held pursuant to 8023
division (A) (2) of this section, all of the following: 8024

(a) The spouse of the victim of the original offense; 8025

(b) The parent or parents of the victim of the original offense; 8026
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(c) The sibling of the victim of the original offense; 8028

(d) The child or children of the victim of the original offense. 8029
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(6) Counsel or some other person designated by the prisoner as a representative, as described in division (C) of this section. 8031
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(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. 8034
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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. 8041
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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 interested persons other than those listed in this division and division (B) of this section to attend full board hearings pursuant to rules adopted by the adult parole authority. 8048
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(D) If the victim of the original offense died as a result 8055
of the offense and the offense was aggravated murder, murder, an 8056
offense of violence that is a felony of the first, second, or 8057
third degree, or an offense punished by a sentence of life 8058
imprisonment, the family of the victim may show at a full board 8059
hearing a video recording not exceeding five minutes in length 8060
memorializing the victim. 8061

(E) The adult parole authority shall adopt rules for the 8062
implementation of this section. The rules shall specify 8063
reasonable restrictions on the number of media representatives 8064
that may attend a hearing, based on considerations of space, and 8065
other procedures designed to accomplish an effective, orderly 8066
process for full board hearings. 8067

Sec. 5919.16. (A) Commissioned and warrant officers in the 8068
Ohio national guard shall be discharged by the adjutant general 8069
upon either of the following: 8070

(1) The officer's resignation; 8071

(2) Approval of a board's recommendation for withdrawal of 8072
federal recognition by the chief of the national guard bureau. 8073

(B) An officer also may be discharged under any of the 8074
following circumstances: 8075

(1) Pursuant to other federal regulations; 8076

(2) If absent without leave for three months, upon 8077
recommendation of an efficiency board; 8078

(3) Pursuant to sentence by court-martial; 8079

(4) If the officer has been convicted of a crime 8080
classified as a felony as described in division (C) or (D) ~~or~~ 8081
~~(E)~~ of section 2901.02 of the Revised Code. 8082

Section 2. That existing sections 9.07, 120.03, 120.06, 8083
120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 8084
1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2701.07, 2901.02, 8085
2909.24, 2929.02, 2929.13, 2929.14, 2929.20, 2929.61, 2930.03, 8086
2930.06, 2930.16, 2930.19, 2937.222, 2941.021, 2941.14, 8087
2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.13, 2945.21, 8088
2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 2953.07, 8089
2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 2953.72, 8090
2953.73, 2953.81, 2967.03, 2967.05, 2967.12, 2967.13, 2967.19, 8091
2967.193, 2967.26, 2967.28, 2971.03, 2971.07, 5120.113, 5120.53, 8092
5120.61, 5139.04, 5149.101, and 5919.16 and sections 109.97, 8093
120.35, 2725.19, 2929.021, 2929.022, 2929.023, 2929.024, 8094
2929.03, 2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 2949.21, 8095
2949.22, 2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 8096
2949.31, and 2967.08 of the Revised Code are hereby repealed. 8097

Section 3. Section 2953.07 of the Revised Code is 8098
presented in this act as a composite of the section as amended 8099
by both Am. Sub. S.B. 2 and Am. Sub. S.B. 4 of the 121st General 8100
Assembly. The General Assembly, applying the principle stated in 8101
division (B) of section 1.52 of the Revised Code that amendments 8102
are to be harmonized if reasonably capable of simultaneous 8103
operation, finds that the composite is the resulting version of 8104
the section in effect prior to the effective date of the section 8105
as presented in this act. 8106

Section 2953.08 of the Revised Code is presented in this 8107
act as a composite of the section as amended by Sub. H.B. 247, 8108
Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the 129th 8109
General Assembly. The General Assembly, applying the principle 8110
stated in division (B) of section 1.52 of the Revised Code that 8111
amendments are to be harmonized if reasonably capable of 8112
simultaneous operation, finds that the composite is the 8113

resulting version of the section in effect prior to the 8114
effective date of the section as presented in this act. 8115

Section 2967.03 of the Revised Code is presented in this 8116
act as a composite of the section as amended by Am. Sub. H.B. 8117
487, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the 129th 8118
General Assembly. The General Assembly, applying the principle 8119
stated in division (B) of section 1.52 of the Revised Code that 8120
amendments are to be harmonized if reasonably capable of 8121
simultaneous operation, finds that the composite is the 8122
resulting version of the section in effect prior to the 8123
effective date of the section as presented in this act. 8124

Section 4. (A) An offender whose sentence of death has 8125
been set aside, nullified, or vacated pursuant to section 8126
2929.06 of the Revised Code as it existed immediately before the 8127
effective date of this act but who has not been resentenced 8128
under that section as of the effective date of this act shall be 8129
resentenced in accordance with that section as it existed 8130
immediately before the effective date of this act. 8131

(B) An offender who was sentenced to death before the 8132
effective date of this act shall have the same right to post- 8133
conviction DNA testing as the offender had under sections 8134
2953.71 to 2953.81 of the Revised Code as they existed 8135
immediately before the effective date of this act or as they may 8136
hereafter be amended. 8137

(C) All reports and payments relating to capital cases 8138
that were required to be made under any provision of Chapter 8139
120. or section 109.97 of the Revised Code as that provision 8140
existed immediately before the effective date of this act shall 8141
be made for the current calendar or fiscal year, as applicable, 8142
in accordance with that provision as it existed immediately 8143

before the effective date of this act. 8144

Section 5. This act is hereby declared to be an emergency 8145
measure necessary for the immediate preservation of the public 8146
peace, health, and safety. The reason for such necessity is to 8147
preserve life by preventing the execution of death sentences 8148
imposed before the effective date of this act but not yet 8149
carried out. Therefore, this act shall go into immediate effect. 8150

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