

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 389

Representative Antonio

**Cosponsors: Representatives Antani, Fedor, Howse, Ingram, Lepore-Hagan,
Ramos, Riedel, Smith, K.**

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, 149.43, 1901.183, 2152.13, 2152.67, 3
2301.20, 2307.60, 2317.02, 2701.07, 2743.51, 4
2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 5
2929.20, 2929.61, 2930.03, 2930.06, 2930.16, 6
2930.19, 2937.222, 2941.021, 2941.14, 2941.148, 7
2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 8
2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 9
2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 10
2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 11
2953.72, 2953.73, 2953.81, 2967.03, 2967.05, 12
2967.12, 2967.13, 2967.19, 2967.193, 2967.26, 13
2967.28, 2971.03, 2971.07, 5120.113, 5120.53, 14
5120.61, 5139.04, 5149.101, and 5919.16 and to 15
repeal sections 109.97, 120.35, 2725.19, 16
2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 17
2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 18
2949.21, 2949.22, 2949.221, 2949.222, 2949.24, 19
2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 20
2949.31, and 2967.08 of the Revised Code to 21
abolish the death penalty. 22

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

Section 1. That sections 9.07, 120.03, 120.06, 120.14, 23
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 149.43, 24
1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 2701.07, 25
2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 2929.20, 26
2929.61, 2930.03, 2930.06, 2930.16, 2930.19, 2937.222, 2941.021, 27
2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 28
2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 29
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 30
2953.71, 2953.72, 2953.73, 2953.81, 2967.03, 2967.05, 2967.12, 31
2967.13, 2967.19, 2967.193, 2967.26, 2967.28, 2971.03, 2971.07, 32
5120.113, 5120.53, 5120.61, 5139.04, 5149.101, and 5919.16 of 33
the Revised Code be amended to read as follows: 34

Sec. 9.07. (A) As used in this section: 35

(1) "Deadly weapon" has the same meaning as in section 36
2923.11 of the Revised Code. 37

(2) "Governing authority of a local public entity" means 38
whichever of the following is applicable: 39

(a) For a county, the board of county commissioners of the 40
county; 41

(b) For a municipal corporation, the legislative authority 42
of the municipal corporation; 43

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

entity for purposes of this section. 49

(3) "Local public entity" means a county, a municipal 50
corporation, a combination of counties, a combination of 51
municipal corporations, or a combination of one or more counties 52
and one or more municipal corporations. 53

(4) "Non-contracting political subdivision" means any 54
political subdivision to which all of the following apply: 55

(a) A correctional facility for the housing of out-of- 56
state prisoners in this state is or will be located in the 57
political subdivision. 58

(b) The correctional facility described in division (A) (4) 59
(a) of this section is being operated and managed, or will be 60
operated and managed, by a local public entity or a private 61
contractor pursuant to a contract entered into prior to March 62
17, 1998, or a contract entered into on or after March 17, 1998, 63
under this section. 64

(c) The political subdivision is not a party to the 65
contract described in division (A) (4) (b) of this section for the 66
management and operation of the correctional facility. 67

(5) "Out-of-state jurisdiction" means the United States, 68
any state other than this state, and any political subdivision 69
or other jurisdiction located in a state other than this state. 70

(6) "Out-of-state prisoner" means a person who is 71
convicted of a crime in another state or under the laws of the 72
United States or who is found under the laws of another state or 73
of the United States to be a delinquent child or the 74
substantially equivalent designation. 75

(7) "Private contractor" means either of the following: 76

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

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

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

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

(C) (1) Except as provided in this division, on and after March 17, 1998, a local public entity shall not enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state. On and after March 17, 1998, a local public entity may enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state only if the local public entity and the out-of-state jurisdiction with which the local public entity intends to contract jointly submit to

the department of rehabilitation and correction a statement that 107
certifies the correctional facility's intended use, intended 108
prisoner population, and custody level, and the department 109
reviews and comments upon the plans for the design or renovation 110
of the correctional facility regarding their suitability for the 111
intended prisoner population specified in the submitted 112
statement. 113

(2) If a local public entity and an out-of-state 114
jurisdiction enter into a contract to house out-of-state 115
prisoners in a correctional facility in this state as authorized 116
under division (C) (1) of this section, in addition to any other 117
provisions it contains, the contract shall include whichever of 118
the following provisions is applicable: 119

(a) If a private contractor will operate the facility in 120
question pursuant to a contract entered into in accordance with 121
division (D) of this section, a requirement that, if the 122
facility is closed or ceases to operate for any reason and if 123
the conversion plan described in division (D) (16) of this 124
section is not complied with, the out-of-state jurisdiction will 125
be responsible for housing and transporting the prisoners who 126
are in the facility at the time it is closed or ceases to 127
operate and for the cost of so housing and transporting those 128
prisoners; 129

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

housing and transporting the prisoners who are in the facility 137
at the time it is closed or ceases to operate and for the cost 138
of so housing and transporting those prisoners. 139

(3) If a local public entity and an out-of-state 140
jurisdiction intend to enter into a contract to house out-of- 141
state prisoners in a correctional facility in this state as 142
authorized under division (C)(1) of this section, or if a local 143
public entity and a private contractor intend to enter into a 144
contract pursuant to division (D) of this section for the 145
private contractor's management and operation of a correctional 146
facility in this state to house out-of-state prisoners, prior to 147
entering into the contract the local public entity and the out- 148
of-state jurisdiction, or the local public entity and the 149
private contractor, whichever is applicable, shall conduct a 150
public hearing in accordance with this division, and, prior to 151
entering into the contract, the governing authority of the local 152
public entity in which the facility is or will be located shall 153
authorize the location and operation of the facility. The 154
hearing shall be conducted at a location within the municipal 155
corporation or township in which the facility is or will be 156
located. At least one week prior to conducting the hearing, the 157
local public entity and the out-of-state jurisdiction or private 158
contractor with the duty to conduct the hearing shall cause 159
notice of the date, time, and place of the hearing to be made by 160
publication in the newspaper with the largest general 161
circulation in the county in which the municipal corporation or 162
township is located. The notice shall be of a sufficient size 163
that it covers at least one-quarter of a page of the newspaper 164
in which it is published. This division applies to a private 165
contractor that, pursuant to the requirement set forth in 166
division (I) of this section, is required to enter into a 167

contract under division (D) of this section. 168

(D) Subject to division (I) of this section, on and after 169
March 17, 1998, if a local public entity enters into a contract 170
with a private contractor for the management and operation of a 171
correctional facility in this state to house out-of-state 172
prisoners, the contract, at a minimum, shall include all of the 173
following provisions: 174

(1) A requirement that the private contractor seek and 175
obtain accreditation from the American correctional association 176
for the correctional facility within two years after accepting 177
the first out-of-state prisoner at the correctional facility 178
under the contract and that it maintain that accreditation for 179
the term of the contract; 180

(2) A requirement that the private contractor comply with 181
all applicable laws, rules, or regulations of the government of 182
this state, political subdivisions of this state, and the United 183
States, including, but not limited to, all sanitation, food 184
service, safety, and health regulations; 185

(3) A requirement that the private contractor send copies 186
of reports of inspections completed by appropriate authorities 187
regarding compliance with laws, rules, and regulations of the 188
type described in division (D) (2) of this section to the 189
director of rehabilitation and correction or the director's 190
designee and to the governing authority of the local public 191
entity in which the correctional facility is located; 192

(4) A requirement that the private contractor report to 193
the local law enforcement agencies with jurisdiction over the 194
place at which the correctional facility is located, for 195
investigation, all criminal offenses or delinquent acts that are 196

committed in or on the grounds of, or otherwise in connection 197
with, the correctional facility and report to the department of 198
rehabilitation and correction all disturbances at the facility; 199

(5) A requirement that the private contractor immediately 200
report all escapes from the facility, and the apprehension of 201
all escapees, by telephone and in writing to the department of 202
rehabilitation and correction, to all local law enforcement 203
agencies with jurisdiction over the place at which the facility 204
is located, to the state highway patrol, to the prosecuting 205
attorney of the county in which the facility is located, and to 206
a daily newspaper having general circulation in the county in 207
which the facility is located. The written notice may be by 208
either facsimile transmission or mail. A failure to comply with 209
this requirement is a violation of section 2921.22 of the 210
Revised Code. 211

(6) A requirement that the private contractor provide a 212
written report to the director of rehabilitation and correction 213
or the director's designee and to the governing authority of the 214
local public entity in which the correctional facility is 215
located of all unusual incidents occurring at the correctional 216
facility. The private contractor shall report the incidents in 217
accordance with the incident reporting rules that, at the time 218
of the incident, are applicable to state correctional facilities 219
for similar incidents occurring at state correctional 220
facilities. 221

(7) A requirement that the private contractor provide 222
internal and perimeter security to protect the public, staff 223
members of the correctional facility, and prisoners in the 224
correctional facility; 225

(8) A requirement that the correctional facility be 226

staffed at all times with a staffing pattern that is adequate to 227
ensure supervision of inmates and maintenance of security within 228
the correctional facility and to provide for appropriate 229
programs, transportation, security, and other operational needs. 230
In determining security needs for the correctional facility, the 231
private contractor and the contract requirements shall fully 232
take into account all relevant factors, including, but not 233
limited to, the proximity of the facility to neighborhoods and 234
schools. 235

(9) A requirement that the private contractor provide an 236
adequate policy of insurance that satisfies the requirements set 237
forth in division (D) of section 9.06 of the Revised Code 238
regarding contractors who operate and manage a facility under 239
that section, and that the private contractor indemnify and hold 240
harmless the state, its officers, agents, and employees, and any 241
local public entity in the state with jurisdiction over the 242
place at which the correctional facility is located or that owns 243
the correctional facility, reimburse the state for its costs in 244
defending the state or any of its officers, agents, or 245
employees, and reimburse any local government entity of that 246
nature for its costs in defending the local government entity, 247
in the manner described in division (D) of that section 248
regarding contractors who operate and manage a facility under 249
that section; 250

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

classification under this division; 258

(11) A requirement that the private contractor will not 259
accept for housing, and will not house, in the correctional 260
facility any out-of-state prisoner in relation to whom any of 261
the following applies: 262

(a) The private entity has not obtained from the out-of- 263
state jurisdiction that imposed the sentence or sanction under 264
which the prisoner will be confined in this state a copy of the 265
institutional record of the prisoner while previously confined 266
in that out-of-state jurisdiction or a statement that the 267
prisoner previously has not been confined in that out-of-state 268
jurisdiction and a copy of all medical records pertaining to 269
that prisoner that are in the possession of the out-of-state 270
jurisdiction. 271

(b) The prisoner, while confined in any out-of-state 272
jurisdiction, has a record of institutional violence involving 273
the use of a deadly weapon or a pattern of committing acts of an 274
assaultive nature against employees of, or visitors to, the 275
place of confinement or has a record of escape or attempted 276
escape from secure custody. 277

(c) Under the securityclassification system and schedule 278
adopted by the department of rehabilitation and correction under 279
section 5145.03 of the Revised Code and adopted by the private 280
contractor under division (B)(10) of this section, the out-of- 281
state prisoner would be classified as being at a security level 282
higher than medium security. 283

(12) A requirement that the private contractor, prior to 284
housing any out-of-state prisoner in the correctional facility 285
under the contract, enter into a written agreement with the 286

department of rehabilitation and correction that sets forth a 287
plan and procedure that will be used to coordinate law 288
enforcement activities of state law enforcement agencies and of 289
local law enforcement agencies with jurisdiction over the place 290
at which the facility is located in response to any riot, 291
rebellion, escape, insurrection, or other emergency occurring 292
inside or outside the facility; 293

(13) A requirement that the private contractor cooperate 294
with the correctional institution inspection committee in the 295
committee's performance of its duties under section 103.73 of 296
the Revised Code and provide the committee, its subcommittees, 297
and its staff members, in performing those duties, with access 298
to the correctional facility as described in that section; 299

(14) A requirement that the private contractor permit any 300
peace officer who serves a law enforcement agency with 301
jurisdiction over the place at which the correctional facility 302
is located to enter into the facility to investigate any 303
criminal offense or delinquent act that allegedly has been 304
committed in or on the grounds of, or otherwise in connection 305
with, the facility; 306

(15) A requirement that the private contractor will not 307
employ any person at the correctional facility until after the 308
private contractor has submitted to the bureau of criminal 309
identification and investigation, on a form prescribed by the 310
superintendent of the bureau, a request that the bureau conduct 311
a criminal records check of the person and a requirement that 312
the private contractor will not employ any person at the 313
facility if the records check or other information possessed by 314
the contractor indicates that the person previously has engaged 315
in malfeasance; 316

(16) A requirement that the private contractor will not 317
accept for housing, and will not house, in the correctional 318
facility any out-of-state prisoner unless the private contractor 319
and the out-of-state jurisdiction that imposed the sentence for 320
which the prisoner is to be confined agree that, if the out-of- 321
state prisoner is confined in the facility in this state, 322
commits a criminal offense while confined in the facility, is 323
convicted of or pleads guilty to that offense, and is sentenced 324
to a term of confinement for that offense ~~but is not sentenced~~ 325
~~to death for that offense~~, the private contractor and the out- 326
of-state jurisdiction will do all of the following: 327

(a) Unless section 5120.50 of the Revised Code does not 328
apply in relation to the offense the prisoner committed while 329
confined in this state and the term of confinement imposed for 330
that offense, the out-of-state jurisdiction will accept the 331
prisoner pursuant to that section for service of that term of 332
confinement and for any period of time remaining under the 333
sentence for which the prisoner was confined in the facility in 334
this state, the out-of-state jurisdiction will confine the 335
prisoner pursuant to that section for that term and that 336
remaining period of time, and the private contractor will 337
transport the prisoner to the out-of-state jurisdiction for 338
service of that term and that remaining period of time. 339

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

the offense committed while confined in this state, the out-of- 348
state jurisdiction or its private contractor will confine the 349
prisoner for that remaining period of time and will transport 350
the prisoner outside of this state for service of that remaining 351
period of time, and, if the prisoner is confined in this state 352
in a facility operated by the department of rehabilitation and 353
correction, the private contractor will be financially 354
responsible for reimbursing the department at the per diem cost 355
of confinement for the duration of that incarceration, with the 356
amount of the reimbursement so paid to be deposited in the 357
department's prisoner programs fund. 358

(17) A requirement that the private contractor, prior to 359
housing any out-of-state prisoner in the correctional facility 360
under the contract, enter into an agreement with the local 361
public entity that sets forth a conversion plan that will be 362
followed if, for any reason, the facility is closed or ceases to 363
operate. The conversion plan shall include, but is not limited 364
to, provisions that specify whether the private contractor, the 365
local public entity, or the out-of-state jurisdictions that 366
imposed the sentences for which the out-of-state prisoners are 367
confined in the facility will be responsible for housing and 368
transporting the prisoners who are in the facility at the time 369
it is closed or ceases to operate and for the cost of so housing 370
and transporting those prisoners. 371

(18) A schedule of fines that the local public entity 372
shall impose upon the private contractor if the private 373
contractor fails to perform its contractual duties, and a 374
requirement that, if the private contractor fails to perform its 375
contractual duties, the local public entity shall impose a fine 376
on the private contractor from the schedule of fines and, in 377
addition to the fine, may exercise any other rights it has under 378

the contract. Division (F) (2) of this section applies regarding 379
a fine described in this division. 380

(19) A requirement that the private contractor adopt and 381
use in the correctional facility the drug testing and treatment 382
program that the department of rehabilitation and correction 383
uses for inmates in state correctional institutions; 384

(20) A requirement that the private contractor provide 385
clothing for all out-of-state prisoners housed in the 386
correctional facility that is conspicuous in its color, style, 387
or color and style, that conspicuously identifies its wearer as 388
a prisoner, and that is readily distinguishable from clothing of 389
a nature that normally is worn outside the facility by non- 390
prisoners, that the private contractor require all out-of-state 391
prisoners housed in the facility to wear the clothing so 392
provided, and that the private contractor not permit any out-of- 393
state prisoner, while inside or on the premises of the facility 394
or while being transported to or from the facility, to wear any 395
clothing of a nature that does not conspicuously identify its 396
wearer as a prisoner and that normally is worn outside the 397
facility by non-prisoners; 398

(21) A requirement that, at the time the contract is made, 399
the private contractor provide to all parties to the contract 400
adequate proof that it has complied with the requirement 401
described in division (D) (9) of this section, and a requirement 402
that, at any time during the term of the contract, the private 403
contractor upon request provide to any party to the contract 404
adequate proof that it continues to be in compliance with the 405
requirement described in division (D) (9) of this section. 406

(E) A private correctional officer or other designated 407
employee of a private contractor that operates a correctional 408

facility that houses out-of-state prisoners in this state under 409
a contract entered into prior to, on, or after March 17, 1998, 410
may carry and use firearms in the course of the officer's or 411
employee's employment only if the officer or employee is 412
certified as having satisfactorily completed an approved 413
training program designed to qualify persons for positions as 414
special police officers, security guards, or persons otherwise 415
privately employed in a police capacity, as described in 416
division (A) of section 109.78 of the Revised Code. 417

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

temporary detention of a person who escaped from the facility, 440
following the person's recapture. 441

(2) If a private contractor that, on or after March 17, 442
1998, enters into a contract under this section with a local 443
public entity for the operation of a correctional facility that 444
houses out-of-state prisoners fails to perform its contractual 445
duties, the local public entity shall impose upon the private 446
contractor a fine from the schedule of fines included in the 447
contract and may exercise any other rights it has under the 448
contract. A fine imposed under this division shall be paid to 449
the local public entity that enters into the contract, and the 450
local public entity shall deposit the money so paid into its 451
treasury to the credit of the fund used to pay for community 452
policing. If a fine is imposed under this division, the local 453
public entity may reduce the payment owed to the private 454
contractor pursuant to any invoice in the amount of the fine. 455

(3) If a private contractor, on or after March 17, 1998, 456
enters into a contract under this section with a local public 457
entity for the operation of a correctional facility that houses 458
out-of-state prisoners in this state, the private contractor 459
shall comply with the insurance, indemnification, hold harmless, 460
and cost reimbursement provisions described in division (D) (9) 461
of this section. 462

(G) (1) Any act or omission that would be a criminal 463
offense or a delinquent act if committed at a state correctional 464
institution or at a jail, workhouse, prison, or other 465
correctional facility operated by this state or by any political 466
subdivision or group of political subdivisions of this state 467
shall be a criminal offense or delinquent act if committed by or 468
with regard to any out-of-state prisoner who is housed at any 469

correctional facility operated by a private contractor in this 470
state pursuant to a contract entered into prior to, on, or after 471
March 17, 1998. 472

(2) If any political subdivision of this state experiences 473
any cost in the investigation or prosecution of an offense 474
committed by an out-of-state prisoner housed in a correctional 475
facility operated by a private contractor in this state pursuant 476
to a contract entered into prior to, on, or after March 17, 477
1998, the private contractor shall reimburse the political 478
subdivision for the costs so experienced. 479

(3) (a) Except as otherwise provided in this division, the 480
state, and any officer or employee, as defined in section 109.36 481
of the Revised Code, of the state is not liable in damages in a 482
civil action for any injury, death, or loss to person or 483
property that allegedly arises from, or is related to, the 484
establishment, management, or operation of a correctional 485
facility to house out-of-state prisoners in this state pursuant 486
to a contract between a local public entity and an out-of-state 487
jurisdiction, a local public entity and a private contractor, or 488
a private contractor and an out-of-state jurisdiction that was 489
entered into prior to March 17, 1998, or that is entered into on 490
or after March 17, 1998, in accordance with its provisions. The 491
immunity provided in this division does not apply regarding an 492
act or omission of an officer or employee, as defined in section 493
109.36 of the Revised Code, of the state that is manifestly 494
outside the scope of the officer's or employee's official 495
responsibilities or regarding an act or omission of the state, 496
or of an officer or employee, as so defined, of the state that 497
is undertaken with malicious purpose, in bad faith, or in a 498
wanton or reckless manner. 499

(b) Except as otherwise provided in this division, a non- 500
contracting political subdivision, and any employee, as defined 501
in section 2744.01 of the Revised Code, of a non-contracting 502
political subdivision is not liable in damages in a civil action 503
for any injury, death, or loss to person or property that 504
allegedly arises from, or is related to, the establishment, 505
management, or operation of a correctional facility to house 506
out-of-state prisoners in this state pursuant to a contract 507
between a local public entity other than the non-contracting 508
political subdivision and an out-of-state jurisdiction, a local 509
public entity other than the non-contracting political 510
subdivision and a private contractor, or a private contractor 511
and an out-of-state jurisdiction that was entered into prior to 512
March 17, 1998, or that is entered into on or after March 17, 513
1998, in accordance with its provisions. The immunity provided 514
in this division does not apply regarding an act or omission of 515
an employee, as defined in section 2744.01 of the Revised Code, 516
of a non-contracting political subdivision that is manifestly 517
outside the scope of the employee's employment or official 518
responsibilities or regarding an act or omission of a non- 519
contracting political subdivision or an employee, as so defined, 520
of a non-contracting political subdivision that is undertaken 521
with malicious purpose, in bad faith, or in a wanton or reckless 522
manner. 523

(c) Divisions (G) (3) (a) and (b) of this section do not 524
affect any immunity or defense that the state and its officers 525
and employees or a non-contracting political subdivision and its 526
employees may be entitled to under another section of the 527
Revised Code or the common law of this state, including, but not 528
limited to, section 9.86 or Chapter 2744. of the Revised Code. 529

(H) (1) Upon the completion of an out-of-state prisoner's 530

term of detention at a correctional facility operated by a 531
private contractor in this state pursuant to a contract entered 532
into prior to, on, or after March 17, 1998, the operator of the 533
correctional facility shall transport the prisoner to the out- 534
of-state jurisdiction that imposed the sentence for which the 535
prisoner was confined before it releases the prisoner from its 536
custody. 537

(2) No private contractor that operates and manages a 538
correctional facility housing out-of-state prisoners in this 539
state pursuant to a contract entered into prior to, on, or after 540
March 17, 1998, shall fail to comply with division (H)(1) of 541
this section. 542

(3) Whoever violates division (H)(2) of this section is 543
guilty of a misdemeanor of the first degree. 544

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

requirements and criteria of division (D) of this section. 561

Sec. 120.03. (A) The Ohio public defender commission shall 562
appoint the state public defender, who shall serve at the 563
pleasure of the commission. 564

(B) The Ohio public defender commission shall establish 565
rules for the conduct of the offices of the county and joint 566
county public defenders and for the conduct of county appointed 567
counsel systems in the state. These rules shall include, but are 568
not limited to, the following: 569

(1) Standards of indigency and minimum qualifications for 570
legal representation by a public defender or appointed counsel. 571
In establishing standards of indigency and determining who is 572
eligible for legal representation by a public defender or 573
appointed counsel, the commission shall consider an indigent 574
person to be an individual who at the time ~~his~~ the person's need 575
is determined is unable to provide for the payment of an 576
attorney and all other necessary expenses of representation. 577
Release on bail shall not prevent a person from being determined 578
to be indigent. 579

(2) Standards for the hiring of outside counsel; 580

(3) Standards for contracts by a public defender with law 581
schools, legal aid societies, and nonprofit organizations for 582
providing counsel; 583

(4) Standards for the qualifications, training, and size 584
of the legal and supporting staff for a public defender, 585
facilities, and other requirements needed to maintain and 586
operate an office of a public defender; 587

(5) Minimum caseload standards; 588

(6) Procedures for the assessment and collection of the 589
costs of legal representation that is provided by public 590
defenders or appointed counsel; 591

(7) Standards and guidelines for determining whether a 592
client is able to make an up-front contribution toward the cost 593
of ~~his~~ the client's legal representation; 594

(8) Procedures for the collection of up-front 595
contributions from clients who are able to contribute toward the 596
cost of their legal representation, as determined pursuant to 597
the standards and guidelines developed under division (B) (7) of 598
this section. All of such up-front contributions shall be paid 599
into the appropriate county fund. 600

(9) Standards for contracts between a board of county 601
commissioners, a county public defender commission, or a joint 602
county public defender commission and a municipal corporation 603
for the legal representation of indigent persons charged with 604
violations of the ordinances of the municipal corporation. 605

(C) The Ohio public defender commission shall adopt rules 606
prescribing minimum qualifications of counsel appointed pursuant 607
to this chapter or appointed by the courts. Without limiting its 608
general authority to prescribe different qualifications for 609
different categories of appointed counsel, the commission shall 610
prescribe, by rule, special qualifications for counsel and co- 611
counsel appointed in capital cases in which the defendant was 612
sentenced to death before the effective date of this amendment. 613

(D) In administering the office of the Ohio public 614
defender commission: 615

(1) The commission shall do the following: 616

(a) Approve an annual operating budget; 617

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

(2) The commission may do the following:

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

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

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

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

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

(2) Subject to division (E) of section 120.06 of the Revised Code, the attorney general shall represent or provide for the representation of attorneys described in division (C) of section 120.41 of the Revised Code in malpractice or other civil actions or proceedings that arise from alleged actions or omissions related to responsibilities derived pursuant to this chapter, or in civil actions that are based upon alleged violations of the constitution or statutes of the United States, including section 1983 of Title 42 of the United States Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise from alleged actions or omissions related to responsibilities derived pursuant to this chapter. For purposes of the representation, sections 109.361 to 109.366 of the Revised Code shall apply to an attorney described in division (C) of section 120.41 of the Revised Code as if ~~he~~ the attorney were an officer or employee, as defined in section 109.36 of the Revised Code, and the Ohio public defender commission or the state public defender, whichever contracted with the attorney, shall be considered ~~his~~ the attorney's employer.

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

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

loss of liberty. 678

(3) The state public defender may provide legal 679
representation to any person incarcerated in any correctional 680
institution of the state, in any matter in which the person 681
asserts the person is unlawfully imprisoned or detained. 682

(4) The state public defender, in any case in which the 683
state public defender has provided legal representation or is 684
requested to do so by a county public defender or joint county 685
public defender, may provide legal representation on appeal. 686

(5) The state public defender, when designated by the 687
court or requested by a county public defender, joint county 688
public defender, or the director of rehabilitation and 689
correction, shall provide legal representation in parole and 690
probation revocation matters or matters relating to the 691
revocation of community control or post-release control under a 692
community control sanction or post-release control sanction, 693
unless the state public defender finds that the alleged parole 694
or probation violator or alleged violator of a community control 695
sanction or post-release control sanction has the financial 696
capacity to retain the alleged violator's own counsel. 697

(6) If the state public defender contracts with a county 698
public defender commission, a joint county public defender 699
commission, or a board of county commissioners for the provision 700
of services, under authority of division (C) (7) of section 701
120.04 of the Revised Code, the state public defender shall 702
provide legal representation in accordance with the contract. 703

(B) The state public defender shall not be required to 704
prosecute any appeal, postconviction remedy, or other proceeding 705
pursuant to division (A) (3), (4), or (5) of this section, unless 706

the state public defender first is satisfied that there is 707
arguable merit to the proceeding. 708

(C) A court may appoint counsel or allow an indigent 709
person to select the indigent's own personal counsel to assist 710
the state public defender as co-counsel when the interests of 711
justice so require. When co-counsel is appointed to assist the 712
state public defender, the co-counsel shall receive any 713
compensation that the court may approve, not to exceed the 714
amounts provided for in section 2941.51 of the Revised Code. 715

(D) (1) When the state public defender is designated by the 716
court or requested by a county public defender or joint county 717
public defender to provide legal representation for an indigent 718
person in any case, other than pursuant to a contract entered 719
into under authority of division (C) (7) of section 120.04 of the 720
Revised Code, the state public defender shall send to the county 721
in which the case is filed a bill detailing the actual cost of 722
the representation that separately itemizes legal fees and 723
expenses. The county, upon receipt of an itemized bill from the 724
state public defender pursuant to this division, shall pay the 725
state public defender each of the following amounts: 726

(a) For the amount identified as legal fees in the 727
itemized bill, one hundred per cent of the amount identified as 728
legal fees less the state reimbursement rate as calculated by 729
the state public defender pursuant to section 120.34 of the 730
Revised Code for the month the case terminated, as set forth in 731
the itemized bill; 732

(b) For the amount identified as expenses in the itemized 733
bill, one hundred per cent. 734

(2) Upon payment of the itemized bill under division (D) 735

(1) of this section, the county may submit the cost of the 736
expenses, excluding legal fees, to the state public defender for 737
reimbursement pursuant to section 120.33 of the Revised Code. 738

(3) When the state public defender provides investigation 739
or mitigation services to private appointed counsel or to a 740
county or joint county public defender as approved by the 741
appointing court, other than pursuant to a contract entered into 742
under authority of division (C) (7) of section 120.04 of the 743
Revised Code, the state public defender shall send to the county 744
in which the case is filed a bill itemizing the actual cost of 745
the services provided. The county, upon receipt of an itemized 746
bill from the state public defender pursuant to this division, 747
shall pay one hundred per cent of the amount as set forth in the 748
itemized bill. Upon payment of the itemized bill received 749
pursuant to this division, the county may submit the cost of the 750
investigation and mitigation services to the state public 751
defender for reimbursement pursuant to section 120.33 of the 752
Revised Code. 753

(4) There is hereby created in the state treasury the 754
county representation fund for the deposit of moneys received 755
from counties under this division. All moneys credited to the 756
fund shall be used by the state public defender to provide legal 757
representation for indigent persons when designated by the court 758
or requested by a county or joint county public defender or to 759
provide investigation or mitigation services, including 760
investigation or mitigation services to private appointed 761
counsel or a county or joint county public defender, as approved 762
by the court. 763

(E) (1) Notwithstanding any contrary provision of sections 764
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised 765

Code that pertains to representation by the attorney general, an 766
assistant attorney general, or special counsel of an officer or 767
employee, as defined in section 109.36 of the Revised Code, or 768
of an entity of state government, the state public defender may 769
elect to contract with, and to have the state pay pursuant to 770
division (E) (2) of this section for the services of, private 771
legal counsel to represent the Ohio public defender commission, 772
the state public defender, assistant state public defenders, 773
other employees of the commission or the state public defender, 774
and attorneys described in division (C) of section 120.41 of the 775
Revised Code in a malpractice or other civil action or 776
proceeding that arises from alleged actions or omissions related 777
to responsibilities derived pursuant to this chapter, or in a 778
civil action that is based upon alleged violations of the 779
constitution or statutes of the United States, including section 780
1983 of Title 42 of the United States Code, 93 Stat. 1284 781
(1979), 42 U.S.C.A. 1983, as amended, and that arises from 782
alleged actions or omissions related to responsibilities derived 783
pursuant to this chapter, if the state public defender 784
determines, in good faith, that the defendant in the civil 785
action or proceeding did not act manifestly outside the scope of 786
the defendant's employment or official responsibilities, with 787
malicious purpose, in bad faith, or in a wanton or reckless 788
manner. If the state public defender elects not to contract 789
pursuant to this division for private legal counsel in a civil 790
action or proceeding, then, in accordance with sections 109.02, 791
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 792
attorney general shall represent or provide for the 793
representation of the Ohio public defender commission, the state 794
public defender, assistant state public defenders, other 795
employees of the commission or the state public defender, or 796
attorneys described in division (C) of section 120.41 of the 797

Revised Code in the civil action or proceeding. 798

(2) (a) Subject to division (E) (2) (b) of this section, 799
payment from the state treasury for the services of private 800
legal counsel with whom the state public defender has contracted 801
pursuant to division (E) (1) of this section shall be 802
accomplished only through the following procedure: 803

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

any judgment entry in the civil action or proceeding or a signed 829
copy of any settlement agreement entered into between the 830
parties to the civil action or proceeding. 831

(ii) Upon receipt of a request for an award of legal fees, 832
court costs, and expenses and the requisite supportive 833
documentation described in division (E) (2) (a) (i) of this 834
section, the attorney general shall review the request and 835
documentation; determine whether any of the limitations 836
specified in division (E) (2) (b) of this section apply to the 837
request; and, if an award of legal fees, court costs, or 838
expenses is permissible after applying the limitations, prepare 839
a document awarding legal fees, court costs, or expenses to the 840
private legal counsel. The document shall name the private legal 841
counsel as the recipient of the award; specify the total amount 842
of the award as determined by the attorney general; itemize the 843
portions of the award that represent legal fees, court costs, 844
and expenses; specify any limitation applied pursuant to 845
division (E) (2) (b) of this section to reduce the amount of the 846
award sought by the private legal counsel; state that the award 847
is payable from the state treasury pursuant to division (E) (2) 848
(a) (iii) of this section; and be approved by the inclusion of 849
the signatures of the attorney general, the state public 850
defender, and the private legal counsel. 851

(iii) The attorney general shall forward a copy of the 852
document prepared pursuant to division (E) (2) (a) (ii) of this 853
section to the director of budget and management. The award of 854
legal fees, court costs, or expenses shall be paid out of the 855
state public defender's appropriations, to the extent there is a 856
sufficient available balance in those appropriations. If the 857
state public defender does not have a sufficient available 858
balance in the state public defender's appropriations to pay the 859

entire award of legal fees, court costs, or expenses, the 860
director shall make application for a transfer of appropriations 861
out of the emergency purposes account or any other appropriation 862
for emergencies or contingencies in an amount equal to the 863
portion of the award that exceeds the sufficient available 864
balance in the state public defender's appropriations. A 865
transfer of appropriations out of the emergency purposes account 866
or any other appropriation for emergencies or contingencies 867
shall be authorized if there are sufficient moneys greater than 868
the sum total of then pending emergency purposes account 869
requests, or requests for releases from the other appropriation. 870
If a transfer of appropriations out of the emergency purposes 871
account or other appropriation for emergencies or contingencies 872
is made to pay an amount equal to the portion of the award that 873
exceeds the sufficient available balance in the state public 874
defender's appropriations, the director shall cause the payment 875
to be made to the private legal counsel. If sufficient moneys do 876
not exist in the emergency purposes account or other 877
appropriation for emergencies or contingencies to pay an amount 878
equal to the portion of the award that exceeds the sufficient 879
available balance in the state public defender's appropriations, 880
the private legal counsel shall request the general assembly to 881
make an appropriation sufficient to pay an amount equal to the 882
portion of the award that exceeds the sufficient available 883
balance in the state public defender's appropriations, and no 884
payment in that amount shall be made until the appropriation has 885
been made. The private legal counsel shall make the request 886
during the current biennium and during each succeeding biennium 887
until a sufficient appropriation is made. 888

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

following limitations: 891

(i) The maximum award or maximum aggregate of a series of 892
awards of legal fees, court costs, and expenses to the private 893
legal counsel in connection with the defense of the Ohio public 894
defender commission, the state public defender, an assistant 895
state public defender, an employee, or an attorney in a 896
specified civil action or proceeding shall not exceed fifty 897
thousand dollars. 898

(ii) The private legal counsel shall not be awarded legal 899
fees, court costs, or expenses to the extent the fees, costs, or 900
expenses are covered by a policy of malpractice or other 901
insurance. 902

(iii) The private legal counsel shall be awarded legal 903
fees and expenses only to the extent that the fees and expenses 904
are reasonable in light of the legal services rendered by the 905
private legal counsel in connection with the defense of the Ohio 906
public defender commission, the state public defender, an 907
assistant state public defender, an employee, or an attorney in 908
a specified civil action or proceeding. 909

(c) If, pursuant to division (E) (2) (a) of this section, 910
the attorney general denies a request for an award of legal 911
fees, court costs, or expenses to private legal counsel because 912
of the application of a limitation specified in division (E) (2) 913
(b) of this section, the attorney general shall notify the 914
private legal counsel in writing of the denial and of the 915
limitation applied. 916

(d) If, pursuant to division (E) (2) (c) of this section, a 917
private legal counsel receives a denial of an award notification 918
or if a private legal counsel refuses to approve a document 919

under division (E) (2) (a) (ii) of this section because of the 920
proposed application of a limitation specified in division (E) 921
(2) (b) of this section, the private legal counsel may commence a 922
civil action against the attorney general in the court of claims 923
to prove the private legal counsel's entitlement to the award 924
sought, to prove that division (E) (2) (b) of this section does 925
not prohibit or otherwise limit the award sought, and to recover 926
a judgment for the amount of the award sought. A civil action 927
under division (E) (2) (d) of this section shall be commenced no 928
later than two years after receipt of a denial of award 929
notification or, if the private legal counsel refused to approve 930
a document under division (E) (2) (a) (ii) of this section because 931
of the proposed application of a limitation specified in 932
division (E) (2) (b) of this section, no later than two years 933
after the refusal. Any judgment of the court of claims in favor 934
of the private legal counsel shall be paid from the state 935
treasury in accordance with division (E) (2) (a) of this section. 936

~~(F) If a court appoints the office of the state public 937
defender to represent a petitioner in a postconviction relief 938
proceeding under section 2953.21 of the Revised Code, the 939
petitioner has received a sentence of death, and the proceeding 940
relates to that sentence, all of the attorneys who represent the 941
petitioner in the proceeding pursuant to the appointment, 942
whether an assistant state public defender, the state public 943
defender, or another attorney, shall be certified under Rule 20 944
of the Rules of Superintendence for the Courts of Ohio to 945
represent indigent defendants charged with or convicted of an 946
offense for which the death penalty can be or has been imposed. 947~~

~~(G)~~(1) The state public defender may conduct a legal 948
assistance referral service for children committed to the 949
department of youth services relative to conditions of 950

confinement claims. If the legal assistance referral service 951
receives a request for assistance from a child confined in a 952
facility operated, or contracted for, by the department of youth 953
services and the state public defender determines that the child 954
has a conditions of confinement claim that has merit, the state 955
public defender may refer the child to a private attorney. If no 956
private attorney who the child has been referred to by the state 957
public defender accepts the case within a reasonable time, the 958
state public defender may prepare, as appropriate, pro se 959
pleadings in the form of a complaint regarding the conditions of 960
confinement at the facility where the child is confined with a 961
motion for appointment of counsel and other applicable pleadings 962
necessary for sufficient pro se representation. 963

(2) Division ~~(G)~~(F) (1) of this section does not authorize 964
the state public defender to represent a child committed to the 965
department of youth services in general civil matters arising 966
solely out of state law. 967

(3) The state public defender shall not undertake the 968
representation of a child in court based on a conditions of 969
confinement claim arising under this division. 970

~~(H)~~(G) A child's right to representation or services 971
under this section is not affected by the child, or another 972
person on behalf of the child, previously having paid for 973
similar representation or services or having waived legal 974
representation. 975

~~(I)~~(H) The state public defender shall have reasonable 976
access to any child committed to the department of youth 977
services, department of youth services institution, and 978
department of youth services record as needed to implement this 979
section. 980

(J) —(I) As used in this section:	981
(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	982 983
(2) "Conditions of confinement" means any issue involving a constitutional right or other civil right related to a child's incarceration, including, but not limited to, actions cognizable under 42 U.S.C. 1983.	984 985 986 987
(3) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	988 989
Sec. 120.14. (A) (1) Except as provided in division (A) (2) of this section, the county public defender commission shall appoint the county public defender and may remove him <u>the county public defender</u> from office only for good cause.	990 991 992 993
(2) If a county public defender commission contracts with the state public defender or with one or more nonprofit organizations for the state public defender or the organizations to provide all of the services that the county public defender is required or permitted to provide by this chapter, the commission shall not appoint a county public defender.	994 995 996 997 998 999
(B) The commission shall determine the qualifications and size of the supporting staff and facilities and other requirements needed to maintain and operate the office of the county public defender.	1000 1001 1002 1003
(C) In administering the office of county public defender, the commission shall:	1004 1005
(1) Recommend to the county commissioners an annual operating budget which is subject to the review, amendment, and approval of the board of county commissioners;	1006 1007 1008

(2) (a) Make an annual report to the county commissioners 1009
and the Ohio public defender commission on the operation of the 1010
county public defender's office, ~~including complete and detailed~~ 1011
~~information on finances and costs that separately states costs~~ 1012
~~and expenses that are reimbursable under section 120.35 of the~~ 1013
~~Revised Code~~, and any other data and information requested by 1014
the state public defender; 1015

(b) Make monthly reports relating to reimbursement and 1016
associated case data pursuant to the rules of the Ohio public 1017
defender commission to the board of county commissioners and the 1018
Ohio public defender commission on the total costs of the public 1019
defender's office. 1020

(3) Cooperate with the Ohio public defender commission in 1021
maintaining the standards established by rules of the Ohio 1022
public defender commission pursuant to divisions (B) and (C) of 1023
section 120.03 of the Revised Code, and cooperate with the state 1024
public defender in ~~his~~ the state public defender's programs 1025
providing technical aid and assistance to county systems. 1026

(D) The commission may accept the services of volunteer 1027
workers and consultants at no compensation except reimbursement 1028
for actual and necessary expenses. 1029

(E) The commission may contract with any municipal 1030
corporation, within the county served by the county public 1031
defender, for the county public defender to provide legal 1032
representation for indigent persons who are charged with a 1033
violation of the ordinances of the municipal corporation. 1034

(F) A county public defender commission, with the approval 1035
of the board of county commissioners regarding all provisions 1036
that pertain to the financing of defense counsel for indigent 1037

persons, may contract with the state public defender or with any 1038
nonprofit organization, the primary purpose of which is to 1039
provide legal representation to indigent persons, for the state 1040
public defender or the organization to provide all or any part 1041
of the services that a county public defender is required or 1042
permitted to provide by this chapter. A contract entered into 1043
pursuant to this division may provide for payment for the 1044
services provided on a per case, hourly, or fixed contract 1045
basis. The state public defender and any nonprofit organization 1046
that contracts with a county public defender commission pursuant 1047
to this division shall do all of the following: 1048

(1) Comply with all standards established by the rules of 1049
the Ohio public defender commission; 1050

(2) Comply with all standards established by the state 1051
public defender; 1052

(3) Comply with all statutory duties and other laws 1053
applicable to county public defenders. 1054

Sec. 120.16. (A) (1) The county public defender shall 1055
provide legal representation to indigent adults and juveniles 1056
who are charged with the commission of an offense or act that is 1057
a violation of a state statute and for which the penalty or any 1058
possible adjudication includes the potential loss of liberty and 1059
in postconviction proceedings as defined in this section. 1060

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

representation for indigent persons charged with a violation of 1067
an ordinance of the municipal corporation. 1068

(B) The county public defender shall provide the legal 1069
representation authorized by division (A) of this section at 1070
every stage of the proceedings following arrest, detention, 1071
service of summons, or indictment. 1072

(C) The county public defender may request the state 1073
public defender to prosecute any appeal or other remedy before 1074
or after conviction that the county public defender decides is 1075
in the interests of justice, and may provide legal 1076
representation in parole and probation revocation matters and 1077
matters relating to the revocation of community control or post- 1078
release control under a community control sanction or post- 1079
release control sanction. 1080

(D) The county public defender shall not be required to 1081
prosecute any appeal, postconviction remedy, or other 1082
proceeding, unless the county public defender is first satisfied 1083
there is arguable merit to the proceeding. 1084

(E) Nothing in this section shall prevent a court from 1085
appointing counsel other than the county public defender or from 1086
allowing an indigent person to select the indigent person's own 1087
personal counsel to represent the indigent person. A court may 1088
also appoint counsel or allow an indigent person to select the 1089
indigent person's own personal counsel to assist the county 1090
public defender as co-counsel when the interests of justice so 1091
require. 1092

(F) Information as to the right to legal representation by 1093
the county public defender or assigned counsel shall be afforded 1094
to an accused person immediately upon arrest, when brought 1095

before a magistrate, or when formally charged, whichever occurs 1096
first. 1097

~~(G) If a court appoints the office of the county public 1098
defender to represent a petitioner in a postconviction relief 1099
proceeding under section 2953.21 of the Revised Code, the 1100
petitioner has received a sentence of death, and the proceeding 1101
relates to that sentence, all of the attorneys who represent the 1102
petitioner in the proceeding pursuant to the appointment, 1103
whether an assistant county public defender or the county public 1104
defender, shall be certified under Rule 20 of the Rules of 1105
Superintendence for the Courts of Ohio to represent indigent 1106
defendants charged with or convicted of an offense for which the 1107
death penalty can be or has been imposed. 1108~~

~~(H) As used in this section: 1109~~

(1) "Community control sanction" has the same meaning as 1110
in section 2929.01 of the Revised Code. 1111

(2) "Post-release control sanction" has the same meaning 1112
as in section 2967.01 of the Revised Code. 1113

Sec. 120.18. (A) The county public defender commission's 1114
report to the board of county commissioners shall be audited by 1115
the county auditor. The board of county commissioners, after 1116
review and approval of the audited report, may then certify it 1117
to the state public defender for reimbursement. If a request for 1118
the reimbursement of any operating expenditure incurred by a 1119
county public defender office is not received by the state 1120
public defender within sixty days after the end of the calendar 1121
month in which the expenditure is incurred, the state public 1122
defender shall not pay the requested reimbursement, unless the 1123
county has requested, and the state public defender has granted, 1124

an extension of the sixty-day time limit. Each request for 1125
reimbursement shall include a certification by the county public 1126
defender that the persons provided representation by the county 1127
public defender's office during the period covered by the report 1128
were indigent and, for each person provided representation 1129
during that period, a financial disclosure form completed by the 1130
person on a form prescribed by the state public defender. The 1131
state public defender shall also review the report and, in 1132
accordance with the standards, guidelines, and maximums 1133
established pursuant to divisions (B) (7) and (8) of section 1134
120.04 of the Revised Code, prepare a voucher for fifty per cent 1135
of the total cost of each county public defender's office for 1136
the period of time covered by the certified report ~~and a voucher~~ 1137
~~for fifty per cent of the costs and expenses that are~~ 1138
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 1139
or, if the amount of money appropriated by the general assembly 1140
to reimburse counties for the operation of county public 1141
defender offices, joint county public defender offices, and 1142
county appointed counsel systems is not sufficient to pay fifty 1143
per cent of the total cost of all of the offices and systems, 1144
for the lesser amount required by section 120.34 of the Revised 1145
Code. For the purposes of this section, "total cost" means total 1146
expenses minus ~~costs and expenses reimbursable under section~~ 1147
~~120.35 of the Revised Code and any funds received by the county~~ 1148
public defender commission pursuant to a contract, except a 1149
contract entered into with a municipal corporation pursuant to 1150
division (E) of section 120.14 of the Revised Code, gift, or 1151
grant. 1152

(B) If the county public defender fails to maintain the 1153
standards for the conduct of the office established by rules of 1154
the Ohio public defender commission pursuant to divisions (B) 1155

and (C) of section 120.03 or the standards established by the 1156
state public defender pursuant to division (B)(7) of section 1157
120.04 of the Revised Code, the Ohio public defender commission 1158
shall notify the county public defender commission and the board 1159
of county commissioners of the county that the county public 1160
defender has failed to comply with its rules or the standards of 1161
the state public defender. Unless the county public defender 1162
commission or the county public defender corrects the conduct of 1163
the county public defender's office to comply with the rules and 1164
standards within ninety days after the date of the notice, the 1165
state public defender may deny payment of all or part of the 1166
county's reimbursement from the state provided for in division 1167
(A) of this section. 1168

Sec. 120.24. (A)(1) Except as provided in division (A)(2) 1169
of this section, the joint county public defender commission 1170
shall appoint the joint county public defender and may remove 1171
~~him~~ the joint county public defender from office only for good 1172
cause. 1173

(2) If a joint county public defender commission contracts 1174
with the state public defender or with one or more nonprofit 1175
organizations for the state public defender or the organizations 1176
to provide all of the services that the joint county public 1177
defender is required or permitted to provide by this chapter, 1178
the commission shall not appoint a joint county public defender. 1179

(B) The commission shall determine the qualifications and 1180
size of the supporting staff and facilities and other 1181
requirements needed to maintain and operate the office. 1182

(C) In administering the office of joint county public 1183
defender, the commission shall: 1184

(1) Recommend to the boards of county commissioners in the 1185
district an annual operating budget which is subject to the 1186
review, amendment, and approval of the boards of county 1187
commissioners in the district; 1188

(2) (a) Make an annual report to the boards of county 1189
commissioners in the district and the Ohio public defender 1190
commission on the operation of the public defender's office, ~~—~~ 1191
~~including complete and detailed information on finances and~~ 1192
~~costs that separately states costs and expenses that are~~ 1193
~~reimbursable under section 120.35 of the Revised Code,~~ and such 1194
other data and information requested by the state public 1195
defender; 1196

(b) Make monthly reports relating to reimbursement and 1197
associated case data pursuant to the rules of the Ohio public 1198
defender commission to the boards of county commissioners in the 1199
district and the Ohio public defender commission on the total 1200
costs of the public defender's office. 1201

(3) Cooperate with the Ohio public defender commission in 1202
maintaining the standards established by rules of the Ohio 1203
public defender commission pursuant to divisions (B) and (C) of 1204
section 120.03 of the Revised Code, and cooperate with the state 1205
public defender in ~~his~~ the state public defender's programs 1206
providing technical aid and assistance to county systems. 1207

(D) The commission may accept the services of volunteer 1208
workers and consultants at no compensation except reimbursement 1209
for actual and necessary expenses. 1210

(E) The commission may contract with any municipal 1211
corporation, within the counties served by the joint county 1212
public defender, for the joint county public defender to provide 1213

legal representation for indigent persons who are charged with a 1214
violation of the ordinances of the municipal corporation. 1215

(F) A joint county public defender commission, with the 1216
approval of each participating board of county commissioners 1217
regarding all provisions that pertain to the financing of 1218
defense counsel for indigent persons, may contract with the 1219
state public defender or with any nonprofit organization, the 1220
primary purpose of which is to provide legal representation to 1221
indigent persons, for the state public defender or the 1222
organization to provide all or any part of the services that a 1223
joint county public defender is required or permitted to provide 1224
by this chapter. A contract entered into pursuant to this 1225
division may provide for payment for the services provided on a 1226
per case, hourly, or fixed contract basis. The state public 1227
defender and any nonprofit organization that contracts with a 1228
joint county public defender commission pursuant to this 1229
division shall do all of the following: 1230

(1) Comply with all standards established by the rules of 1231
the Ohio public defender commission; 1232

(2) Comply with all standards established by the Ohio 1233
public defender; 1234

(3) Comply with all statutory duties and other laws 1235
applicable to joint county public defenders. 1236

Sec. 120.26. (A) (1) The joint county public defender shall 1237
provide legal representation to indigent adults and juveniles 1238
who are charged with the commission of an offense or act that is 1239
a violation of a state statute and for which the penalty or any 1240
possible adjudication includes the potential loss of liberty and 1241
in postconviction proceedings as defined in this section. 1242

(2) The joint county public defender may provide legal 1243
representation to indigent adults and juveniles charged with the 1244
violation of an ordinance of a municipal corporation for which 1245
the penalty or any possible adjudication includes the potential 1246
loss of liberty, if the joint county public defender commission 1247
has contracted with the municipal corporation to provide legal 1248
representation for indigent persons charged with a violation of 1249
an ordinance of the municipal corporation. 1250

(B) The joint county public defender shall provide the 1251
legal representation authorized by division (A) of this section 1252
at every stage of the proceedings following arrest, detention, 1253
service of summons, or indictment. 1254

(C) The joint county public defender may request the Ohio 1255
public defender to prosecute any appeal or other remedy before 1256
or after conviction that the joint county public defender 1257
decides is in the interests of justice and may provide legal 1258
representation in parole and probation revocation matters and 1259
matters relating to the revocation of community control or post- 1260
release control under a community control sanction or post- 1261
release control sanction. 1262

(D) The joint county public defender shall not be required 1263
to prosecute any appeal, postconviction remedy, or other 1264
proceeding, unless the joint county public defender is first 1265
satisfied that there is arguable merit to the proceeding. 1266

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

joint county public defender as co-counsel when the interests of 1273
justice so require. 1274

(F) Information as to the right to legal representation by 1275
the joint county public defender or assigned counsel shall be 1276
afforded to an accused person immediately upon arrest, when 1277
brought before a magistrate, or when formally charged, whichever 1278
occurs first. 1279

~~(G) If a court appoints the office of the joint county 1280
public defender to represent a petitioner in a postconviction- 1281
relief proceeding under section 2953.21 of the Revised Code, the 1282
petitioner has received a sentence of death, and the proceeding- 1283
relates to that sentence, all of the attorneys who represent the 1284
petitioner in the proceeding pursuant to the appointment, 1285
whether an assistant joint county defender or the joint county 1286
public defender, shall be certified under Rule 20 of the Rules- 1287
of Superintendence for the Courts of Ohio to represent indigent 1288
defendants charged with or convicted of an offense for which the 1289
death penalty can be or has been imposed. 1290~~

~~(H) As used in this section: 1291~~

(1) "Community control sanction" has the same meaning as 1292
in section 2929.01 of the Revised Code. 1293

(2) "Post-release control sanction" has the same meaning 1294
as in section 2967.01 of the Revised Code. 1295

Sec. 120.28. (A) The joint county public defender 1296
commission's report to the joint board of county commissioners 1297
shall be audited by the fiscal officer of the district. The 1298
joint board of county commissioners, after review and approval 1299
of the audited report, may then certify it to the state public 1300
defender for reimbursement. If a request for the reimbursement 1301

of any operating expenditure incurred by a joint county public 1302
defender office is not received by the state public defender 1303
within sixty days after the end of the calendar month in which 1304
the expenditure is incurred, the state public defender shall not 1305
pay the requested reimbursement, unless the joint board of 1306
county commissioners has requested, and the state public 1307
defender has granted, an extension of the sixty-day time limit. 1308
Each request for reimbursement shall include a certification by 1309
the joint county public defender that all persons provided 1310
representation by the joint county public defender's office 1311
during the period covered by the request were indigent and, for 1312
each person provided representation during that period, a 1313
financial disclosure form completed by the person on a form 1314
prescribed by the state public defender. The state public 1315
defender shall also review the report and, in accordance with 1316
the standards, guidelines, and maximums established pursuant to 1317
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1318
prepare a voucher for fifty per cent of the total cost of each 1319
joint county public defender's office for the period of time 1320
covered by the certified report ~~and a voucher for fifty per cent~~ 1321
~~of the costs and expenses that are reimbursable under section~~ 1322
~~120.35 of the Revised Code, if any, or, if the amount of money~~ 1323
appropriated by the general assembly to reimburse counties for 1324
the operation of county public defender offices, joint county 1325
public defender offices, and county appointed counsel systems is 1326
not sufficient to pay fifty per cent of the total cost of all of 1327
the offices and systems, for the lesser amount required by 1328
section 120.34 of the Revised Code. For purposes of this 1329
section, "total cost" means total expenses minus ~~costs and~~ 1330
~~expenses reimbursable under section 120.35 of the Revised Code~~ 1331
~~and~~ any funds received by the joint county public defender 1332
commission pursuant to a contract, except a contract entered 1333

into with a municipal corporation pursuant to division (E) of 1334
section 120.24 of the Revised Code, gift, or grant. Each county 1335
in the district shall be entitled to a share of such state 1336
reimbursement in proportion to the percentage of the total cost 1337
it has agreed to pay. 1338

(B) If the joint county public defender fails to maintain 1339
the standards for the conduct of the office established by the 1340
rules of the Ohio public defender commission pursuant to 1341
divisions (B) and (C) of section 120.03 or the standards 1342
established by the state public defender pursuant to division 1343
(B)(7) of section 120.04 of the Revised Code, the Ohio public 1344
defender commission shall notify the joint county public 1345
defender commission and the board of county commissioners of 1346
each county in the district that the joint county public 1347
defender has failed to comply with its rules or the standards of 1348
the state public defender. Unless the joint public defender 1349
commission or the joint county public defender corrects the 1350
conduct of the joint county public defender's office to comply 1351
with the rules and standards within ninety days after the date 1352
of the notice, the state public defender may deny all or part of 1353
the counties' reimbursement from the state provided for in 1354
division (A) of this section. 1355

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

counsel is provided under this section. The resolution shall 1365
include provisions for contracts with any municipal corporation 1366
under which the municipal corporation shall reimburse the county 1367
for counsel appointed to represent indigent persons charged with 1368
violations of the ordinances of the municipal corporation. 1369

(1) In a county that adopts a resolution to pay counsel, 1370
an indigent person shall have the right to do either of the 1371
following: 1372

(a) To select the person's own personal counsel to 1373
represent the person in any proceeding included within the 1374
provisions of the resolution; 1375

(b) To request the court to appoint counsel to represent 1376
the person in such a proceeding. 1377

(2) The court having jurisdiction over the proceeding in a 1378
county that adopts a resolution to pay counsel shall, after 1379
determining that the person is indigent and entitled to legal 1380
representation under this section, do either of the following: 1381

(a) By signed journal entry recorded on its docket, enter 1382
the name of the lawyer selected by the indigent person as 1383
counsel of record; 1384

(b) Appoint counsel for the indigent person if the person 1385
has requested the court to appoint counsel and, by signed 1386
journal entry recorded on its dockets, enter the name of the 1387
lawyer appointed for the indigent person as counsel of record. 1388

(3) The board of county commissioners shall establish a 1389
schedule of fees by case or on an hourly basis to be paid to 1390
counsel for legal services provided pursuant to a resolution 1391
adopted under this section. Prior to establishing the schedule, 1392
the board of county commissioners shall request the bar 1393

association or associations of the county to submit a proposed 1394
~~schedule for cases other than capital cases.~~ The schedule 1395
submitted shall be subject to the review, amendment, and 1396
approval of the board of county commissioners, ~~except with~~ 1397
~~respect to capital cases. With respect to capital cases, the~~ 1398
~~schedule shall provide for fees by case or on an hourly basis to~~ 1399
~~be paid to counsel in the amount or at the rate set by the~~ 1400
~~capital case attorney fee council pursuant to division (D) of~~ 1401
~~this section, and the board of county commissioners shall~~ 1402
~~approve that amount or rate.~~ 1403

(4) Counsel selected by the indigent person or appointed 1404
by the court at the request of an indigent person in a county 1405
that adopts a resolution to pay counsel, except for counsel 1406
appointed to represent a person charged with any violation of an 1407
ordinance of a municipal corporation that has not contracted 1408
with the county commissioners for the payment of appointed 1409
counsel, shall be paid by the county and shall receive the 1410
compensation and expenses the court approves. ~~With respect to~~ 1411
~~capital cases, the court shall approve compensation and expenses~~ 1412
~~in accordance with the amount or at the rate set by the capital~~ 1413
~~case attorney fee council pursuant to division (D) of this~~ 1414
~~section.~~ Each request for payment shall be accompanied by a 1415
financial disclosure form and an affidavit of indigency that are 1416
completed by the indigent person on forms prescribed by the 1417
state public defender. Compensation and expenses shall not 1418
exceed the amounts fixed by the board of county commissioners in 1419
the schedule adopted pursuant to division (A) (3) of this 1420
section. No court shall approve compensation and expenses that 1421
exceed the amount fixed pursuant to division (A) (3) of this 1422
section. 1423

The fees and expenses approved by the court shall not be 1424

taxed as part of the costs and shall be paid by the county. 1425
However, if the person represented has, or may reasonably be 1426
expected to have, the means to meet some part of the cost of the 1427
services rendered to the person, the person shall pay the county 1428
an amount that the person reasonably can be expected to pay. 1429
Pursuant to section 120.04 of the Revised Code, the county shall 1430
pay to the state public defender a percentage of the payment 1431
received from the person in an amount proportionate to the 1432
percentage of the costs of the person's case that were paid to 1433
the county by the state public defender pursuant to this 1434
section. The money paid to the state public defender shall be 1435
credited to the client payment fund created pursuant to division 1436
(B) (5) of section 120.04 of the Revised Code. 1437

The county auditor shall draw a warrant on the county 1438
treasurer for the payment of counsel in the amount fixed by the 1439
court, plus the expenses the court fixes and certifies to the 1440
auditor. The county auditor shall report periodically, but not 1441
less than annually, to the board of county commissioners and to 1442
the state public defender the amounts paid out pursuant to the 1443
approval of the court. The board of county commissioners, after 1444
review and approval of the auditor's report, or the county 1445
auditor, with permission from and notice to the board of county 1446
commissioners, may then certify it to the state public defender 1447
for reimbursement. The state public defender may pay a requested 1448
reimbursement only if the request for reimbursement is 1449
accompanied by a financial disclosure form and an affidavit of 1450
indigency completed by the indigent person on forms prescribed 1451
by the state public defender or if the court certifies by 1452
electronic signature as prescribed by the state public defender 1453
that a financial disclosure form and affidavit of indigency have 1454
been completed by the indigent person and are available for 1455

inspection. If a request for the reimbursement of the cost of 1456
counsel in any case is not received by the state public defender 1457
within ninety days after the end of the calendar month in which 1458
the case is finally disposed of by the court, unless the county 1459
has requested and the state public defender has granted an 1460
extension of the ninety-day limit, the state public defender 1461
shall not pay the requested reimbursement. The state public 1462
defender shall also review the report and, in accordance with 1463
the standards, guidelines, and maximums established pursuant to 1464
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1465
prepare a voucher for fifty per cent of the total cost of each 1466
county appointed counsel system in the period of time covered by 1467
the certified report ~~and a voucher for fifty per cent of the~~ 1468
~~costs and expenses that are reimbursable under section 120.35 of~~ 1469
~~the Revised Code, if any, or, if the amount of money~~ 1470
appropriated by the general assembly to reimburse counties for 1471
the operation of county public defender offices, joint county 1472
public defender offices, and county appointed counsel systems is 1473
not sufficient to pay fifty per cent of the total cost of all of 1474
the offices and systems ~~other than costs and expenses that are~~ 1475
~~reimbursable under section 120.35 of the Revised Code, for the~~ 1476
lesser amount required by section 120.34 of the Revised Code. 1477

(5) If any county appointed counsel system fails to 1478
maintain the standards for the conduct of the system established 1479
by the rules of the Ohio public defender commission pursuant to 1480
divisions (B) and (C) of section 120.03 or the standards 1481
established by the state public defender pursuant to division 1482
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1483
defender commission shall notify the board of county 1484
commissioners of the county that the county appointed counsel 1485
system has failed to comply with its rules or the standards of 1486

the state public defender. Unless the board of county 1487
commissioners corrects the conduct of its appointed counsel 1488
system to comply with the rules and standards within ninety days 1489
after the date of the notice, the state public defender may deny 1490
all or part of the county's reimbursement from the state 1491
provided for in division (A) (4) of this section. 1492

(B) In lieu of using a county public defender or joint 1493
county public defender to represent indigent persons in the 1494
proceedings set forth in division (A) of section 120.16 of the 1495
Revised Code, and in lieu of adopting the resolution and 1496
following the procedure described in division (A) of this 1497
section, the board of county commissioners of any county may 1498
contract with the state public defender for the state public 1499
defender's legal representation of indigent persons. A contract 1500
entered into pursuant to this division may provide for payment 1501
for the services provided on a per case, hourly, or fixed 1502
contract basis. 1503

~~(C) If a court appoints an attorney pursuant to this 1504
section to represent a petitioner in a postconviction relief- 1505
proceeding under section 2953.21 of the Revised Code, the 1506
petitioner has received a sentence of death, and the proceeding- 1507
relates to that sentence, the attorney who represents the 1508
petitioner in the proceeding pursuant to the appointment shall 1509
be certified under Rule 20 of the Rules of Superintendence for 1510
the Courts of Ohio to represent indigent defendants charged with 1511
or convicted of an offense for which the death penalty can be or 1512
has been imposed.- 1513~~

~~(D) (1) There is hereby created the capital case attorney- 1514
fee council, appointed as described in division (D) (2) of this 1515
section. The council shall set an amount by case, or a rate on- 1516~~

~~an hourly basis, to be paid under this section to counsel in a
capital case.~~ 1517
1518

~~(2) The capital case attorney fee council shall consist of
five members, all of whom shall be active judges serving on one
of the district courts of appeals in this state. Terms for
council members shall be the lesser of three years or until the
member ceases to be an active judge of a district court of
appeals. The initial terms shall commence ninety days after the
effective date of this amendment. The chief justice of the
supreme court shall appoint the members of the council, and
shall make all of the appointments not later than sixty days
after the effective date of this amendment. When any vacancy
occurs, the chief justice shall appoint an active judge of a
district court of appeals in this state to fill the vacancy for
the unexpired term, in the same manner as prescribed in this
division. The chief justice shall designate a chairperson from
the appointed members of the council. Members of the council
shall receive no additional compensation for their service as a
member, but may be reimbursed for expenses reasonably incurred
in service to the council, to be paid by the supreme court. The
supreme court may provide administrative support to the council.~~ 1519
1520
1521
1522
1523
1524
1525
1526
1527
1528
1529
1530
1531
1532
1533
1534
1535
1536
1537

~~(3) The capital case attorney fee council initially shall
meet not later than one hundred twenty days after the effective
date of this amendment. Thereafter, the council shall meet not
less than annually.~~ 1538
1539
1540
1541

~~(4) Upon setting the amount or rate described in division
(D) (1) of this section, the chairperson of the capital case
attorney fee council promptly shall provide written notice to
the state public defender of the amount or rate so set. The
amount or rate so set shall become effective ninety days after~~ 1542
1543
1544
1545
1546

~~the date on which the chairperson provides that written notice~~ 1547
~~to the state public defender. The council shall specify that~~ 1548
~~effective date in the written notice provided to the state~~ 1549
~~public defender. All amounts or rates set by the council shall~~ 1550
~~be final, subject to modification as described in division (D)~~ 1551
~~(5) of this section, and not subject to appeal.~~ 1552

~~(5) The capital case attorney fee council may modify an~~ 1553
~~amount or rate set as described in division (D) (4) of this~~ 1554
~~section. The provisions of that division apply with respect to~~ 1555
~~any such modification of an amount or rate.~~ 1556

Sec. 120.34. The total amount of money paid to all 1557
counties in any fiscal year pursuant to sections 120.18, 120.28, 1558
and 120.33 of the Revised Code for the reimbursement of a 1559
percentage of the counties' cost of operating county public 1560
defender offices, joint county public defender offices, and 1561
county appointed counsel systems shall not exceed the total 1562
amount appropriated for that fiscal year by the general assembly 1563
for the reimbursement of the counties for the operation of the 1564
offices and systems. If the amount appropriated by the general 1565
assembly in any fiscal year is insufficient to pay fifty per 1566
cent of the total cost in the fiscal year of all county public 1567
defender offices, all joint county public defender offices, and 1568
all county appointed counsel systems, the amount of money paid 1569
in that fiscal year pursuant to sections 120.18, 120.28, and 1570
120.33 of the Revised Code to each county for the fiscal year 1571
shall be reduced proportionately so that each county is paid an 1572
equal percentage of its total cost in the fiscal year for 1573
operating its county public defender system, its joint county 1574
public defender system, and its county appointed counsel system. 1575

~~The total amount of money paid to all counties in any~~ 1576

~~fiscal year pursuant to section 120.35 of the Revised Code for~~ 1577
~~the reimbursement of a percentage of the counties' costs and~~ 1578
~~expenses of conducting the defense in capital cases shall not~~ 1579
~~exceed the total amount appropriated for that fiscal year by the~~ 1580
~~general assembly for the reimbursement of the counties for~~ 1581
~~conducting the defense in capital cases. If the amount~~ 1582
~~appropriated by the general assembly in any fiscal year is~~ 1583
~~insufficient to pay fifty per cent of the counties' total costs~~ 1584
~~and expenses of conducting the defense in capital cases in the~~ 1585
~~fiscal year, the amount of money paid in that fiscal year~~ 1586
~~pursuant to section 120.35 of the Revised Code to each county~~ 1587
~~for the fiscal year shall be reduced proportionately so that~~ 1588
~~each county is paid an equal percentage of its costs and~~ 1589
~~expenses of conducting the defense in capital cases in the~~ 1590
~~fiscal year.~~ All payments relating to capital cases that were 1591
required to be made under the provisions of this chapter or 1592
section 2941.51 of the Revised Code as those provisions existed 1593
immediately before the effective date of this amendment shall be 1594
made for each calendar or fiscal year, as applicable, in 1595
accordance with those provisions as they existed immediately 1596
before the effective date of this amendment until each case in 1597
which a defendant was sentenced to death before the effective 1598
date of this amendment is finally resolved. 1599

If any county receives an amount of money pursuant to 1600
section 120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code 1601
that is in excess of the amount of reimbursement it is entitled 1602
to receive pursuant to this section, the state public defender 1603
shall request the board of county commissioners to return the 1604
excess payment and the board of county commissioners, upon 1605
receipt of the request, shall direct the appropriate county 1606
officer to return the excess payment to the state. 1607

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

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

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

(a) Medical records;

(b) Records pertaining to probation and parole proceedings
or to proceedings related to the imposition of community control
sanctions and post-release control sanctions;

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

(d) Records pertaining to adoption proceedings, including
the contents of an adoption file maintained by the department of
health under sections 3705.12 to 3705.124 of the Revised Code;

(e) Information in a record contained in the putative
father registry established by section 3107.062 of the Revised
Code, regardless of whether the information is held by the

department of job and family services or, pursuant to section	1637
3111.69 of the Revised Code, the office of child support in the	1638
department or a child support enforcement agency;	1639
(f) Records specified in division (A) of section 3107.52	1640
of the Revised Code;	1641
(g) Trial preparation records;	1642
(h) Confidential law enforcement investigatory records;	1643
(i) Records containing information that is confidential	1644
under section 2710.03 or 4112.05 of the Revised Code;	1645
(j) DNA records stored in the DNA database pursuant to	1646
section 109.573 of the Revised Code;	1647
(k) Inmate records released by the department of	1648
rehabilitation and correction to the department of youth	1649
services or a court of record pursuant to division (E) of	1650
section 5120.21 of the Revised Code;	1651
(l) Records maintained by the department of youth services	1652
pertaining to children in its custody released by the department	1653
of youth services to the department of rehabilitation and	1654
correction pursuant to section 5139.05 of the Revised Code;	1655
(m) Intellectual property records;	1656
(n) Donor profile records;	1657
(o) Records maintained by the department of job and family	1658
services pursuant to section 3121.894 of the Revised Code;	1659
(p) Peace officer, parole officer, probation officer,	1660
bailiff, prosecuting attorney, assistant prosecuting attorney,	1661
correctional employee, community-based correctional facility	1662
employee, youth services employee, firefighter, EMT,	1663

investigator of the bureau of criminal identification and 1664
investigation, or federal law enforcement officer residential 1665
and familial information; 1666

(q) In the case of a county hospital operated pursuant to 1667
Chapter 339. of the Revised Code or a municipal hospital 1668
operated pursuant to Chapter 749. of the Revised Code, 1669
information that constitutes a trade secret, as defined in 1670
section 1333.61 of the Revised Code; 1671

(r) Information pertaining to the recreational activities 1672
of a person under the age of eighteen; 1673

(s) In the case of a child fatality review board acting 1674
under sections 307.621 to 307.629 of the Revised Code or a 1675
review conducted pursuant to guidelines established by the 1676
director of health under section 3701.70 of the Revised Code, 1677
records provided to the board or director, statements made by 1678
board members during meetings of the board or by persons 1679
participating in the director's review, and all work products of 1680
the board or director, and in the case of a child fatality 1681
review board, child fatality review data submitted by the board 1682
to the department of health or a national child death review 1683
database, other than the report prepared pursuant to division 1684
(A) of section 307.626 of the Revised Code; 1685

(t) Records provided to and statements made by the 1686
executive director of a public children services agency or a 1687
prosecuting attorney acting pursuant to section 5153.171 of the 1688
Revised Code other than the information released under that 1689
section; 1690

(u) Test materials, examinations, or evaluation tools used 1691
in an examination for licensure as a nursing home administrator 1692

that the board of executives of long-term services and supports	1693
administers under section 4751.04 of the Revised Code or	1694
contracts under that section with a private or government entity	1695
to administer;	1696
(v) Records the release of which is prohibited by state or	1697
federal law;	1698
(w) Proprietary information of or relating to any person	1699
that is submitted to or compiled by the Ohio venture capital	1700
authority created under section 150.01 of the Revised Code;	1701
(x) Financial statements and data any person submits for	1702
any purpose to the Ohio housing finance agency or the	1703
controlling board in connection with applying for, receiving, or	1704
accounting for financial assistance from the agency, and	1705
information that identifies any individual who benefits directly	1706
or indirectly from financial assistance from the agency;	1707
(y) Records listed in section 5101.29 of the Revised Code;	1708
(z) Discharges recorded with a county recorder under	1709
section 317.24 of the Revised Code, as specified in division (B)	1710
(2) of that section;	1711
(aa) Usage information including names and addresses of	1712
specific residential and commercial customers of a municipally	1713
owned or operated public utility;	1714
(bb) Records described in division (C) of section 187.04	1715
of the Revised Code that are not designated to be made available	1716
to the public as provided in that division;	1717
(cc) Information and records that are made confidential,	1718
privileged, and not subject to disclosure under divisions (B)	1719
and (C) of section 2949.221 of the Revised Code;	1720

~~(dd)~~ Personal information, as defined in section 149.45 of
the Revised Code; 1721
1722

~~(ee)~~ (dd) The confidential name, address, and other 1723
personally identifiable information of a program participant in 1724
the address confidentiality program established under sections 1725
111.41 to 111.47 of the Revised Code, including the contents of 1726
any application for absent voter's ballots, absent voter's 1727
ballot identification envelope statement of voter, or 1728
provisional ballot affirmation completed by a program 1729
participant who has a confidential voter registration record, 1730
and records or portions of records pertaining to that program 1731
that identify the number of program participants that reside 1732
within a precinct, ward, township, municipal corporation, 1733
county, or any other geographic area smaller than the state. As 1734
used in this division, "confidential address" and "program 1735
participant" have the meaning defined in section 111.41 of the 1736
Revised Code. 1737

~~(ff)~~ (ee) Orders for active military service of an 1738
individual serving or with previous service in the armed forces 1739
of the United States, including a reserve component, or the Ohio 1740
organized militia, except that, such order becomes a public 1741
record on the day that is fifteen years after the published date 1742
or effective date of the call to order. 1743

(2) "Confidential law enforcement investigatory record" 1744
means any record that pertains to a law enforcement matter of a 1745
criminal, quasi-criminal, civil, or administrative nature, but 1746
only to the extent that the release of the record would create a 1747
high probability of disclosure of any of the following: 1748

(a) The identity of a suspect who has not been charged 1749
with the offense to which the record pertains, or of an 1750

information source or witness to whom confidentiality has been 1751
reasonably promised; 1752

(b) Information provided by an information source or 1753
witness to whom confidentiality has been reasonably promised, 1754
which information would reasonably tend to disclose the source's 1755
or witness's identity; 1756

(c) Specific confidential investigatory techniques or 1757
procedures or specific investigatory work product; 1758

(d) Information that would endanger the life or physical 1759
safety of law enforcement personnel, a crime victim, a witness, 1760
or a confidential information source. 1761

(3) "Medical record" means any document or combination of 1762
documents, except births, deaths, and the fact of admission to 1763
or discharge from a hospital, that pertains to the medical 1764
history, diagnosis, prognosis, or medical condition of a patient 1765
and that is generated and maintained in the process of medical 1766
treatment. 1767

(4) "Trial preparation record" means any record that 1768
contains information that is specifically compiled in reasonable 1769
anticipation of, or in defense of, a civil or criminal action or 1770
proceeding, including the independent thought processes and 1771
personal trial preparation of an attorney. 1772

(5) "Intellectual property record" means a record, other 1773
than a financial or administrative record, that is produced or 1774
collected by or for faculty or staff of a state institution of 1775
higher learning in the conduct of or as a result of study or 1776
research on an educational, commercial, scientific, artistic, 1777
technical, or scholarly issue, regardless of whether the study 1778
or research was sponsored by the institution alone or in 1779

conjunction with a governmental body or private concern, and 1780
that has not been publicly released, published, or patented. 1781

(6) "Donor profile record" means all records about donors 1782
or potential donors to a public institution of higher education 1783
except the names and reported addresses of the actual donors and 1784
the date, amount, and conditions of the actual donation. 1785

(7) "Peace officer, parole officer, probation officer, 1786
bailiff, prosecuting attorney, assistant prosecuting attorney, 1787
correctional employee, community-based correctional facility 1788
employee, youth services employee, firefighter, EMT, 1789
investigator of the bureau of criminal identification and 1790
investigation, or federal law enforcement officer residential 1791
and familial information" means any information that discloses 1792
any of the following about a peace officer, parole officer, 1793
probation officer, bailiff, prosecuting attorney, assistant 1794
prosecuting attorney, correctional employee, community-based 1795
correctional facility employee, youth services employee, 1796
firefighter, EMT, investigator of the bureau of criminal 1797
identification and investigation, or federal law enforcement 1798
officer: 1799

(a) The address of the actual personal residence of a 1800
peace officer, parole officer, probation officer, bailiff, 1801
assistant prosecuting attorney, correctional employee, 1802
community-based correctional facility employee, youth services 1803
employee, firefighter, EMT, an investigator of the bureau of 1804
criminal identification and investigation, or federal law 1805
enforcement officer, except for the state or political 1806
subdivision in which the peace officer, parole officer, 1807
probation officer, bailiff, assistant prosecuting attorney, 1808
correctional employee, community-based correctional facility 1809

employee, youth services employee, firefighter, EMT, 1810
investigator of the bureau of criminal identification and 1811
investigation, or federal law enforcement officer resides; 1812

(b) Information compiled from referral to or participation 1813
in an employee assistance program; 1814

(c) The social security number, the residential telephone 1815
number, any bank account, debit card, charge card, or credit 1816
card number, or the emergency telephone number of, or any 1817
medical information pertaining to, a peace officer, parole 1818
officer, probation officer, bailiff, prosecuting attorney, 1819
assistant prosecuting attorney, correctional employee, 1820
community-based correctional facility employee, youth services 1821
employee, firefighter, EMT, investigator of the bureau of 1822
criminal identification and investigation, or federal law 1823
enforcement officer; 1824

(d) The name of any beneficiary of employment benefits, 1825
including, but not limited to, life insurance benefits, provided 1826
to a peace officer, parole officer, probation officer, bailiff, 1827
prosecuting attorney, assistant prosecuting attorney, 1828
correctional employee, community-based correctional facility 1829
employee, youth services employee, firefighter, EMT, 1830
investigator of the bureau of criminal identification and 1831
investigation, or federal law enforcement officer by the peace 1832
officer's, parole officer's, probation officer's, bailiff's, 1833
prosecuting attorney's, assistant prosecuting attorney's, 1834
correctional employee's, community-based correctional facility 1835
employee's, youth services employee's, firefighter's, EMT's, 1836
investigator of the bureau of criminal identification and 1837
investigation's, or federal law enforcement officer's employer; 1838

(e) The identity and amount of any charitable or 1839

employment benefit deduction made by the peace officer's, parole 1840
officer's, probation officer's, bailiff's, prosecuting 1841
attorney's, assistant prosecuting attorney's, correctional 1842
employee's, community-based correctional facility employee's, 1843
youth services employee's, firefighter's, EMT's, investigator of 1844
the bureau of criminal identification and investigation's, or 1845
federal law enforcement officer's employer from the peace 1846
officer's, parole officer's, probation officer's, bailiff's, 1847
prosecuting attorney's, assistant prosecuting attorney's, 1848
correctional employee's, community-based correctional facility 1849
employee's, youth services employee's, firefighter's, EMT's, 1850
investigator of the bureau of criminal identification and 1851
investigation's, or federal law enforcement officer's 1852
compensation unless the amount of the deduction is required by 1853
state or federal law; 1854

(f) The name, the residential address, the name of the 1855
employer, the address of the employer, the social security 1856
number, the residential telephone number, any bank account, 1857
debit card, charge card, or credit card number, or the emergency 1858
telephone number of the spouse, a former spouse, or any child of 1859
a peace officer, parole officer, probation officer, bailiff, 1860
prosecuting attorney, assistant prosecuting attorney, 1861
correctional employee, community-based correctional facility 1862
employee, youth services employee, firefighter, EMT, 1863
investigator of the bureau of criminal identification and 1864
investigation, or federal law enforcement officer; 1865

(g) A photograph of a peace officer who holds a position 1866
or has an assignment that may include undercover or plain 1867
clothes positions or assignments as determined by the peace 1868
officer's appointing authority. 1869

As used in divisions (A) (7) and (B) (9) of this section, 1870
"peace officer" has the same meaning as in section 109.71 of the 1871
Revised Code and also includes the superintendent and troopers 1872
of the state highway patrol; it does not include the sheriff of 1873
a county or a supervisory employee who, in the absence of the 1874
sheriff, is authorized to stand in for, exercise the authority 1875
of, and perform the duties of the sheriff. 1876

As used in divisions (A) (7) and (B) (9) of this section, 1877
"correctional employee" means any employee of the department of 1878
rehabilitation and correction who in the course of performing 1879
the employee's job duties has or has had contact with inmates 1880
and persons under supervision. 1881

As used in divisions (A) (7) and (B) (9) of this section, 1882
"youth services employee" means any employee of the department 1883
of youth services who in the course of performing the employee's 1884
job duties has or has had contact with children committed to the 1885
custody of the department of youth services. 1886

As used in divisions (A) (7) and (B) (9) of this section, 1887
"firefighter" means any regular, paid or volunteer, member of a 1888
lawfully constituted fire department of a municipal corporation, 1889
township, fire district, or village. 1890

As used in divisions (A) (7) and (B) (9) of this section, 1891
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 1892
emergency medical services for a public emergency medical 1893
service organization. "Emergency medical service organization," 1894
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 1895
in section 4765.01 of the Revised Code. 1896

As used in divisions (A) (7) and (B) (9) of this section, 1897
"investigator of the bureau of criminal identification and 1898

investigation" has the meaning defined in section 2903.11 of the Revised Code. 1899
1900

As used in divisions (A)(7) and (B)(9) of this section, "federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code. 1901
1902
1903

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following: 1904
1905
1906
1907
1908

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person; 1909
1910
1911
1912

(b) The social security number, birth date, or photographic image of a person under the age of eighteen; 1913
1914

(c) Any medical record, history, or information pertaining to a person under the age of eighteen; 1915
1916

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office. 1917
1918
1919
1920
1921
1922

(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 1923
1924

(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 1925
1926

(11) "Redaction" means obscuring or deleting any 1927
information that is exempt from the duty to permit public 1928
inspection or copying from an item that otherwise meets the 1929
definition of a "record" in section 149.011 of the Revised Code. 1930

(12) "Designee" and "elected official" have the same 1931
meanings as in section 109.43 of the Revised Code. 1932

(B) (1) Upon request and subject to division (B) (8) of this 1933
section, all public records responsive to the request shall be 1934
promptly prepared and made available for inspection to any 1935
person at all reasonable times during regular business hours. 1936
Subject to division (B) (8) of this section, upon request, a 1937
public office or person responsible for public records shall 1938
make copies of the requested public record available at cost and 1939
within a reasonable period of time. If a public record contains 1940
information that is exempt from the duty to permit public 1941
inspection or to copy the public record, the public office or 1942
the person responsible for the public record shall make 1943
available all of the information within the public record that 1944
is not exempt. When making that public record available for 1945
public inspection or copying that public record, the public 1946
office or the person responsible for the public record shall 1947
notify the requester of any redaction or make the redaction 1948
plainly visible. A redaction shall be deemed a denial of a 1949
request to inspect or copy the redacted information, except if 1950
federal or state law authorizes or requires a public office to 1951
make the redaction. 1952

(2) To facilitate broader access to public records, a 1953
public office or the person responsible for public records shall 1954
organize and maintain public records in a manner that they can 1955
be made available for inspection or copying in accordance with 1956

division (B) of this section. A public office also shall have 1957
available a copy of its current records retention schedule at a 1958
location readily available to the public. If a requester makes 1959
an ambiguous or overly broad request or has difficulty in making 1960
a request for copies or inspection of public records under this 1961
section such that the public office or the person responsible 1962
for the requested public record cannot reasonably identify what 1963
public records are being requested, the public office or the 1964
person responsible for the requested public record may deny the 1965
request but shall provide the requester with an opportunity to 1966
revise the request by informing the requester of the manner in 1967
which records are maintained by the public office and accessed 1968
in the ordinary course of the public office's or person's 1969
duties. 1970

(3) If a request is ultimately denied, in part or in 1971
whole, the public office or the person responsible for the 1972
requested public record shall provide the requester with an 1973
explanation, including legal authority, setting forth why the 1974
request was denied. If the initial request was provided in 1975
writing, the explanation also shall be provided to the requester 1976
in writing. The explanation shall not preclude the public office 1977
or the person responsible for the requested public record from 1978
relying upon additional reasons or legal authority in defending 1979
an action commenced under division (C) of this section. 1980

(4) Unless specifically required or authorized by state or 1981
federal law or in accordance with division (B) of this section, 1982
no public office or person responsible for public records may 1983
limit or condition the availability of public records by 1984
requiring disclosure of the requester's identity or the intended 1985
use of the requested public record. Any requirement that the 1986
requester disclose the requester's identity or the intended use 1987

of the requested public record constitutes a denial of the request. 1988
1989

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester. 1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this 2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018

section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

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

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

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

(i) A public office may limit the number of records requested by a person that the office will physically deliver by United States mail or by another delivery service to ten per month, unless the person certifies to the office in writing that

the person does not intend to use or forward the requested 2049
records, or the information contained in them, for commercial 2050
purposes; 2051

(ii) A public office that chooses to provide some or all 2052
of its public records on a web site that is fully accessible to 2053
and searchable by members of the public at all times, other than 2054
during acts of God outside the public office's control or 2055
maintenance, and that charges no fee to search, access, 2056
download, or otherwise receive records provided on the web site, 2057
may limit to ten per month the number of records requested by a 2058
person that the office will deliver in a digital format, unless 2059
the requested records are not provided on the web site and 2060
unless the person certifies to the office in writing that the 2061
person does not intend to use or forward the requested records, 2062
or the information contained in them, for commercial purposes. 2063

(iii) For purposes of division (B)(7) of this section, 2064
"commercial" shall be narrowly construed and does not include 2065
reporting or gathering news, reporting or gathering information 2066
to assist citizen oversight or understanding of the operation or 2067
activities of government, or nonprofit educational research. 2068

(8) A public office or person responsible for public 2069
records is not required to permit a person who is incarcerated 2070
pursuant to a criminal conviction or a juvenile adjudication to 2071
inspect or to obtain a copy of any public record concerning a 2072
criminal investigation or prosecution or concerning what would 2073
be a criminal investigation or prosecution if the subject of the 2074
investigation or prosecution were an adult, unless the request 2075
to inspect or to obtain a copy of the record is for the purpose 2076
of acquiring information that is subject to release as a public 2077
record under this section and the judge who imposed the sentence 2078

or made the adjudication with respect to the person, or the 2079
judge's successor in office, finds that the information sought 2080
in the public record is necessary to support what appears to be 2081
a justiciable claim of the person. 2082

(9) (a) Upon written request made and signed by a 2083
journalist on or after December 16, 1999, a public office, or 2084
person responsible for public records, having custody of the 2085
records of the agency employing a specified peace officer, 2086
parole officer, probation officer, bailiff, prosecuting 2087
attorney, assistant prosecuting attorney, correctional employee, 2088
community-based correctional facility employee, youth services 2089
employee, firefighter, EMT, investigator of the bureau of 2090
criminal identification and investigation, or federal law 2091
enforcement officer shall disclose to the journalist the address 2092
of the actual personal residence of the peace officer, parole 2093
officer, probation officer, bailiff, prosecuting attorney, 2094
assistant prosecuting attorney, correctional employee, 2095
community-based correctional facility employee, youth services 2096
employee, firefighter, EMT, investigator of the bureau of 2097
criminal identification and investigation, or federal law 2098
enforcement officer and, if the peace officer's, parole 2099
officer's, probation officer's, bailiff's, prosecuting 2100
attorney's, assistant prosecuting attorney's, correctional 2101
employee's, community-based correctional facility employee's, 2102
youth services employee's, firefighter's, EMT's, investigator of 2103
the bureau of criminal identification and investigation's, or 2104
federal law enforcement officer's spouse, former spouse, or 2105
child is employed by a public office, the name and address of 2106
the employer of the peace officer's, parole officer's, probation 2107
officer's, bailiff's, prosecuting attorney's, assistant 2108
prosecuting attorney's, correctional employee's, community-based 2109

correctional facility employee's, youth services employee's, 2110
firefighter's, EMT's, investigator of the bureau of criminal 2111
identification and investigation's, or federal law enforcement 2112
officer's spouse, former spouse, or child. The request shall 2113
include the journalist's name and title and the name and address 2114
of the journalist's employer and shall state that disclosure of 2115
the information sought would be in the public interest. 2116

(b) Division (B) (9) (a) of this section also applies to 2117
journalist requests for customer information maintained by a 2118
municipally owned or operated public utility, other than social 2119
security numbers and any private financial information such as 2120
credit reports, payment methods, credit card numbers, and bank 2121
account information. 2122

(c) As used in division (B) (9) of this section, 2123
"journalist" means a person engaged in, connected with, or 2124
employed by any news medium, including a newspaper, magazine, 2125
press association, news agency, or wire service, a radio or 2126
television station, or a similar medium, for the purpose of 2127
gathering, processing, transmitting, compiling, editing, or 2128
disseminating information for the general public. 2129

(C) (1) If a person allegedly is aggrieved by the failure 2130
of a public office or the person responsible for public records 2131
to promptly prepare a public record and to make it available to 2132
the person for inspection in accordance with division (B) of 2133
this section or by any other failure of a public office or the 2134
person responsible for public records to comply with an 2135
obligation in accordance with division (B) of this section, the 2136
person allegedly aggrieved may do only one of the following, and 2137
not both: 2138

(a) File a complaint with the clerk of the court of claims 2139

or the clerk of the court of common pleas under section 2743.75 2140
of the Revised Code; 2141

(b) Commence a mandamus action to obtain a judgment that 2142
orders the public office or the person responsible for the 2143
public record to comply with division (B) of this section, that 2144
awards court costs and reasonable attorney's fees to the person 2145
that instituted the mandamus action, and, if applicable, that 2146
includes an order fixing statutory damages under division (C) (2) 2147
of this section. The mandamus action may be commenced in the 2148
court of common pleas of the county in which division (B) of 2149
this section allegedly was not complied with, in the supreme 2150
court pursuant to its original jurisdiction under Section 2 of 2151
Article IV, Ohio Constitution, or in the court of appeals for 2152
the appellate district in which division (B) of this section 2153
allegedly was not complied with pursuant to its original 2154
jurisdiction under Section 3 of Article IV, Ohio Constitution. 2155

(2) If a requester transmits a written request by hand 2156
delivery or certified mail to inspect or receive copies of any 2157
public record in a manner that fairly describes the public 2158
record or class of public records to the public office or person 2159
responsible for the requested public records, except as 2160
otherwise provided in this section, the requester shall be 2161
entitled to recover the amount of statutory damages set forth in 2162
this division if a court determines that the public office or 2163
the person responsible for public records failed to comply with 2164
an obligation in accordance with division (B) of this section. 2165

The amount of statutory damages shall be fixed at one 2166
hundred dollars for each business day during which the public 2167
office or person responsible for the requested public records 2168
failed to comply with an obligation in accordance with division 2169

(B) of this section, beginning with the day on which the
requester files a mandamus action to recover statutory damages,
up to a maximum of one thousand dollars. The award of statutory
damages shall not be construed as a penalty, but as compensation
for injury arising from lost use of the requested information.
The existence of this injury shall be conclusively presumed. The
award of statutory damages shall be in addition to all other
remedies authorized by this section.

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

(a) That, based on the ordinary application of statutory
law and case law as it existed at the time of the conduct or
threatened conduct of the public office or person responsible
for the requested public records that allegedly constitutes a
failure to comply with an obligation in accordance with division
(B) of this section and that was the basis of the mandamus
action, a well-informed public office or person responsible for
the requested public records reasonably would believe that the
conduct or threatened conduct of the public office or person
responsible for the requested public records did not constitute
a failure to comply with an obligation in accordance with
division (B) of this section;

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

(3) In a mandamus action filed under division (C) (1) of

this section, the following apply: 2200

(a) (i) If the court orders the public office or the person 2201
responsible for the public record to comply with division (B) of 2202
this section, the court shall determine and award to the relator 2203
all court costs, which shall be construed as remedial and not 2204
punitive. 2205

(ii) If the court makes a determination described in 2206
division (C) (3) (b) (iii) of this section, the court shall 2207
determine and award to the relator all court costs, which shall 2208
be construed as remedial and not punitive. 2209

(b) If the court renders a judgment that orders the public 2210
office or the person responsible for the public record to comply 2211
with division (B) of this section or if the court determines any 2212
of the following, the court may award reasonable attorney's fees 2213
to the relator, subject to the provisions of division (C) (4) of 2214
this section: 2215

(i) The public office or the person responsible for the 2216
public records failed to respond affirmatively or negatively to 2217
the public records request in accordance with the time allowed 2218
under division (B) of this section. 2219

(ii) The public office or the person responsible for the 2220
public records promised to permit the relator to inspect or 2221
receive copies of the public records requested within a 2222
specified period of time but failed to fulfill that promise 2223
within that specified period of time. 2224

(iii) The public office or the person responsible for the 2225
public records acted in bad faith when the office or person 2226
voluntarily made the public records available to the relator for 2227
the first time after the relator commenced the mandamus action, 2228

but before the court issued any order concluding whether or not 2229
the public office or person was required to comply with division 2230
(B) of this section. No discovery may be conducted on the issue 2231
of the alleged bad faith of the public office or person 2232
responsible for the public records. This division shall not be 2233
construed as creating a presumption that the public office or 2234
the person responsible for the public records acted in bad faith 2235
when the office or person voluntarily made the public records 2236
available to the relator for the first time after the relator 2237
commenced the mandamus action, but before the court issued any 2238
order described in this division. 2239

(c) The court shall not award attorney's fees to the 2240
relator if the court determines both of the following: 2241

(i) That, based on the ordinary application of statutory 2242
law and case law as it existed at the time of the conduct or 2243
threatened conduct of the public office or person responsible 2244
for the requested public records that allegedly constitutes a 2245
failure to comply with an obligation in accordance with division 2246
(B) of this section and that was the basis of the mandamus 2247
action, a well-informed public office or person responsible for 2248
the requested public records reasonably would believe that the 2249
conduct or threatened conduct of the public office or person 2250
responsible for the requested public records did not constitute 2251
a failure to comply with an obligation in accordance with 2252
division (B) of this section; 2253

(ii) That a well-informed public office or person 2254
responsible for the requested public records reasonably would 2255
believe that the conduct or threatened conduct of the public 2256
office or person responsible for the requested public records 2257
would serve the public policy that underlies the authority that 2258

is asserted as permitting that conduct or threatened conduct. 2259

(4) All of the following apply to any award of reasonable 2260
attorney's fees awarded under division (C) (3) (b) of this 2261
section: 2262

(a) The fees shall be construed as remedial and not 2263
punitive. 2264

(b) The fees awarded shall not exceed the total of the 2265
reasonable attorney's fees incurred before the public record was 2266
made available to the relator and the fees described in division 2267
(C) (4) (c) of this section. 2268

(c) Reasonable attorney's fees shall include reasonable 2269
fees incurred to produce proof of the reasonableness and amount 2270
of the fees and to otherwise litigate entitlement to the fees. 2271

(d) The court may reduce the amount of fees awarded if the 2272
court determines that, given the factual circumstances involved 2273
with the specific public records request, an alternative means 2274
should have been pursued to more effectively and efficiently 2275
resolve the dispute that was subject to the mandamus action 2276
filed under division (C) (1) of this section. 2277

(5) If the court does not issue a writ of mandamus under 2278
division (C) of this section and the court determines at that 2279
time that the bringing of the mandamus action was frivolous 2280
conduct as defined in division (A) of section 2323.51 of the 2281
Revised Code, the court may award to the public office all court 2282
costs, expenses, and reasonable attorney's fees, as determined 2283
by the court. 2284

(D) Chapter 1347. of the Revised Code does not limit the 2285
provisions of this section. 2286

(E) (1) To ensure that all employees of public offices are 2287
appropriately educated about a public office's obligations under 2288
division (B) of this section, all elected officials or their 2289
appropriate designees shall attend training approved by the 2290
attorney general as provided in section 109.43 of the Revised 2291
Code. In addition, all public offices shall adopt a public 2292
records policy in compliance with this section for responding to 2293
public records requests. In adopting a public records policy 2294
under this division, a public office may obtain guidance from 2295
the model public records policy developed and provided to the 2296
public office by the attorney general under section 109.43 of 2297
the Revised Code. Except as otherwise provided in this section, 2298
the policy may not limit the number of public records that the 2299
public office will make available to a single person, may not 2300
limit the number of public records that it will make available 2301
during a fixed period of time, and may not establish a fixed 2302
period of time before it will respond to a request for 2303
inspection or copying of public records, unless that period is 2304
less than eight hours. 2305

(2) The public office shall distribute the public records 2306
policy adopted by the public office under division (E) (1) of 2307
this section to the employee of the public office who is the 2308
records custodian or records manager or otherwise has custody of 2309
the records of that office. The public office shall require that 2310
employee to acknowledge receipt of the copy of the public 2311
records policy. The public office shall create a poster that 2312
describes its public records policy and shall post the poster in 2313
a conspicuous place in the public office and in all locations 2314
where the public office has branch offices. The public office 2315
may post its public records policy on the internet web site of 2316
the public office if the public office maintains an internet web 2317

site. A public office that has established a manual or handbook 2318
of its general policies and procedures for all employees of the 2319
public office shall include the public records policy of the 2320
public office in the manual or handbook. 2321

(F) (1) The bureau of motor vehicles may adopt rules 2322
pursuant to Chapter 119. of the Revised Code to reasonably limit 2323
the number of bulk commercial special extraction requests made 2324
by a person for the same records or for updated records during a 2325
calendar year. The rules may include provisions for charges to 2326
be made for bulk commercial special extraction requests for the 2327
actual cost of the bureau, plus special extraction costs, plus 2328
ten per cent. The bureau may charge for expenses for redacting 2329
information, the release of which is prohibited by law. 2330

(2) As used in division (F) (1) of this section: 2331

(a) "Actual cost" means the cost of depleted supplies, 2332
records storage media costs, actual mailing and alternative 2333
delivery costs, or other transmitting costs, and any direct 2334
equipment operating and maintenance costs, including actual 2335
costs paid to private contractors for copying services. 2336

(b) "Bulk commercial special extraction request" means a 2337
request for copies of a record for information in a format other 2338
than the format already available, or information that cannot be 2339
extracted without examination of all items in a records series, 2340
class of records, or database by a person who intends to use or 2341
forward the copies for surveys, marketing, solicitation, or 2342
resale for commercial purposes. "Bulk commercial special 2343
extraction request" does not include a request by a person who 2344
gives assurance to the bureau that the person making the request 2345
does not intend to use or forward the requested copies for 2346
surveys, marketing, solicitation, or resale for commercial 2347

purposes. 2348

(c) "Commercial" means profit-seeking production, buying, 2349
or selling of any good, service, or other product. 2350

(d) "Special extraction costs" means the cost of the time 2351
spent by the lowest paid employee competent to perform the task, 2352
the actual amount paid to outside private contractors employed 2353
by the bureau, or the actual cost incurred to create computer 2354
programs to make the special extraction. "Special extraction 2355
costs" include any charges paid to a public agency for computer 2356
or records services. 2357

(3) For purposes of divisions (F) (1) and (2) of this 2358
section, "surveys, marketing, solicitation, or resale for 2359
commercial purposes" shall be narrowly construed and does not 2360
include reporting or gathering news, reporting or gathering 2361
information to assist citizen oversight or understanding of the 2362
operation or activities of government, or nonprofit educational 2363
research. 2364

(G) A request by a defendant, counsel of a defendant, or 2365
any agent of a defendant in a criminal action that public 2366
records related to that action be made available under this 2367
section shall be considered a demand for discovery pursuant to 2368
the Criminal Rules, except to the extent that the Criminal Rules 2369
plainly indicate a contrary intent. The defendant, counsel of 2370
the defendant, or agent of the defendant making a request under 2371
this division shall serve a copy of the request on the 2372
prosecuting attorney, director of law, or other chief legal 2373
officer responsible for prosecuting the action. 2374

Sec. 1901.183. In addition to jurisdiction otherwise 2375
granted in this chapter, the environmental division of a 2376

municipal court shall have jurisdiction within its territory in 2377
all of the following actions or proceedings and to perform all 2378
of the following functions: 2379

(A) Notwithstanding any monetary limitations in section 2380
1901.17 of the Revised Code, in all actions and proceedings for 2381
the sale of real or personal property under lien of a judgment 2382
of the environmental division of the municipal court, or a lien 2383
for machinery, material, fuel furnished, or labor performed, 2384
irrespective of amount, and, in those cases, the environmental 2385
division may proceed to foreclose and marshal all liens and all 2386
vested or contingent rights, to appoint a receiver, and to 2387
render personal judgment irrespective of amount in favor of any 2388
party; 2389

(B) When in aid of execution of a judgment of the 2390
environmental division of the municipal court, in all actions 2391
for the foreclosure of a mortgage on real property given to 2392
secure the payment of money, or the enforcement of a specific 2393
lien for money or other encumbrance or charge on real property, 2394
when the real property is situated within the territory, and, in 2395
those cases, the environmental division may proceed to foreclose 2396
all liens and all vested and contingent rights and proceed to 2397
render judgments, and make findings and orders, between the 2398
parties, in the same manner and to the same extent as in similar 2399
cases in the court of common pleas; 2400

(C) When in aid of execution of a judgment of the 2401
environmental division of the municipal court, in all actions 2402
for the recovery of real property situated within the territory 2403
to the same extent as courts of common pleas have jurisdiction; 2404

(D) In all actions for injunction to prevent or terminate 2405
violations of the ordinances and regulations of any municipal 2406

corporation within its territory enacted or promulgated under 2407
the police power of that municipal corporation pursuant to 2408
Section 3 of Article XVIII, Ohio Constitution, over which the 2409
court of common pleas has or may have jurisdiction, and, in 2410
those cases, the environmental division of the municipal court 2411
may proceed to render judgments, and make findings and orders, 2412
in the same manner and to the same extent as in similar cases in 2413
the court of common pleas; 2414

(E) In all actions for injunction to prevent or terminate 2415
violations of the resolutions and regulations of any political 2416
subdivision within its territory enacted or promulgated under 2417
the power of that political subdivision pursuant to Article X of 2418
the Ohio Constitution, over which the court of common pleas has 2419
or may have jurisdiction, and, in those cases, the environmental 2420
division of the municipal court may proceed to render judgments, 2421
and make findings and orders, in the same manner and to the same 2422
extent as in similar cases in the court of common pleas; 2423

(F) In any civil action to enforce any provision of 2424
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 2425
Revised Code over which the court of common pleas has or may 2426
have jurisdiction, and, in those actions, the environmental 2427
division of the municipal court may proceed to render judgments, 2428
and make findings and orders, in the same manner and to the same 2429
extent as in similar actions in the court of common pleas; 2430

(G) In all actions and proceedings in the nature of 2431
creditors' bills, and in aid of execution to subject the 2432
interests of a judgment debtor in real or personal property to 2433
the payment of a judgment of the division, and, in those actions 2434
and proceedings, the environmental division may proceed to 2435
marshal and foreclose all liens on the property irrespective of 2436

the amount of the lien, and all vested or contingent rights in 2437
the property; 2438

(H) Concurrent jurisdiction with the court of common pleas 2439
of all criminal actions or proceedings related to the pollution 2440
of the air, ground, or water within the territory of the 2441
environmental division of the municipal court, ~~for which a~~ 2442
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 2443
~~Revised Code;~~ 2444

(I) In any review or appeal of any final order of any 2445
administrative officer, agency, board, department, tribunal, 2446
commission, or other instrumentality that relates to a local 2447
building, housing, air pollution, sanitation, health, fire, 2448
zoning, or safety code, ordinance, or regulation, in the same 2449
manner and to the same extent as in similar appeals in the court 2450
of common pleas; 2451

(J) With respect to the environmental division of the 2452
Franklin county municipal court, to hear appeals from 2453
adjudication hearings conducted under Chapter 956. of the 2454
Revised Code. 2455

Sec. 2152.13. (A) A juvenile court shall impose a serious 2456
youthful dispositional sentence on a child when required under 2457
division (B) (3) of section 2152.121 of the Revised Code. In such 2458
a case, the remaining provisions of this division and divisions 2459
(B) and (C) do not apply to the child, and the court shall 2460
impose the mandatory serious youthful dispositional sentence 2461
under division (D) (1) of this section. 2462

In all other cases, a juvenile court may impose a serious 2463
youthful offender dispositional sentence on a child only if the 2464
prosecuting attorney of the county in which the delinquent act 2465

allegedly occurred initiates the process against the child in 2466
accordance with this division, and the child is an alleged 2467
delinquent child who is eligible for the dispositional sentence. 2468
The prosecuting attorney may initiate the process in any of the 2469
following ways: 2470

(1) Obtaining an indictment of the child as a serious 2471
youthful offender; 2472

(2) The child waives the right to indictment, charging the 2473
child in a bill of information as a serious youthful offender; 2474

(3) Until an indictment or information is obtained, 2475
requesting a serious youthful offender dispositional sentence in 2476
the original complaint alleging that the child is a delinquent 2477
child; 2478

(4) Until an indictment or information is obtained, if the 2479
original complaint does not request a serious youthful offender 2480
dispositional sentence, filing with the juvenile court a written 2481
notice of intent to seek a serious youthful offender 2482
dispositional sentence within twenty days after the later of the 2483
following, unless the time is extended by the juvenile court for 2484
good cause shown: 2485

(a) The date of the child's first juvenile court hearing 2486
regarding the complaint; 2487

(b) The date the juvenile court determines not to transfer 2488
the case under section 2152.12 of the Revised Code. 2489

After a written notice is filed under division (A) (4) of 2490
this section, the juvenile court shall serve a copy of the 2491
notice on the child and advise the child of the prosecuting 2492
attorney's intent to seek a serious youthful offender 2493
dispositional sentence in the case. 2494

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

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

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

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

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

(c) If the child is not charged by an original complaint 2525
that requests a serious youthful offender dispositional 2526
sentence, on the date that the prosecuting attorney files the 2527
written notice of intent to seek a serious youthful offender 2528
dispositional sentence. 2529

(2) If the child is detained awaiting adjudication, upon 2530
indictment or being charged by information, the child has the 2531
same right to bail as an adult charged with the offense the 2532
alleged delinquent act would be if committed by an adult. Except 2533
as provided in division (D) of section 2152.14 of the Revised 2534
Code, all provisions of Title XXIX of the Revised Code and the 2535
Criminal Rules shall apply in the case and to the child. The 2536
juvenile court shall afford the child all rights afforded a 2537
person who is prosecuted for committing a crime including the 2538
right to counsel and the right to raise the issue of competency. 2539
The child may not waive the right to counsel. 2540

(D)(1) If a child is adjudicated a delinquent child for 2541
committing an act under circumstances that require the juvenile 2542
court to impose upon the child a serious youthful offender 2543
dispositional sentence under section 2152.11 of the Revised 2544
Code, all of the following apply: 2545

(a) The juvenile court shall impose upon the child a 2546
sentence available for the violation, as if the child were an 2547
adult, under Chapter 2929. of the Revised Code, except that the 2548
juvenile court shall not impose on the child a sentence of ~~death-~~ 2549
~~or~~-life imprisonment without parole. 2550

(b) The juvenile court also shall impose upon the child 2551
one or more traditional juvenile dispositions under sections 2552
2152.16, 2152.19, and 2152.20, and, if applicable, section 2553
2152.17 of the Revised Code. 2554

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

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

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

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

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

(b) If the juvenile court does not find that a sentence 2584
should be imposed under division (D) (2) (a) (i) of this section, 2585
the juvenile court may impose one or more traditional juvenile 2586
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 2587
applicable, section 2152.17 of the Revised Code. 2588

(3) A child upon whom a serious youthful offender 2589
dispositional sentence is imposed under division (D) (1) or (2) 2590
of this section has a right to appeal under division (A) (1), 2591
(3), (4), or (5) of section 2953.08 of the Revised Code the 2592
adult portion of the serious youthful offender dispositional 2593
sentence when any of those divisions apply. The child may appeal 2594
the adult portion, and the court shall consider the appeal as if 2595
the adult portion were not stayed. 2596

Sec. 2152.67. Any adult who is arrested or charged under 2597
any provision in this chapter and who is charged with a crime 2598
may demand a trial by jury, or the juvenile judge upon the 2599
judge's own motion may call a jury. A demand for a jury trial 2600
shall be made in writing in not less than three days before the 2601
date set for trial, or within three days after counsel has been 2602
retained, whichever is later. Sections 2945.17 and 2945.23 to 2603
2945.36 of the Revised Code, relating to the drawing and 2604
impaneling of jurors in criminal cases in the court of common 2605
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 2606
under this section. The compensation of jurors and costs of the 2607
clerk and sheriff shall be taxed and paid in the same manner as 2608
in criminal cases in the court of common pleas. 2609

Sec. 2301.20. All civil and criminal actions in the court 2610
of common pleas shall be recorded. The reporter shall take 2611
accurate notes of or electronically record the oral testimony. 2612
The notes and electronic records shall be filed in the office of 2613

the official reporter and carefully preserved for ~~either of the~~ 2614
~~following periods of time:~~ 2615

~~(A) If the action is not a capital case, the notes and~~ 2616
~~electronic records shall be preserved for the period of time~~ 2617
specified by the court of common pleas, which period of time 2618
shall not be longer than the period of time that the other 2619
records of the particular action are required to be kept. 2620

~~(B) If the action is a capital case, the notes and~~ 2621
~~electronic records shall be preserved for the longer of ten~~ 2622
~~years or until the final disposition of the action and~~ 2623
~~exhaustion of all appeals.~~ 2624

Sec. 2307.60. (A) (1) Anyone injured in person or property 2625
by a criminal act has, and may recover full damages in, a civil 2626
action unless specifically excepted by law, may recover the 2627
costs of maintaining the civil action and attorney's fees if 2628
authorized by any provision of the Rules of Civil Procedure or 2629
another section of the Revised Code or under the common law of 2630
this state, and may recover punitive or exemplary damages if 2631
authorized by section 2315.21 or another section of the Revised 2632
Code. 2633

(2) A final judgment of a trial court that has not been 2634
reversed on appeal or otherwise set aside, nullified, or 2635
vacated, entered after a trial or upon a plea of guilty, but not 2636
upon a plea of no contest or the equivalent plea from another 2637
jurisdiction, that adjudges an offender guilty of an offense of 2638
violence punishable by ~~death or~~ imprisonment in excess of one 2639
year, when entered as evidence in any subsequent civil 2640
proceeding based on the criminal act, shall preclude the 2641
offender from denying in the subsequent civil proceeding any 2642
fact essential to sustaining that judgment, unless the offender 2643

can demonstrate that extraordinary circumstances prevented the 2644
offender from having a full and fair opportunity to litigate the 2645
issue in the criminal proceeding or other extraordinary 2646
circumstances justify affording the offender an opportunity to 2647
relitigate the issue. The offender may introduce evidence of the 2648
offender's pending appeal of the final judgment of the trial 2649
court, if applicable, and the court may consider that evidence 2650
in determining the liability of the offender. 2651

(B) (1) As used in division (B) of this section: 2652

(a) "Tort action" means a civil action for damages for 2653
injury, death, or loss to person or property other than a civil 2654
action for damages for a breach of contract or another agreement 2655
between persons. "Tort action" includes, but is not limited to, 2656
a product liability claim, as defined in section 2307.71 of the 2657
Revised Code, and an asbestos claim, as defined in section 2658
2307.91 of the Revised Code, an action for wrongful death under 2659
Chapter 2125. of the Revised Code, and an action based on 2660
derivative claims for relief. 2661

(b) "Residence" has the same meaning as in section 2901.05 2662
of the Revised Code. 2663

(2) Recovery on a claim for relief in a tort action is 2664
barred to any person or the person's legal representative if any 2665
of the following apply: 2666

(a) The person has been convicted of or has pleaded guilty 2667
to a felony, or to a misdemeanor that is an offense of violence, 2668
arising out of criminal conduct that was a proximate cause of 2669
the injury or loss for which relief is claimed in the tort 2670
action. 2671

(b) The person engaged in conduct that, if prosecuted, 2672

would constitute a felony, a misdemeanor that is an offense of 2673
violence, an attempt to commit a felony, or an attempt to commit 2674
a misdemeanor that is an offense of violence and that conduct 2675
was a proximate cause of the injury or loss for which relief is 2676
claimed in the tort action, regardless of whether the person has 2677
been convicted of or pleaded guilty to or has been charged with 2678
committing the felony, the misdemeanor, or the attempt to commit 2679
the felony or misdemeanor. 2680

(c) The person suffered the injury or loss for which 2681
relief is claimed in the tort action as a proximate result of 2682
the victim of conduct that, if prosecuted, would constitute a 2683
felony, a misdemeanor that is an offense of violence, an attempt 2684
to commit a felony, or an attempt to commit a misdemeanor that 2685
is an offense of violence acting against the person in self- 2686
defense, defense of another, or defense of the victim's 2687
residence, regardless of whether the person has been convicted 2688
of or pleaded guilty to or has been charged with committing the 2689
felony, the misdemeanor, or the attempt to commit the felony or 2690
misdemeanor. Division (B) (2) (c) of this section does not apply 2691
if the person who suffered the injury or loss, at the time of 2692
the victim's act of self-defense, defense of another, or defense 2693
of residence, was an innocent bystander who had no connection 2694
with the underlying conduct that prompted the victim's exercise 2695
of self-defense, defense of another, or defense of residence. 2696

(3) Recovery against a victim of conduct that, if 2697
prosecuted, would constitute a felony, a misdemeanor that is an 2698
offense of violence, an attempt to commit a felony, or an 2699
attempt to commit a misdemeanor that is an offense of violence, 2700
on a claim for relief in a tort action is barred to any person 2701
or the person's legal representative if conduct the person 2702
engaged in against that victim was a proximate cause of the 2703

injury or loss for which relief is claimed in the tort action 2704
and that conduct, if prosecuted, would constitute a felony, a 2705
misdemeanor that is an offense of violence, an attempt to commit 2706
a felony, or an attempt to commit a misdemeanor that is an 2707
offense of violence, regardless of whether the person has been 2708
convicted of or pleaded guilty to or has been charged with 2709
committing the felony, the misdemeanor, or the attempt to commit 2710
the felony or misdemeanor. 2711

(4) Divisions (B) (1) to (3) of this section do not apply 2712
to civil claims based upon alleged intentionally tortious 2713
conduct, alleged violations of the United States Constitution, 2714
or alleged violations of statutes of the United States 2715
pertaining to civil rights. For purposes of division (B) (4) of 2716
this section, a person's act of self-defense, defense of 2717
another, or defense of the person's residence does not 2718
constitute intentionally tortious conduct. 2719

Sec. 2317.02. The following persons shall not testify in 2720
certain respects: 2721

(A) (1) An attorney, concerning a communication made to the 2722
attorney by a client in that relation or concerning the 2723
attorney's advice to a client, except that the attorney may 2724
testify by express consent of the client or, if the client is 2725
deceased, by the express consent of the surviving spouse or the 2726
executor or administrator of the estate of the deceased client. 2727
However, if the client voluntarily reveals the substance of 2728
attorney-client communications in a nonprivileged context or is 2729
deemed by section 2151.421 of the Revised Code to have waived 2730
any testimonial privilege under this division, the attorney may 2731
be compelled to testify on the same subject. 2732

The testimonial privilege established under this division 2733

does not apply concerning ~~either of the following:~~ 2734

~~(a) A communication between a client in a capital case, as 2735
defined in section 2901.02 of the Revised Code, and the client's 2736
attorney if the communication is relevant to a subsequent 2737
ineffective assistance of counsel claim by the client alleging 2738
that the attorney did not effectively represent the client in 2739
the case; 2740~~

~~(b) A a communication between a client who has since died 2741
and the deceased client's attorney if the communication is 2742
relevant to a dispute between parties who claim through that 2743
deceased client, regardless of whether the claims are by testate 2744
or intestate succession or by inter vivos transaction, and the 2745
dispute addresses the competency of the deceased client when the 2746
deceased client executed a document that is the basis of the 2747
dispute or whether the deceased client was a victim of fraud, 2748
undue influence, or duress when the deceased client executed a 2749
document that is the basis of the dispute. 2750~~

(2) An attorney, concerning a communication made to the 2751
attorney by a client in that relationship or the attorney's 2752
advice to a client, except that if the client is an insurance 2753
company, the attorney may be compelled to testify, subject to an 2754
in camera inspection by a court, about communications made by 2755
the client to the attorney or by the attorney to the client that 2756
are related to the attorney's aiding or furthering an ongoing or 2757
future commission of bad faith by the client, if the party 2758
seeking disclosure of the communications has made a prima-facie 2759
showing of bad faith, fraud, or criminal misconduct by the 2760
client. 2761

(B) (1) A physician, advanced practice registered nurse, or 2762
dentist concerning a communication made to the physician, 2763

advanced practice registered nurse, or dentist by a patient in 2764
that relation or the advice of a physician, advanced practice 2765
registered nurse, or dentist given to a patient, except as 2766
otherwise provided in this division, division (B) (2), and 2767
division (B) (3) of this section, and except that, if the patient 2768
is deemed by section 2151.421 of the Revised Code to have waived 2769
any testimonial privilege under this division, the physician or 2770
advanced practice registered nurse may be compelled to testify 2771
on the same subject. 2772

The testimonial privilege established under this division 2773
does not apply, and a physician, advanced practice registered 2774
nurse, or dentist may testify or may be compelled to testify, in 2775
any of the following circumstances: 2776

(a) In any civil action, in accordance with the discovery 2777
provisions of the Rules of Civil Procedure in connection with a 2778
civil action, or in connection with a claim under Chapter 4123. 2779
of the Revised Code, under any of the following circumstances: 2780

(i) If the patient or the guardian or other legal 2781
representative of the patient gives express consent; 2782

(ii) If the patient is deceased, the spouse of the patient 2783
or the executor or administrator of the patient's estate gives 2784
express consent; 2785

(iii) If a medical claim, dental claim, chiropractic 2786
claim, or optometric claim, as defined in section 2305.113 of 2787
the Revised Code, an action for wrongful death, any other type 2788
of civil action, or a claim under Chapter 4123. of the Revised 2789
Code is filed by the patient, the personal representative of the 2790
estate of the patient if deceased, or the patient's guardian or 2791
other legal representative. 2792

(b) In any civil action concerning court-ordered treatment 2793
or services received by a patient, if the court-ordered 2794
treatment or services were ordered as part of a case plan 2795
journalized under section 2151.412 of the Revised Code or the 2796
court-ordered treatment or services are necessary or relevant to 2797
dependency, neglect, or abuse or temporary or permanent custody 2798
proceedings under Chapter 2151. of the Revised Code. 2799

(c) In any criminal action concerning any test or the 2800
results of any test that determines the presence or 2801
concentration of alcohol, a drug of abuse, a combination of 2802
them, a controlled substance, or a metabolite of a controlled 2803
substance in the patient's whole blood, blood serum or plasma, 2804
breath, urine, or other bodily substance at any time relevant to 2805
the criminal offense in question. 2806

(d) In any criminal action against a physician, advanced 2807
practice registered nurse, or dentist. In such an action, the 2808
testimonial privilege established under this division does not 2809
prohibit the admission into evidence, in accordance with the 2810
Rules of Evidence, of a patient's medical or dental records or 2811
other communications between a patient and the physician, 2812
advanced practice registered nurse, or dentist that are related 2813
to the action and obtained by subpoena, search warrant, or other 2814
lawful means. A court that permits or compels a physician, 2815
advanced practice registered nurse, or dentist to testify in 2816
such an action or permits the introduction into evidence of 2817
patient records or other communications in such an action shall 2818
require that appropriate measures be taken to ensure that the 2819
confidentiality of any patient named or otherwise identified in 2820
the records is maintained. Measures to ensure confidentiality 2821
that may be taken by the court include sealing its records or 2822
deleting specific information from its records. 2823

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

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

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

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

(v) A person to whom protected health information is disclosed under division (B) (1) (e) (i) of this section shall not use or disclose the protected health information for any purpose other than the litigation or proceeding for which the

information was requested and shall return the protected health 2854
information to the covered entity or destroy the protected 2855
health information, including all copies made, at the conclusion 2856
of the litigation or proceeding. 2857

(2) (a) If any law enforcement officer submits a written 2858
statement to a health care provider that states that an official 2859
criminal investigation has begun regarding a specified person or 2860
that a criminal action or proceeding has been commenced against 2861
a specified person, that requests the provider to supply to the 2862
officer copies of any records the provider possesses that 2863
pertain to any test or the results of any test administered to 2864
the specified person to determine the presence or concentration 2865
of alcohol, a drug of abuse, a combination of them, a controlled 2866
substance, or a metabolite of a controlled substance in the 2867
person's whole blood, blood serum or plasma, breath, or urine at 2868
any time relevant to the criminal offense in question, and that 2869
conforms to section 2317.022 of the Revised Code, the provider, 2870
except to the extent specifically prohibited by any law of this 2871
state or of the United States, shall supply to the officer a 2872
copy of any of the requested records the provider possesses. If 2873
the health care provider does not possess any of the requested 2874
records, the provider shall give the officer a written statement 2875
that indicates that the provider does not possess any of the 2876
requested records. 2877

(b) If a health care provider possesses any records of the 2878
type described in division (B) (2) (a) of this section regarding 2879
the person in question at any time relevant to the criminal 2880
offense in question, in lieu of personally testifying as to the 2881
results of the test in question, the custodian of the records 2882
may submit a certified copy of the records, and, upon its 2883
submission, the certified copy is qualified as authentic 2884

evidence and may be admitted as evidence in accordance with the 2885
Rules of Evidence. Division (A) of section 2317.422 of the 2886
Revised Code does not apply to any certified copy of records 2887
submitted in accordance with this division. Nothing in this 2888
division shall be construed to limit the right of any party to 2889
call as a witness the person who administered the test to which 2890
the records pertain, the person under whose supervision the test 2891
was administered, the custodian of the records, the person who 2892
made the records, or the person under whose supervision the 2893
records were made. 2894

(3) (a) If the testimonial privilege described in division 2895
(B) (1) of this section does not apply as provided in division 2896
(B) (1) (a) (iii) of this section, a physician, advanced practice 2897
registered nurse, or dentist may be compelled to testify or to 2898
submit to discovery under the Rules of Civil Procedure only as 2899
to a communication made to the physician, advanced practice 2900
registered nurse, or dentist by the patient in question in that 2901
relation, or the advice of the physician, advanced practice 2902
registered nurse, or dentist given to the patient in question, 2903
that related causally or historically to physical or mental 2904
injuries that are relevant to issues in the medical claim, 2905
dental claim, chiropractic claim, or optometric claim, action 2906
for wrongful death, other civil action, or claim under Chapter 2907
4123. of the Revised Code. 2908

(b) If the testimonial privilege described in division (B) 2909
(1) of this section does not apply to a physician, advanced 2910
practice registered nurse, or dentist as provided in division 2911
(B) (1) (c) of this section, the physician, advanced practice 2912
registered nurse, or dentist, in lieu of personally testifying 2913
as to the results of the test in question, may submit a 2914
certified copy of those results, and, upon its submission, the 2915

certified copy is qualified as authentic evidence and may be 2916
admitted as evidence in accordance with the Rules of Evidence. 2917
Division (A) of section 2317.422 of the Revised Code does not 2918
apply to any certified copy of results submitted in accordance 2919
with this division. Nothing in this division shall be construed 2920
to limit the right of any party to call as a witness the person 2921
who administered the test in question, the person under whose 2922
supervision the test was administered, the custodian of the 2923
results of the test, the person who compiled the results, or the 2924
person under whose supervision the results were compiled. 2925

(4) The testimonial privilege described in division (B)(1) 2926
of this section is not waived when a communication is made by a 2927
physician or advanced practice registered nurse to a pharmacist 2928
or when there is communication between a patient and a 2929
pharmacist in furtherance of the physician-patient or advanced 2930
practice registered nurse-patient relation. 2931

(5) (a) As used in divisions (B)(1) to (4) of this section, 2932
"communication" means acquiring, recording, or transmitting any 2933
information, in any manner, concerning any facts, opinions, or 2934
statements necessary to enable a physician, advanced practice 2935
registered nurse, or dentist to diagnose, treat, prescribe, or 2936
act for a patient. A "communication" may include, but is not 2937
limited to, any medical or dental, office, or hospital 2938
communication such as a record, chart, letter, memorandum, 2939
laboratory test and results, x-ray, photograph, financial 2940
statement, diagnosis, or prognosis. 2941

(b) As used in division (B)(2) of this section, "health 2942
care provider" means a hospital, ambulatory care facility, long- 2943
term care facility, pharmacy, emergency facility, or health care 2944
practitioner. 2945

- (c) As used in division (B) (5) (b) of this section: 2946
- (i) "Ambulatory care facility" means a facility that 2947
provides medical, diagnostic, or surgical treatment to patients 2948
who do not require hospitalization, including a dialysis center, 2949
ambulatory surgical facility, cardiac catheterization facility, 2950
diagnostic imaging center, extracorporeal shock wave lithotripsy 2951
center, home health agency, inpatient hospice, birthing center, 2952
radiation therapy center, emergency facility, and an urgent care 2953
center. "Ambulatory health care facility" does not include the 2954
private office of a physician, advanced practice registered 2955
nurse, or dentist, whether the office is for an individual or 2956
group practice. 2957
- (ii) "Emergency facility" means a hospital emergency 2958
department or any other facility that provides emergency medical 2959
services. 2960
- (iii) "Health care practitioner" has the same meaning as 2961
in section 4769.01 of the Revised Code. 2962
- (iv) "Hospital" has the same meaning as in section 3727.01 2963
of the Revised Code. 2964
- (v) "Long-term care facility" means a nursing home, 2965
residential care facility, or home for the aging, as those terms 2966
are defined in section 3721.01 of the Revised Code; a 2967
residential facility licensed under section 5119.34 of the 2968
Revised Code that provides accommodations, supervision, and 2969
personal care services for three to sixteen unrelated adults; a 2970
nursing facility, as defined in section 5165.01 of the Revised 2971
Code; a skilled nursing facility, as defined in section 5165.01 2972
of the Revised Code; and an intermediate care facility for 2973
individuals with intellectual disabilities, as defined in 2974

section 5124.01 of the Revised Code. 2975

(vi) "Pharmacy" has the same meaning as in section 4729.01 2976
of the Revised Code. 2977

(d) As used in divisions (B)(1) and (2) of this section, 2978
"drug of abuse" has the same meaning as in section 4506.01 of 2979
the Revised Code. 2980

(6) Divisions (B)(1), (2), (3), (4), and (5) of this 2981
section apply to doctors of medicine, doctors of osteopathic 2982
medicine, doctors of podiatry, advanced practice registered 2983
nurses, and dentists. 2984

(7) Nothing in divisions (B)(1) to (6) of this section 2985
affects, or shall be construed as affecting, the immunity from 2986
civil liability conferred by section 307.628 of the Revised Code 2987
or the immunity from civil liability conferred by section 2988
2305.33 of the Revised Code upon physicians or advanced practice 2989
registered nurses who report an employee's use of a drug of 2990
abuse, or a condition of an employee other than one involving 2991
the use of a drug of abuse, to the employer of the employee in 2992
accordance with division (B) of that section. As used in 2993
division (B)(7) of this section, "employee," "employer," and 2994
"physician" have the same meanings as in section 2305.33 of the 2995
Revised Code and "advanced practice registered nurse" has the 2996
same meaning as in section 4723.01 of the Revised Code. 2997

(C)(1) A cleric, when the cleric remains accountable to 2998
the authority of that cleric's church, denomination, or sect, 2999
concerning a confession made, or any information confidentially 3000
communicated, to the cleric for a religious counseling purpose 3001
in the cleric's professional character. The cleric may testify 3002
by express consent of the person making the communication, 3003

except when the disclosure of the information is in violation of 3004
a sacred trust and except that, if the person voluntarily 3005
testifies or is deemed by division (A) (4) (c) of section 2151.421 3006
of the Revised Code to have waived any testimonial privilege 3007
under this division, the cleric may be compelled to testify on 3008
the same subject except when disclosure of the information is in 3009
violation of a sacred trust. 3010

(2) As used in division (C) of this section: 3011

(a) "Cleric" means a member of the clergy, rabbi, priest, 3012
Christian Science practitioner, or regularly ordained, 3013
accredited, or licensed minister of an established and legally 3014
cognizable church, denomination, or sect. 3015

(b) "Sacred trust" means a confession or confidential 3016
communication made to a cleric in the cleric's ecclesiastical 3017
capacity in the course of discipline enjoined by the church to 3018
which the cleric belongs, including, but not limited to, the 3019
Catholic Church, if both of the following apply: 3020

(i) The confession or confidential communication was made 3021
directly to the cleric. 3022

(ii) The confession or confidential communication was made 3023
in the manner and context that places the cleric specifically 3024
and strictly under a level of confidentiality that is considered 3025
inviolable by canon law or church doctrine. 3026

(D) Husband or wife, concerning any communication made by 3027
one to the other, or an act done by either in the presence of 3028
the other, during coverture, unless the communication was made, 3029
or act done, in the known presence or hearing of a third person 3030
competent to be a witness; and such rule is the same if the 3031
marital relation has ceased to exist; 3032

(E) A person who assigns a claim or interest, concerning 3033
any matter in respect to which the person would not, if a party, 3034
be permitted to testify; 3035

(F) A person who, if a party, would be restricted under 3036
section 2317.03 of the Revised Code, when the property or thing 3037
is sold or transferred by an executor, administrator, guardian, 3038
trustee, heir, devisee, or legatee, shall be restricted in the 3039
same manner in any action or proceeding concerning the property 3040
or thing. 3041

(G) (1) A school guidance counselor who holds a valid 3042
educator license from the state board of education as provided 3043
for in section 3319.22 of the Revised Code, a person licensed 3044
under Chapter 4757. of the Revised Code as a licensed 3045
professional clinical counselor, licensed professional 3046
counselor, social worker, independent social worker, marriage 3047
and family therapist or independent marriage and family 3048
therapist, or registered under Chapter 4757. of the Revised Code 3049
as a social work assistant concerning a confidential 3050
communication received from a client in that relation or the 3051
person's advice to a client unless any of the following applies: 3052

(a) The communication or advice indicates clear and 3053
present danger to the client or other persons. For the purposes 3054
of this division, cases in which there are indications of 3055
present or past child abuse or neglect of the client constitute 3056
a clear and present danger. 3057

(b) The client gives express consent to the testimony. 3058

(c) If the client is deceased, the surviving spouse or the 3059
executor or administrator of the estate of the deceased client 3060
gives express consent. 3061

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

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

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

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

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

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any

action or proceeding, other than a criminal, delinquency, child 3091
abuse, child neglect, or dependent child action or proceeding, 3092
that is brought by or against either parent who takes part in 3093
mediation in accordance with the order and that pertains to the 3094
mediation process, to any information discussed or presented in 3095
the mediation process, to the allocation of parental rights and 3096
responsibilities for the care of the parents' children, or to 3097
the awarding of parenting time rights in relation to their 3098
children; 3099

(I) A communications assistant, acting within the scope of 3100
the communication assistant's authority, when providing 3101
telecommunications relay service pursuant to section 4931.06 of 3102
the Revised Code or Title II of the "Communications Act of 3103
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 3104
communication made through a telecommunications relay service. 3105
Nothing in this section shall limit the obligation of a 3106
communications assistant to divulge information or testify when 3107
mandated by federal law or regulation or pursuant to subpoena in 3108
a criminal proceeding. 3109

Nothing in this section shall limit any immunity or 3110
privilege granted under federal law or regulation. 3111

(J) (1) A chiropractor in a civil proceeding concerning a 3112
communication made to the chiropractor by a patient in that 3113
relation or the chiropractor's advice to a patient, except as 3114
otherwise provided in this division. The testimonial privilege 3115
established under this division does not apply, and a 3116
chiropractor may testify or may be compelled to testify, in any 3117
civil action, in accordance with the discovery provisions of the 3118
Rules of Civil Procedure in connection with a civil action, or 3119
in connection with a claim under Chapter 4123. of the Revised 3120

Code, under any of the following circumstances: 3121

(a) If the patient or the guardian or other legal 3122
representative of the patient gives express consent. 3123

(b) If the patient is deceased, the spouse of the patient 3124
or the executor or administrator of the patient's estate gives 3125
express consent. 3126

(c) If a medical claim, dental claim, chiropractic claim, 3127
or optometric claim, as defined in section 2305.113 of the 3128
Revised Code, an action for wrongful death, any other type of 3129
civil action, or a claim under Chapter 4123. of the Revised Code 3130
is filed by the patient, the personal representative of the 3131
estate of the patient if deceased, or the patient's guardian or 3132
other legal representative. 3133

(2) If the testimonial privilege described in division (J) 3134
(1) of this section does not apply as provided in division (J) 3135
(1)(c) of this section, a chiropractor may be compelled to 3136
testify or to submit to discovery under the Rules of Civil 3137
Procedure only as to a communication made to the chiropractor by 3138
the patient in question in that relation, or the chiropractor's 3139
advice to the patient in question, that related causally or 3140
historically to physical or mental injuries that are relevant to 3141
issues in the medical claim, dental claim, chiropractic claim, 3142
or optometric claim, action for wrongful death, other civil 3143
action, or claim under Chapter 4123. of the Revised Code. 3144

(3) The testimonial privilege established under this 3145
division does not apply, and a chiropractor may testify or be 3146
compelled to testify, in any criminal action or administrative 3147
proceeding. 3148

(4) As used in this division, "communication" means 3149

acquiring, recording, or transmitting any information, in any 3150
manner, concerning any facts, opinions, or statements necessary 3151
to enable a chiropractor to diagnose, treat, or act for a 3152
patient. A communication may include, but is not limited to, any 3153
chiropractic, office, or hospital communication such as a 3154
record, chart, letter, memorandum, laboratory test and results, 3155
x-ray, photograph, financial statement, diagnosis, or prognosis. 3156

(K) (1) Except as provided under division (K) (2) of this 3157
section, a critical incident stress management team member 3158
concerning a communication received from an individual who 3159
receives crisis response services from the team member, or the 3160
team member's advice to the individual, during a debriefing 3161
session. 3162

(2) The testimonial privilege established under division 3163
(K) (1) of this section does not apply if any of the following 3164
are true: 3165

(a) The communication or advice indicates clear and 3166
present danger to the individual who receives crisis response 3167
services or to other persons. For purposes of this division, 3168
cases in which there are indications of present or past child 3169
abuse or neglect of the individual constitute a clear and 3170
present danger. 3171

(b) The individual who received crisis response services 3172
gives express consent to the testimony. 3173

(c) If the individual who received crisis response 3174
services is deceased, the surviving spouse or the executor or 3175
administrator of the estate of the deceased individual gives 3176
express consent. 3177

(d) The individual who received crisis response services 3178

voluntarily testifies, in which case the team member may be 3179
compelled to testify on the same subject. 3180

(e) The court in camera determines that the information 3181
communicated by the individual who received crisis response 3182
services is not germane to the relationship between the 3183
individual and the team member. 3184

(f) The communication or advice pertains or is related to 3185
any criminal act. 3186

(3) As used in division (K) of this section: 3187

(a) "Crisis response services" means consultation, risk 3188
assessment, referral, and on-site crisis intervention services 3189
provided by a critical incident stress management team to 3190
individuals affected by crisis or disaster. 3191

(b) "Critical incident stress management team member" or 3192
"team member" means an individual specially trained to provide 3193
crisis response services as a member of an organized community 3194
or local crisis response team that holds membership in the Ohio 3195
critical incident stress management network. 3196

(c) "Debriefing session" means a session at which crisis 3197
response services are rendered by a critical incident stress 3198
management team member during or after a crisis or disaster. 3199

(L)(1) Subject to division (L)(2) of this section and 3200
except as provided in division (L)(3) of this section, an 3201
employee assistance professional, concerning a communication 3202
made to the employee assistance professional by a client in the 3203
employee assistance professional's official capacity as an 3204
employee assistance professional. 3205

(2) Division (L)(1) of this section applies to an employee 3206

assistance professional who meets either or both of the 3207
following requirements: 3208

- (a) Is certified by the employee assistance certification 3209
commission to engage in the employee assistance profession; 3210
- (b) Has education, training, and experience in all of the 3211
following: 3212
 - (i) Providing workplace-based services designed to address 3213
employer and employee productivity issues; 3214
 - (ii) Providing assistance to employees and employees' 3215
dependents in identifying and finding the means to resolve 3216
personal problems that affect the employees or the employees' 3217
performance; 3218
 - (iii) Identifying and resolving productivity problems 3219
associated with an employee's concerns about any of the 3220
following matters: health, marriage, family, finances, substance 3221
abuse or other addiction, workplace, law, and emotional issues; 3222
 - (iv) Selecting and evaluating available community 3223
resources; 3224
 - (v) Making appropriate referrals; 3225
 - (vi) Local and national employee assistance agreements; 3226
 - (vii) Client confidentiality. 3227

(3) Division (L)(1) of this section does not apply to any 3228
of the following: 3229

- (a) A criminal action or proceeding involving an offense 3230
under sections 2903.01 to 2903.06 of the Revised Code if the 3231
employee assistance professional's disclosure or testimony 3232
relates directly to the facts or immediate circumstances of the 3233

offense; 3234

(b) A communication made by a client to an employee 3235
assistance professional that reveals the contemplation or 3236
commission of a crime or serious, harmful act; 3237

(c) A communication that is made by a client who is an 3238
unemancipated minor or an adult adjudicated to be incompetent 3239
and indicates that the client was the victim of a crime or 3240
abuse; 3241

(d) A civil proceeding to determine an individual's mental 3242
competency or a criminal action in which a plea of not guilty by 3243
reason of insanity is entered; 3244

(e) A civil or criminal malpractice action brought against 3245
the employee assistance professional; 3246

(f) When the employee assistance professional has the 3247
express consent of the client or, if the client is deceased or 3248
disabled, the client's legal representative; 3249

(g) When the testimonial privilege otherwise provided by 3250
division (L)(1) of this section is abrogated under law. 3251

Sec. 2701.07. When, in the opinion of the court, the 3252
business thereof so requires, each court of common pleas, court 3253
of appeals, and, in counties having at the last or any future 3254
federal census more than seventy thousand inhabitants, the 3255
probate court, may appoint one or more constables to preserve 3256
order, attend the assignment of cases in counties where more 3257
than two judges of the court of common pleas regularly hold 3258
court at the same time, and discharge such other duties as the 3259
court requires. When so directed by the court, each constable 3260
has the same powers as sheriffs to call and impanel jurors,~~—~~ 3261
~~except in capital cases.~~ 3262

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of	3263
the Revised Code:	3264
(A) "Claimant" means both of the following categories of	3265
persons:	3266
(1) Any of the following persons who claim an award of	3267
reparations under sections 2743.51 to 2743.72 of the Revised	3268
Code:	3269
(a) A victim who was one of the following at the time of	3270
the criminally injurious conduct:	3271
(i) A resident of the United States;	3272
(ii) A resident of a foreign country the laws of which	3273
permit residents of this state to recover compensation as	3274
victims of offenses committed in that country.	3275
(b) A dependent of a deceased victim who is described in	3276
division (A) (1) (a) of this section;	3277
(c) A third person, other than a collateral source, who	3278
legally assumes or voluntarily pays the obligations of a victim,	3279
or of a dependent of a victim, who is described in division (A)	3280
(1) (a) of this section, which obligations are incurred as a	3281
result of the criminally injurious conduct that is the subject	3282
of the claim and may include, but are not limited to, medical or	3283
burial expenses;	3284
(d) A person who is authorized to act on behalf of any	3285
person who is described in division (A) (1) (a), (b), or (c) of	3286
this section;	3287
(e) The estate of a deceased victim who is described in	3288
division (A) (1) (a) of this section.	3289

(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:	3290 3291 3292
(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:	3293 3294 3295 3296
(i) Had a permanent place of employment in this state;	3297
(ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;	3298 3299 3300 3301
(iii) Was retired and receiving social security or any other retirement income;	3302 3303
(iv) Was sixty years of age or older;	3304
(v) Was temporarily in another state for the purpose of receiving medical treatment;	3305 3306
(vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;	3307 3308 3309 3310
(vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of employment or employee benefits;	3311 3312 3313 3314 3315
(viii) Was a full-time student at an academic institution, college, or university located in another state;	3316 3317

(ix) Had not departed the geographical boundaries of this state for a period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

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

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

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

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

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

(1) The offender;

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

(3) Social security, medicare, and medicaid;	3346
(4) State-required, temporary, nonoccupational disability insurance;	3347 3348
(5) Workers' compensation;	3349
(6) Wage continuation programs of any employer;	3350
(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;	3351 3352 3353
(8) A contract providing prepaid hospital and other health care services, or benefits for disability;	3354 3355
(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;	3356 3357 3358
(10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.	3359 3360 3361 3362
"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.	3363 3364 3365 3366 3367
(C) "Criminally injurious conduct" means one of the following:	3368 3369
(1) For the purposes of any person described in division (A) (1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or	3370 3371 3372

death; and is punishable by fine, or imprisonment, ~~or death~~, or 3373
would be so punishable but for the fact that the person engaging 3374
in the conduct lacked capacity to commit the crime under the 3375
laws of this state. Criminally injurious conduct does not 3376
include conduct arising out of the ownership, maintenance, or 3377
use of a motor vehicle, except when any of the following 3378
applies: 3379

(a) The person engaging in the conduct intended to cause 3380
personal injury or death; 3381

(b) The person engaging in the conduct was using the 3382
vehicle to flee immediately after committing a felony or an act 3383
that would constitute a felony but for the fact that the person 3384
engaging in the conduct lacked the capacity to commit the felony 3385
under the laws of this state; 3386

(c) The person engaging in the conduct was using the 3387
vehicle in a manner that constitutes an OVI violation; 3388

(d) The conduct occurred on or after July 25, 1990, and 3389
the person engaging in the conduct was using the vehicle in a 3390
manner that constitutes a violation of section 2903.08 of the 3391
Revised Code; 3392

(e) The person engaging in the conduct acted in a manner 3393
that caused serious physical harm to a person and that 3394
constituted a violation of section 4549.02 or 4549.021 of the 3395
Revised Code. 3396

(2) For the purposes of any person described in division 3397
(A) (2) of this section, any conduct that occurs or is attempted 3398
in another state, district, territory, or foreign country; poses 3399
a substantial threat of personal injury or death; and is 3400
punishable by fine, imprisonment, or death, or would be so 3401

punishable but for the fact that the person engaging in the 3402
conduct lacked capacity to commit the crime under the laws of 3403
the state, district, territory, or foreign country in which the 3404
conduct occurred or was attempted. Criminally injurious conduct 3405
does not include conduct arising out of the ownership, 3406
maintenance, or use of a motor vehicle, except when any of the 3407
following applies: 3408

(a) The person engaging in the conduct intended to cause 3409
personal injury or death; 3410

(b) The person engaging in the conduct was using the 3411
vehicle to flee immediately after committing a felony or an act 3412
that would constitute a felony but for the fact that the person 3413
engaging in the conduct lacked the capacity to commit the felony 3414
under the laws of the state, district, territory, or foreign 3415
country in which the conduct occurred or was attempted; 3416

(c) The person engaging in the conduct was using the 3417
vehicle in a manner that constitutes an OVI violation; 3418

(d) The conduct occurred on or after July 25, 1990, the 3419
person engaging in the conduct was using the vehicle in a manner 3420
that constitutes a violation of any law of the state, district, 3421
territory, or foreign country in which the conduct occurred, and 3422
that law is substantially similar to a violation of section 3423
2903.08 of the Revised Code; 3424

(e) The person engaging in the conduct acted in a manner 3425
that caused serious physical harm to a person and that 3426
constituted a violation of any law of the state, district, 3427
territory, or foreign country in which the conduct occurred, and 3428
that law is substantially similar to section 4549.02 or 4549.021 3429
of the Revised Code. 3430

(3) For the purposes of any person described in division 3431
(A) (1) or (2) of this section, terrorism that occurs within or 3432
outside the territorial jurisdiction of the United States. 3433

(D) "Dependent" means an individual wholly or partially 3434
dependent upon the victim for care and support, and includes a 3435
child of the victim born after the victim's death. 3436

(E) "Economic loss" means economic detriment consisting 3437
only of allowable expense, work loss, funeral expense, 3438
unemployment benefits loss, replacement services loss, cost of 3439
crime scene cleanup, and cost of evidence replacement. If 3440
criminally injurious conduct causes death, economic loss 3441
includes a dependent's economic loss and a dependent's 3442
replacement services loss. Noneconomic detriment is not economic 3443
loss; however, economic loss may be caused by pain and suffering 3444
or physical impairment. 3445

(F) (1) "Allowable expense" means reasonable charges 3446
incurred for reasonably needed products, services, and 3447
accommodations, including those for medical care, 3448
rehabilitation, rehabilitative occupational training, and other 3449
remedial treatment and care and including replacement costs for 3450
hearing aids; dentures, retainers, and other dental appliances; 3451
canes, walkers, and other mobility tools; and eyeglasses and 3452
other corrective lenses. It does not include that portion of a 3453
charge for a room in a hospital, clinic, convalescent home, 3454
nursing home, or any other institution engaged in providing 3455
nursing care and related services in excess of a reasonable and 3456
customary charge for semiprivate accommodations, unless 3457
accommodations other than semiprivate accommodations are 3458
medically required. 3459

(2) An immediate family member of a victim of criminally 3460

injurious conduct that consists of a homicide, a sexual assault, 3461
domestic violence, or a severe and permanent incapacitating 3462
injury resulting in paraplegia or a similar life-altering 3463
condition, who requires psychiatric care or counseling as a 3464
result of the criminally injurious conduct, may be reimbursed 3465
for that care or counseling as an allowable expense through the 3466
victim's application. The cumulative allowable expense for care 3467
or counseling of that nature shall not exceed two thousand five 3468
hundred dollars for each immediate family member of a victim of 3469
that type and seven thousand five hundred dollars in the 3470
aggregate for all immediate family members of a victim of that 3471
type. 3472

(3) A family member of a victim who died as a proximate 3473
result of criminally injurious conduct may be reimbursed as an 3474
allowable expense through the victim's application for wages 3475
lost and travel expenses incurred in order to attend criminal 3476
justice proceedings arising from the criminally injurious 3477
conduct. The cumulative allowable expense for wages lost and 3478
travel expenses incurred by a family member to attend criminal 3479
justice proceedings shall not exceed five hundred dollars for 3480
each family member of the victim and two thousand dollars in the 3481
aggregate for all family members of the victim. 3482

(4) (a) "Allowable expense" includes reasonable expenses 3483
and fees necessary to obtain a guardian's bond pursuant to 3484
section 2109.04 of the Revised Code when the bond is required to 3485
pay an award to a fiduciary on behalf of a minor or other 3486
incompetent. 3487

(b) "Allowable expense" includes attorney's fees not 3488
exceeding one thousand dollars, at a rate not exceeding one 3489
hundred dollars per hour, incurred to successfully obtain a 3490

restraining order, custody order, or other order to physically 3491
separate a victim from an offender. Attorney's fees for the 3492
services described in this division may include an amount for 3493
reasonable travel time incurred to attend court hearings, not 3494
exceeding three hours' round-trip for each court hearing, 3495
assessed at a rate not exceeding thirty dollars per hour. 3496

(G) "Work loss" means loss of income from work that the 3497
injured person would have performed if the person had not been 3498
injured and expenses reasonably incurred by the person to obtain 3499
services in lieu of those the person would have performed for 3500
income, reduced by any income from substitute work actually 3501
performed by the person, or by income the person would have 3502
earned in available appropriate substitute work that the person 3503
was capable of performing but unreasonably failed to undertake. 3504

(H) "Replacement services loss" means expenses reasonably 3505
incurred in obtaining ordinary and necessary services in lieu of 3506
those the injured person would have performed, not for income, 3507
but for the benefit of the person's self or family, if the 3508
person had not been injured. 3509

(I) "Dependent's economic loss" means loss after a 3510
victim's death of contributions of things of economic value to 3511
the victim's dependents, not including services they would have 3512
received from the victim if the victim had not suffered the 3513
fatal injury, less expenses of the dependents avoided by reason 3514
of the victim's death. If a minor child of a victim is adopted 3515
after the victim's death, the minor child continues after the 3516
adoption to incur a dependent's economic loss as a result of the 3517
victim's death. If the surviving spouse of a victim remarries, 3518
the surviving spouse continues after the remarriage to incur a 3519
dependent's economic loss as a result of the victim's death. 3520

(J) "Dependent's replacement services loss" means loss 3521
reasonably incurred by dependents after a victim's death in 3522
obtaining ordinary and necessary services in lieu of those the 3523
victim would have performed for their benefit if the victim had 3524
not suffered the fatal injury, less expenses of the dependents 3525
avoided by reason of the victim's death and not subtracted in 3526
calculating the dependent's economic loss. If a minor child of a 3527
victim is adopted after the victim's death, the minor child 3528
continues after the adoption to incur a dependent's replacement 3529
services loss as a result of the victim's death. If the 3530
surviving spouse of a victim remarries, the surviving spouse 3531
continues after the remarriage to incur a dependent's 3532
replacement services loss as a result of the victim's death. 3533

(K) "Noneconomic detriment" means pain, suffering, 3534
inconvenience, physical impairment, or other nonpecuniary 3535
damage. 3536

(L) "Victim" means a person who suffers personal injury or 3537
death as a result of any of the following: 3538

(1) Criminally injurious conduct; 3539

(2) The good faith effort of any person to prevent 3540
criminally injurious conduct; 3541

(3) The good faith effort of any person to apprehend a 3542
person suspected of engaging in criminally injurious conduct. 3543

(M) "Contributory misconduct" means any conduct of the 3544
claimant or of the victim through whom the claimant claims an 3545
award of reparations that is unlawful or intentionally tortious 3546
and that, without regard to the conduct's proximity in time or 3547
space to the criminally injurious conduct, has a causal 3548
relationship to the criminally injurious conduct that is the 3549

basis of the claim. 3550

(N) (1) "Funeral expense" means any reasonable charges that 3551
are not in excess of seven thousand five hundred dollars per 3552
funeral and that are incurred for expenses directly related to a 3553
victim's funeral, cremation, or burial and any wages lost or 3554
travel expenses incurred by a family member of a victim in order 3555
to attend the victim's funeral, cremation, or burial. 3556

(2) An award for funeral expenses shall be applied first 3557
to expenses directly related to the victim's funeral, cremation, 3558
or burial. An award for wages lost or travel expenses incurred 3559
by a family member of the victim shall not exceed five hundred 3560
dollars for each family member and shall not exceed in the 3561
aggregate the difference between seven thousand five hundred 3562
dollars and expenses that are reimbursed by the program and that 3563
are directly related to the victim's funeral, cremation, or 3564
burial. 3565

(O) "Unemployment benefits loss" means a loss of 3566
unemployment benefits pursuant to Chapter 4141. of the Revised 3567
Code when the loss arises solely from the inability of a victim 3568
to meet the able to work, available for suitable work, or the 3569
actively seeking suitable work requirements of division (A) (4) 3570
(a) of section 4141.29 of the Revised Code. 3571

(P) "OVI violation" means any of the following: 3572

(1) A violation of section 4511.19 of the Revised Code, of 3573
any municipal ordinance prohibiting the operation of a vehicle 3574
while under the influence of alcohol, a drug of abuse, or a 3575
combination of them, or of any municipal ordinance prohibiting 3576
the operation of a vehicle with a prohibited concentration of 3577
alcohol, a controlled substance, or a metabolite of a controlled 3578

substance in the whole blood, blood serum or plasma, breath, or 3579
urine; 3580

(2) A violation of division (A) (1) of section 2903.06 of 3581
the Revised Code; 3582

(3) A violation of division (A) (2), (3), or (4) of section 3583
2903.06 of the Revised Code or of a municipal ordinance 3584
substantially similar to any of those divisions, if the offender 3585
was under the influence of alcohol, a drug of abuse, or a 3586
combination of them, at the time of the commission of the 3587
offense; 3588

(4) For purposes of any person described in division (A) 3589
(2) of this section, a violation of any law of the state, 3590
district, territory, or foreign country in which the criminally 3591
injurious conduct occurred, if that law is substantially similar 3592
to a violation described in division (P) (1) or (2) of this 3593
section or if that law is substantially similar to a violation 3594
described in division (P) (3) of this section and the offender 3595
was under the influence of alcohol, a drug of abuse, or a 3596
combination of them, at the time of the commission of the 3597
offense. 3598

(Q) "Pendency of the claim" for an original reparations 3599
application or supplemental reparations application means the 3600
period of time from the date the criminally injurious conduct 3601
upon which the application is based occurred until the date a 3602
final decision, order, or judgment concerning that original 3603
reparations application or supplemental reparations application 3604
is issued. 3605

(R) "Terrorism" means any activity to which all of the 3606
following apply: 3607

(1) The activity involves a violent act or an act that is dangerous to human life. 3608
3609

(2) The act described in division (R)(1) of this section is committed within the territorial jurisdiction of the United States and is a violation of the criminal laws of the United States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the United States and would be a violation of the criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States. 3610
3611
3612
3613
3614
3615
3616
3617
3618

(3) The activity appears to be intended to do any of the following: 3619
3620

(a) Intimidate or coerce a civilian population; 3621

(b) Influence the policy of any government by intimidation or coercion; 3622
3623

(c) Affect the conduct of any government by assassination or kidnapping. 3624
3625

(4) The activity occurs primarily outside the territorial jurisdiction of the United States or transcends the national boundaries of the United States in terms of the means by which the activity is accomplished, the person or persons that the activity appears intended to intimidate or coerce, or the area or locale in which the perpetrator or perpetrators of the activity operate or seek asylum. 3626
3627
3628
3629
3630
3631
3632

(S) "Transcends the national boundaries of the United States" means occurring outside the territorial jurisdiction of the United States in addition to occurring within the territorial jurisdiction of the United States. 3633
3634
3635
3636

(T) "Cost of crime scene cleanup" means any of the 3637
following: 3638

(1) The replacement cost for items of clothing removed 3639
from a victim in order to make an assessment of possible 3640
physical harm or to treat physical harm; 3641

(2) Reasonable and necessary costs of cleaning the scene 3642
and repairing, for the purpose of personal security, property 3643
damaged at the scene where the criminally injurious conduct 3644
occurred, not to exceed seven hundred fifty dollars in the 3645
aggregate per claim. 3646

(U) "Cost of evidence replacement" means costs for 3647
replacement of property confiscated for evidentiary purposes 3648
related to the criminally injurious conduct, not to exceed seven 3649
hundred fifty dollars in the aggregate per claim. 3650

(V) "Provider" means any person who provides a victim or 3651
claimant with a product, service, or accommodations that are an 3652
allowable expense or a funeral expense. 3653

(W) "Immediate family member" means an individual who 3654
resided in the same permanent household as a victim at the time 3655
of the criminally injurious conduct and who is related to the 3656
victim by affinity or consanguinity. 3657

(X) "Family member" means an individual who is related to 3658
a victim by affinity or consanguinity. 3659

Sec. 2901.02. As used in the Revised Code: 3660

(A) Offenses include aggravated murder, murder, felonies 3661
of the first, second, third, fourth, and fifth degree, 3662
misdemeanors of the first, second, third, and fourth degree, 3663
minor misdemeanors, and offenses not specifically classified. 3664

~~(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.~~ 3665
3666
3667
3668
3669
3670

~~(C)~~ Aggravated murder and murder are felonies. 3671

~~(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. 3672
3673
3674
3675

~~(E)~~ (D) Any offense not specifically classified is a felony if imprisonment for more than one year may be imposed as a penalty. 3676
3677
3678

~~(F)~~ (E) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty. 3679
3680
3681

~~(G)~~ (F) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following: 3682
3683
3684

(1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars; 3685
3686

(2) For an offense committed on or after January 1, 2004, a fine not exceeding one hundred fifty dollars, community service under division (D) of section 2929.27 of the Revised Code, or a financial sanction other than a fine under section 2929.28 of the Revised Code. 3687
3688
3689
3690
3691

Sec. 2909.24. (A) No person shall commit a specified 3692

offense with purpose to do any of the following: 3693

(1) Intimidate or coerce a civilian population; 3694

(2) Influence the policy of any government by intimidation or coercion; 3695
3696

(3) Affect the conduct of any government by the specified offense. 3697
3698

(B) (1) Whoever violates this section is guilty of terrorism. 3699
3700

(2) Except as otherwise provided in divisions (B) (3) and (4) of this section, terrorism is an offense one degree higher than the most serious underlying specified offense the defendant committed. 3701
3702
3703
3704

(3) If the most serious underlying specified offense the defendant committed is a felony of the first degree or murder, the person shall be sentenced to life imprisonment without parole. 3705
3706
3707
3708

(4) If the most serious underlying specified offense the defendant committed is aggravated murder, the offender shall be sentenced to life imprisonment without parole ~~or death pursuant to sections 2929.02 to 2929.06 of the Revised Code.~~ 3709
3710
3711
3712

(5) Section 2909.25 of the Revised Code applies regarding an offender who is convicted of or pleads guilty to a violation of this section. 3713
3714
3715

Sec. 2929.02. (A) ~~Whoever~~ Except as provided in division (C) of this section, whoever is convicted of or pleads guilty to aggravated murder in violation of section 2903.01 of the Revised Code shall ~~suffer death or be imprisoned for life, as determined pursuant to sections 2929.022, 2929.03, and 2929.04 of the~~ 3716
3717
3718
3719
3720

~~Revised Code, except that no person who raises the matter of age~~ 3721
~~pursuant to section 2929.023 of the Revised Code and who is not~~ 3722
~~found to have been eighteen years of age or older at the time of~~ 3723
~~the commission of the offense shall suffer death. In addition,~~ 3724
~~the offender may be fined an amount fixed by the court, but not~~ 3725
~~more than twenty five thousand dollars~~ sentenced to life 3726
imprisonment with parole eligibility after serving twenty full 3727
years of imprisonment, life imprisonment with parole eligibility 3728
after serving thirty full years of imprisonment, or life 3729
imprisonment without parole. 3730

~~(B) (1)~~ Except as otherwise provided in division ~~(B) (2) or~~ 3731
~~(3)~~ (C) of this section, whoever is convicted of or pleads 3732
guilty to murder in violation of section 2903.02 of the Revised 3733
Code shall be imprisoned for an indefinite term of fifteen years 3734
to life. 3735

~~(2)~~ (C) (1) Except as otherwise provided in division ~~(B) (3)~~ 3736
~~(C) (2)~~ of this section, if a person is convicted of or pleads 3737
guilty to aggravated murder in violation of section 2903.01 of 3738
the Revised Code or to murder in violation of section 2903.02 of 3739
the Revised Code, the victim of the offense was less than 3740
thirteen years of age, and the offender also is convicted of or 3741
pleads guilty to a sexual motivation specification that was 3742
included in the indictment, count in the indictment, or 3743
information charging the offense, the court shall impose an 3744
indefinite prison term of thirty years to life pursuant to 3745
division (B) (3) of section 2971.03 of the Revised Code. 3746

~~(3)~~ (2) If a person is convicted of or pleads guilty to 3747
aggravated murder in violation of section 2903.01 of the Revised 3748
Code or to murder in violation of section 2903.02 of the Revised 3749
Code and also is convicted of or pleads guilty to a sexual 3750

motivation specification and a sexually violent predator 3751
specification that were included in the indictment, count in the 3752
indictment, or information that charged the murder, the court 3753
shall impose upon the offender a term of life imprisonment 3754
without parole that shall be served pursuant to section 2971.03 3755
of the Revised Code. 3756

~~(4)~~ (D) In addition to the prison term imposed under this 3757
section, the offender may be fined an amount fixed by the court, 3758
but not more than twenty-five thousand dollars for aggravated 3759
murder or fifteen thousand dollars for murder. 3760

~~(C)~~ (E) The court shall not impose a fine or fines for 3761
aggravated murder or murder ~~which~~ that, in the aggregate and to 3762
the extent not suspended by the court, exceeds the amount ~~which~~ 3763
that the offender is or will be able to pay by the method and 3764
within the time allowed without undue hardship to the offender 3765
or to the dependents of the offender, or will prevent the 3766
offender from making reparation for the victim's wrongful death. 3767

~~(D)~~ (F) (1) In addition to any other sanctions imposed for a 3768
violation of section 2903.01 or 2903.02 of the Revised Code, if 3769
the offender used a motor vehicle as the means to commit the 3770
violation, the court shall impose upon the offender a class two 3771
suspension of the offender's driver's license, commercial 3772
driver's license, temporary instruction permit, probationary 3773
license, or nonresident operating privilege as specified in 3774
division (A) (2) of section 4510.02 of the Revised Code. 3775

(2) As used in division ~~(D)~~ (F) of this section, "motor 3776
vehicle" has the same meaning as in section 4501.01 of the 3777
Revised Code. 3778

Sec. 2929.13. (A) Except as provided in division (E), (F), 3779

or (G) of this section and unless a specific sanction is 3780
required to be imposed or is precluded from being imposed 3781
pursuant to law, a court that imposes a sentence upon an 3782
offender for a felony may impose any sanction or combination of 3783
sanctions on the offender that are provided in sections 2929.14 3784
to 2929.18 of the Revised Code. 3785

If the offender is eligible to be sentenced to community 3786
control sanctions, the court shall consider the appropriateness 3787
of imposing a financial sanction pursuant to section 2929.18 of 3788
the Revised Code or a sanction of community service pursuant to 3789
section 2929.17 of the Revised Code as the sole sanction for the 3790
offense. Except as otherwise provided in this division, if the 3791
court is required to impose a mandatory prison term for the 3792
offense for which sentence is being imposed, the court also 3793
shall impose any financial sanction pursuant to section 2929.18 3794
of the Revised Code that is required for the offense and may 3795
impose any other financial sanction pursuant to that section but 3796
may not impose any additional sanction or combination of 3797
sanctions under section 2929.16 or 2929.17 of the Revised Code. 3798

If the offender is being sentenced for a fourth degree 3799
felony OVI offense or for a third degree felony OVI offense, in 3800
addition to the mandatory term of local incarceration or the 3801
mandatory prison term required for the offense by division (G) 3802
(1) or (2) of this section, the court shall impose upon the 3803
offender a mandatory fine in accordance with division (B) (3) of 3804
section 2929.18 of the Revised Code and may impose whichever of 3805
the following is applicable: 3806

(1) For a fourth degree felony OVI offense for which 3807
sentence is imposed under division (G) (1) of this section, an 3808
additional community control sanction or combination of 3809

community control sanctions under section 2929.16 or 2929.17 of 3810
the Revised Code. If the court imposes upon the offender a 3811
community control sanction and the offender violates any 3812
condition of the community control sanction, the court may take 3813
any action prescribed in division (B) of section 2929.15 of the 3814
Revised Code relative to the offender, including imposing a 3815
prison term on the offender pursuant to that division. 3816

(2) For a third or fourth degree felony OVI offense for 3817
which sentence is imposed under division (G) (2) of this section, 3818
an additional prison term as described in division (B) (4) of 3819
section 2929.14 of the Revised Code or a community control 3820
sanction as described in division (G) (2) of this section. 3821

(B) (1) (a) Except as provided in division (B) (1) (b) of this 3822
section, if an offender is convicted of or pleads guilty to a 3823
felony of the fourth or fifth degree that is not an offense of 3824
violence or that is a qualifying assault offense, the court 3825
shall sentence the offender to a community control sanction of 3826
at least one year's duration if all of the following apply: 3827

(i) The offender previously has not been convicted of or 3828
pleaded guilty to a felony offense. 3829

(ii) The most serious charge against the offender at the 3830
time of sentencing is a felony of the fourth or fifth degree. 3831

(iii) If the court made a request of the department of 3832
rehabilitation and correction pursuant to division (B) (1) (c) of 3833
this section, the department, within the forty-five-day period 3834
specified in that division, provided the court with the names 3835
of, contact information for, and program details of one or more 3836
community control sanctions of at least one year's duration that 3837
are available for persons sentenced by the court. 3838

(iv) The offender previously has not been convicted of or 3839
pleaded guilty to a misdemeanor offense of violence that the 3840
offender committed within two years prior to the offense for 3841
which sentence is being imposed. 3842

(b) The court has discretion to impose a prison term upon 3843
an offender who is convicted of or pleads guilty to a felony of 3844
the fourth or fifth degree that is not an offense of violence or 3845
that is a qualifying assault offense if any of the following 3846
apply: 3847

(i) The offender committed the offense while having a 3848
firearm on or about the offender's person or under the 3849
offender's control. 3850

(ii) If the offense is a qualifying assault offense, the 3851
offender caused serious physical harm to another person while 3852
committing the offense, and, if the offense is not a qualifying 3853
assault offense, the offender caused physical harm to another 3854
person while committing the offense. 3855

(iii) The offender violated a term of the conditions of 3856
bond as set by the court. 3857

(iv) The court made a request of the department of 3858
rehabilitation and correction pursuant to division (B)(1)(c) of 3859
this section, and the department, within the forty-five-day 3860
period specified in that division, did not provide the court 3861
with the name of, contact information for, and program details 3862
of any community control sanction of at least one year's 3863
duration that is available for persons sentenced by the court. 3864

(v) The offense is a sex offense that is a fourth or fifth 3865
degree felony violation of any provision of Chapter 2907. of the 3866
Revised Code. 3867

(vi) In committing the offense, the offender attempted to 3868
cause or made an actual threat of physical harm to a person with 3869
a deadly weapon. 3870

(vii) In committing the offense, the offender attempted to 3871
cause or made an actual threat of physical harm to a person, and 3872
the offender previously was convicted of an offense that caused 3873
physical harm to a person. 3874

(viii) The offender held a public office or position of 3875
trust, and the offense related to that office or position; the 3876
offender's position obliged the offender to prevent the offense 3877
or to bring those committing it to justice; or the offender's 3878
professional reputation or position facilitated the offense or 3879
was likely to influence the future conduct of others. 3880

(ix) The offender committed the offense for hire or as 3881
part of an organized criminal activity. 3882

(x) The offender at the time of the offense was serving, 3883
or the offender previously had served, a prison term. 3884

(xi) The offender committed the offense while under a 3885
community control sanction, while on probation, or while 3886
released from custody on a bond or personal recognizance. 3887

(c) If a court that is sentencing an offender who is 3888
convicted of or pleads guilty to a felony of the fourth or fifth 3889
degree that is not an offense of violence or that is a 3890
qualifying assault offense believes that no community control 3891
sanctions are available for its use that, if imposed on the 3892
offender, will adequately fulfill the overriding principles and 3893
purposes of sentencing, the court shall contact the department 3894
of rehabilitation and correction and ask the department to 3895
provide the court with the names of, contact information for, 3896

and program details of one or more community control sanctions 3897
of at least one year's duration that are available for persons 3898
sentenced by the court. Not later than forty-five days after 3899
receipt of a request from a court under this division, the 3900
department shall provide the court with the names of, contact 3901
information for, and program details of one or more community 3902
control sanctions of at least one year's duration that are 3903
available for persons sentenced by the court, if any. Upon 3904
making a request under this division that relates to a 3905
particular offender, a court shall defer sentencing of that 3906
offender until it receives from the department the names of, 3907
contact information for, and program details of one or more 3908
community control sanctions of at least one year's duration that 3909
are available for persons sentenced by the court or for forty- 3910
five days, whichever is the earlier. 3911

If the department provides the court with the names of, 3912
contact information for, and program details of one or more 3913
community control sanctions of at least one year's duration that 3914
are available for persons sentenced by the court within the 3915
forty-five-day period specified in this division, the court 3916
shall impose upon the offender a community control sanction 3917
under division (B) (1) (a) of this section, except that the court 3918
may impose a prison term under division (B) (1) (b) of this 3919
section if a factor described in division (B) (1) (b) (i) or (ii) 3920
of this section applies. If the department does not provide the 3921
court with the names of, contact information for, and program 3922
details of one or more community control sanctions of at least 3923
one year's duration that are available for persons sentenced by 3924
the court within the forty-five-day period specified in this 3925
division, the court may impose upon the offender a prison term 3926
under division (B) (1) (b) (iv) of this section. 3927

(d) A sentencing court may impose an additional penalty 3928
under division (B) of section 2929.15 of the Revised Code upon 3929
an offender sentenced to a community control sanction under 3930
division (B) (1) (a) of this section if the offender violates the 3931
conditions of the community control sanction, violates a law, or 3932
leaves the state without the permission of the court or the 3933
offender's probation officer. 3934

(2) If division (B) (1) of this section does not apply, 3935
except as provided in division (E), (F), or (G) of this section, 3936
in determining whether to impose a prison term as a sanction for 3937
a felony of the fourth or fifth degree, the sentencing court 3938
shall comply with the purposes and principles of sentencing 3939
under section 2929.11 of the Revised Code and with section 3940
2929.12 of the Revised Code. 3941

(C) Except as provided in division (D), (E), (F), or (G) 3942
of this section, in determining whether to impose a prison term 3943
as a sanction for a felony of the third degree or a felony drug 3944
offense that is a violation of a provision of Chapter 2925. of 3945
the Revised Code and that is specified as being subject to this 3946
division for purposes of sentencing, the sentencing court shall 3947
comply with the purposes and principles of sentencing under 3948
section 2929.11 of the Revised Code and with section 2929.12 of 3949
the Revised Code. 3950

(D) (1) Except as provided in division (E) or (F) of this 3951
section, for a felony of the first or second degree, for a 3952
felony drug offense that is a violation of any provision of 3953
Chapter 2925., 3719., or 4729. of the Revised Code for which a 3954
presumption in favor of a prison term is specified as being 3955
applicable, and for a violation of division (A) (4) or (B) of 3956
section 2907.05 of the Revised Code for which a presumption in 3957

favor of a prison term is specified as being applicable, it is 3958
presumed that a prison term is necessary in order to comply with 3959
the purposes and principles of sentencing under section 2929.11 3960
of the Revised Code. Division (D) (2) of this section does not 3961
apply to a presumption established under this division for a 3962
violation of division (A) (4) of section 2907.05 of the Revised 3963
Code. 3964

(2) Notwithstanding the presumption established under 3965
division (D) (1) of this section for the offenses listed in that 3966
division other than a violation of division (A) (4) or (B) of 3967
section 2907.05 of the Revised Code, the sentencing court may 3968
impose a community control sanction or a combination of 3969
community control sanctions instead of a prison term on an 3970
offender for a felony of the first or second degree or for a 3971
felony drug offense that is a violation of any provision of 3972
Chapter 2925., 3719., or 4729. of the Revised Code for which a 3973
presumption in favor of a prison term is specified as being 3974
applicable if it makes both of the following findings: 3975

(a) A community control sanction or a combination of 3976
community control sanctions would adequately punish the offender 3977
and protect the public from future crime, because the applicable 3978
factors under section 2929.12 of the Revised Code indicating a 3979
lesser likelihood of recidivism outweigh the applicable factors 3980
under that section indicating a greater likelihood of 3981
recidivism. 3982

(b) A community control sanction or a combination of 3983
community control sanctions would not demean the seriousness of 3984
the offense, because one or more factors under section 2929.12 3985
of the Revised Code that indicate that the offender's conduct 3986
was less serious than conduct normally constituting the offense 3987

are applicable, and they outweigh the applicable factors under 3988
that section that indicate that the offender's conduct was more 3989
serious than conduct normally constituting the offense. 3990

(E) (1) Except as provided in division (F) of this section, 3991
for any drug offense that is a violation of any provision of 3992
Chapter 2925. of the Revised Code and that is a felony of the 3993
third, fourth, or fifth degree, the applicability of a 3994
presumption under division (D) of this section in favor of a 3995
prison term or of division (B) or (C) of this section in 3996
determining whether to impose a prison term for the offense 3997
shall be determined as specified in section 2925.02, 2925.03, 3998
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 3999
2925.36, or 2925.37 of the Revised Code, whichever is applicable 4000
regarding the violation. 4001

(2) If an offender who was convicted of or pleaded guilty 4002
to a felony violates the conditions of a community control 4003
sanction imposed for the offense solely by reason of producing 4004
positive results on a drug test or by acting pursuant to 4005
division (B) (2) (b) of section 2925.11 of the Revised Code with 4006
respect to a minor drug possession offense, the court, as 4007
punishment for the violation of the sanction, shall not order 4008
that the offender be imprisoned unless the court determines on 4009
the record either of the following: 4010

(a) The offender had been ordered as a sanction for the 4011
felony to participate in a drug treatment program, in a drug 4012
education program, or in narcotics anonymous or a similar 4013
program, and the offender continued to use illegal drugs after a 4014
reasonable period of participation in the program. 4015

(b) The imprisonment of the offender for the violation is 4016
consistent with the purposes and principles of sentencing set 4017

forth in section 2929.11 of the Revised Code. 4018

(3) A court that sentences an offender for a drug abuse 4019
offense that is a felony of the third, fourth, or fifth degree 4020
may require that the offender be assessed by a properly 4021
credentialed professional within a specified period of time. The 4022
court shall require the professional to file a written 4023
assessment of the offender with the court. If the offender is 4024
eligible for a community control sanction and after considering 4025
the written assessment, the court may impose a community control 4026
sanction that includes addiction services and recovery supports 4027
included in a community-based continuum of care established 4028
under section 340.032 of the Revised Code. If the court imposes 4029
addiction services and recovery supports as a community control 4030
sanction, the court shall direct the level and type of addiction 4031
services and recovery supports after considering the assessment 4032
and recommendation of community addiction services providers. 4033

(F) Notwithstanding divisions (A) to (E) of this section, 4034
the court shall impose a prison term or terms under ~~sections~~ 4035
section 2929.02 to 2929.06, section 2929.14, section 2929.142, 4036
or ~~section~~ 2971.03 of the Revised Code and except as 4037
specifically provided in section 2929.20, divisions (C) to (I) 4038
of section 2967.19, or section 2967.191 of the Revised Code or 4039
when parole is authorized for the offense under section 2967.13 4040
of the Revised Code shall not reduce the term or terms pursuant 4041
to section 2929.20, section 2967.19, section 2967.193, or any 4042
other provision of Chapter 2967. or Chapter 5120. of the Revised 4043
Code for any of the following offenses: 4044

(1) Aggravated murder ~~when death is not imposed~~ or murder; 4045

(2) Any rape, regardless of whether force was involved and 4046
regardless of the age of the victim, or an attempt to commit 4047

rape if, had the offender completed the rape that was attempted, 4048
the offender would have been guilty of a violation of division 4049
(A) (1) (b) of section 2907.02 of the Revised Code and would be 4050
sentenced under section 2971.03 of the Revised Code; 4051

(3) Gross sexual imposition or sexual battery, if the 4052
victim is less than thirteen years of age and if any of the 4053
following applies: 4054

(a) Regarding gross sexual imposition, the offender 4055
previously was convicted of or pleaded guilty to rape, the 4056
former offense of felonious sexual penetration, gross sexual 4057
imposition, or sexual battery, and the victim of the previous 4058
offense was less than thirteen years of age; 4059

(b) Regarding gross sexual imposition, the offense was 4060
committed on or after August 3, 2006, and evidence other than 4061
the testimony of the victim was admitted in the case 4062
corroborating the violation. 4063

(c) Regarding sexual battery, either of the following 4064
applies: 4065

(i) The offense was committed prior to August 3, 2006, the 4066
offender previously was convicted of or pleaded guilty to rape, 4067
the former offense of felonious sexual penetration, or sexual 4068
battery, and the victim of the previous offense was less than 4069
thirteen years of age. 4070

(ii) The offense was committed on or after August 3, 2006. 4071

(4) A felony violation of section 2903.04, 2903.06, 4072
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 4073
or 2923.132 of the Revised Code if the section requires the 4074
imposition of a prison term; 4075

(5) A first, second, or third degree felony drug offense 4076
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 4077
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 4078
or 4729.99 of the Revised Code, whichever is applicable 4079
regarding the violation, requires the imposition of a mandatory 4080
prison term; 4081

(6) Any offense that is a first or second degree felony 4082
and that is not set forth in division (F) (1), (2), (3), or (4) 4083
of this section, if the offender previously was convicted of or 4084
pleaded guilty to aggravated murder, murder, any first or second 4085
degree felony, or an offense under an existing or former law of 4086
this state, another state, or the United States that is or was 4087
substantially equivalent to one of those offenses; 4088

(7) Any offense that is a third degree felony and either 4089
is a violation of section 2903.04 of the Revised Code or an 4090
attempt to commit a felony of the second degree that is an 4091
offense of violence and involved an attempt to cause serious 4092
physical harm to a person or that resulted in serious physical 4093
harm to a person if the offender previously was convicted of or 4094
pleaded guilty to any of the following offenses: 4095

(a) Aggravated murder, murder, involuntary manslaughter, 4096
rape, felonious sexual penetration as it existed under section 4097
2907.12 of the Revised Code prior to September 3, 1996, a felony 4098
of the first or second degree that resulted in the death of a 4099
person or in physical harm to a person, or complicity in or an 4100
attempt to commit any of those offenses; 4101

(b) An offense under an existing or former law of this 4102
state, another state, or the United States that is or was 4103
substantially equivalent to an offense listed in division (F) (7) 4104
(a) of this section that resulted in the death of a person or in 4105

physical harm to a person. 4106

(8) Any offense, other than a violation of section 2923.12 4107
of the Revised Code, that is a felony, if the offender had a 4108
firearm on or about the offender's person or under the 4109
offender's control while committing the felony, with respect to 4110
a portion of the sentence imposed pursuant to division (B)(1)(a) 4111
of section 2929.14 of the Revised Code for having the firearm; 4112

(9) Any offense of violence that is a felony, if the 4113
offender wore or carried body armor while committing the felony 4114
offense of violence, with respect to the portion of the sentence 4115
imposed pursuant to division (B)(1)(d) of section 2929.14 of the 4116
Revised Code for wearing or carrying the body armor; 4117

(10) Corrupt activity in violation of section 2923.32 of 4118
the Revised Code when the most serious offense in the pattern of 4119
corrupt activity that is the basis of the offense is a felony of 4120
the first degree; 4121

(11) Any violent sex offense or designated homicide, 4122
assault, or kidnapping offense if, in relation to that offense, 4123
the offender is adjudicated a sexually violent predator; 4124

(12) A violation of division (A)(1) or (2) of section 4125
2921.36 of the Revised Code, or a violation of division (C) of 4126
that section involving an item listed in division (A)(1) or (2) 4127
of that section, if the offender is an officer or employee of 4128
the department of rehabilitation and correction; 4129

(13) A violation of division (A)(1) or (2) of section 4130
2903.06 of the Revised Code if the victim of the offense is a 4131
peace officer, as defined in section 2935.01 of the Revised 4132
Code, or an investigator of the bureau of criminal 4133
identification and investigation, as defined in section 2903.11 4134

of the Revised Code, with respect to the portion of the sentence 4135
imposed pursuant to division (B) (5) of section 2929.14 of the 4136
Revised Code; 4137

(14) A violation of division (A) (1) or (2) of section 4138
2903.06 of the Revised Code if the offender has been convicted 4139
of or pleaded guilty to three or more violations of division (A) 4140
or (B) of section 4511.19 of the Revised Code or an equivalent 4141
offense, as defined in section 2941.1415 of the Revised Code, or 4142
three or more violations of any combination of those divisions 4143
and offenses, with respect to the portion of the sentence 4144
imposed pursuant to division (B) (6) of section 2929.14 of the 4145
Revised Code; 4146

(15) Kidnapping, in the circumstances specified in section 4147
2971.03 of the Revised Code and when no other provision of 4148
division (F) of this section applies; 4149

(16) Kidnapping, abduction, compelling prostitution, 4150
promoting prostitution, engaging in a pattern of corrupt 4151
activity, illegal use of a minor in a nudity-oriented material 4152
or performance in violation of division (A) (1) or (2) of section 4153
2907.323 of the Revised Code, or endangering children in 4154
violation of division (B) (1), (2), (3), (4), or (5) of section 4155
2919.22 of the Revised Code, if the offender is convicted of or 4156
pleads guilty to a specification as described in section 4157
2941.1422 of the Revised Code that was included in the 4158
indictment, count in the indictment, or information charging the 4159
offense; 4160

(17) A felony violation of division (A) or (B) of section 4161
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 4162
that section, and division (D) (6) of that section, require the 4163
imposition of a prison term; 4164

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

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

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

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

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

Revised Code. The court shall not reduce the term pursuant to 4195
section 2929.20, 2967.193, or any other provision of the Revised 4196
Code. The court that imposes a mandatory term of local 4197
incarceration under this division shall specify whether the term 4198
is to be served in a jail, a community-based correctional 4199
facility, a halfway house, or an alternative residential 4200
facility, and the offender shall serve the term in the type of 4201
facility specified by the court. A mandatory term of local 4202
incarceration imposed under division (G) (1) of this section is 4203
not subject to any other Revised Code provision that pertains to 4204
a prison term except as provided in division (A) (1) of this 4205
section. 4206

(2) If the offender is being sentenced for a third degree 4207
felony OVI offense, or if the offender is being sentenced for a 4208
fourth degree felony OVI offense and the court does not impose a 4209
mandatory term of local incarceration under division (G) (1) of 4210
this section, the court shall impose upon the offender a 4211
mandatory prison term of one, two, three, four, or five years if 4212
the offender also is convicted of or also pleads guilty to a 4213
specification of the type described in section 2941.1413 of the 4214
Revised Code or shall impose upon the offender a mandatory 4215
prison term of sixty days or one hundred twenty days as 4216
specified in division (G) (1) (d) or (e) of section 4511.19 of the 4217
Revised Code if the offender has not been convicted of and has 4218
not pleaded guilty to a specification of that type. Subject to 4219
divisions (C) to (I) of section 2967.19 of the Revised Code, the 4220
court shall not reduce the term pursuant to section 2929.20, 4221
2967.19, 2967.193, or any other provision of the Revised Code. 4222
The offender shall serve the one-, two-, three-, four-, or five- 4223
year mandatory prison term consecutively to and prior to the 4224
prison term imposed for the underlying offense and consecutively 4225

to any other mandatory prison term imposed in relation to the 4226
offense. In no case shall an offender who once has been 4227
sentenced to a mandatory term of local incarceration pursuant to 4228
division (G) (1) of this section for a fourth degree felony OVI 4229
offense be sentenced to another mandatory term of local 4230
incarceration under that division for any violation of division 4231
(A) of section 4511.19 of the Revised Code. In addition to the 4232
mandatory prison term described in division (G) (2) of this 4233
section, the court may sentence the offender to a community 4234
control sanction under section 2929.16 or 2929.17 of the Revised 4235
Code, but the offender shall serve the prison term prior to 4236
serving the community control sanction. The department of 4237
rehabilitation and correction may place an offender sentenced to 4238
a mandatory prison term under this division in an intensive 4239
program prison established pursuant to section 5120.033 of the 4240
Revised Code if the department gave the sentencing judge prior 4241
notice of its intent to place the offender in an intensive 4242
program prison established under that section and if the judge 4243
did not notify the department that the judge disapproved the 4244
placement. Upon the establishment of the initial intensive 4245
program prison pursuant to section 5120.033 of the Revised Code 4246
that is privately operated and managed by a contractor pursuant 4247
to a contract entered into under section 9.06 of the Revised 4248
Code, both of the following apply: 4249

(a) The department of rehabilitation and correction shall 4250
make a reasonable effort to ensure that a sufficient number of 4251
offenders sentenced to a mandatory prison term under this 4252
division are placed in the privately operated and managed prison 4253
so that the privately operated and managed prison has full 4254
occupancy. 4255

(b) Unless the privately operated and managed prison has 4256

full occupancy, the department of rehabilitation and correction 4257
shall not place any offender sentenced to a mandatory prison 4258
term under this division in any intensive program prison 4259
established pursuant to section 5120.033 of the Revised Code 4260
other than the privately operated and managed prison. 4261

(H) If an offender is being sentenced for a sexually 4262
oriented offense or child-victim oriented offense that is a 4263
felony committed on or after January 1, 1997, the judge shall 4264
require the offender to submit to a DNA specimen collection 4265
procedure pursuant to section 2901.07 of the Revised Code. 4266

(I) If an offender is being sentenced for a sexually 4267
oriented offense or a child-victim oriented offense committed on 4268
or after January 1, 1997, the judge shall include in the 4269
sentence a summary of the offender's duties imposed under 4270
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 4271
Code and the duration of the duties. The judge shall inform the 4272
offender, at the time of sentencing, of those duties and of 4273
their duration. If required under division (A)(2) of section 4274
2950.03 of the Revised Code, the judge shall perform the duties 4275
specified in that section, or, if required under division (A)(6) 4276
of section 2950.03 of the Revised Code, the judge shall perform 4277
the duties specified in that division. 4278

(J)(1) Except as provided in division (J)(2) of this 4279
section, when considering sentencing factors under this section 4280
in relation to an offender who is convicted of or pleads guilty 4281
to an attempt to commit an offense in violation of section 4282
2923.02 of the Revised Code, the sentencing court shall consider 4283
the factors applicable to the felony category of the violation 4284
of section 2923.02 of the Revised Code instead of the factors 4285
applicable to the felony category of the offense attempted. 4286

(2) When considering sentencing factors under this section 4287
in relation to an offender who is convicted of or pleads guilty 4288
to an attempt to commit a drug abuse offense for which the 4289
penalty is determined by the amount or number of unit doses of 4290
the controlled substance involved in the drug abuse offense, the 4291
sentencing court shall consider the factors applicable to the 4292
felony category that the drug abuse offense attempted would be 4293
if that drug abuse offense had been committed and had involved 4294
an amount or number of unit doses of the controlled substance 4295
that is within the next lower range of controlled substance 4296
amounts than was involved in the attempt. 4297

(K) As used in this section: 4298

(1) "Community addiction services provider" has the same 4299
meaning as in section 5119.01 of the Revised Code. 4300

(2) "Drug abuse offense" has the same meaning as in 4301
section 2925.01 of the Revised Code. 4302

(3) "Minor drug possession offense" has the same meaning 4303
as in section 2925.11 of the Revised Code. 4304

(4) "Qualifying assault offense" means a violation of 4305
section 2903.13 of the Revised Code for which the penalty 4306
provision in division (C) (8) (b) or (C) (9) (b) of that section 4307
applies. 4308

(L) At the time of sentencing an offender for any sexually 4309
oriented offense, if the offender is a tier III sex 4310
offender/child-victim offender relative to that offense and the 4311
offender does not serve a prison term or jail term, the court 4312
may require that the offender be monitored by means of a global 4313
positioning device. If the court requires such monitoring, the 4314
cost of monitoring shall be borne by the offender. If the 4315

offender is indigent, the cost of compliance shall be paid by 4316
the crime victims reparations fund. 4317

Sec. 2929.14. (A) Except as provided in division (B) (1), 4318
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (E), 4319
(G), (H), (J), or (K) of this section or in division (D) (6) of 4320
section 2919.25 of the Revised Code and except in relation to an 4321
offense for which a sentence of ~~death or~~ life imprisonment is to 4322
be imposed, if the court imposing a sentence upon an offender 4323
for a felony elects or is required to impose a prison term on 4324
the offender pursuant to this chapter, the court shall impose a 4325
definite prison term that shall be one of the following: 4326

(1) For a felony of the first degree, the prison term 4327
shall be three, four, five, six, seven, eight, nine, ten, or 4328
eleven years. 4329

(2) For a felony of the second degree, the prison term 4330
shall be two, three, four, five, six, seven, or eight years. 4331

(3) (a) For a felony of the third degree that is a 4332
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 4333
2907.05, or 3795.04 of the Revised Code or that is a violation 4334
of section 2911.02 or 2911.12 of the Revised Code if the 4335
offender previously has been convicted of or pleaded guilty in 4336
two or more separate proceedings to two or more violations of 4337
section 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised 4338
Code, the prison term shall be twelve, eighteen, twenty-four, 4339
thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty 4340
months. 4341

(b) For a felony of the third degree that is not an 4342
offense for which division (A) (3) (a) of this section applies, 4343
the prison term shall be nine, twelve, eighteen, twenty-four, 4344

thirty, or thirty-six months. 4345

(4) For a felony of the fourth degree, the prison term 4346
shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, 4347
fourteen, fifteen, sixteen, seventeen, or eighteen months. 4348

(5) For a felony of the fifth degree, the prison term 4349
shall be six, seven, eight, nine, ten, eleven, or twelve months. 4350

(B) (1) (a) Except as provided in division (B) (1) (e) of this 4351
section, if an offender who is convicted of or pleads guilty to 4352
a felony also is convicted of or pleads guilty to a 4353
specification of the type described in section 2941.141, 4354
2941.144, or 2941.145 of the Revised Code, the court shall 4355
impose on the offender one of the following prison terms: 4356

(i) A prison term of six years if the specification is of 4357
the type described in division (A) of section 2941.144 of the 4358
Revised Code that charges the offender with having a firearm 4359
that is an automatic firearm or that was equipped with a firearm 4360
muffler or suppressor on or about the offender's person or under 4361
the offender's control while committing the offense; 4362

(ii) A prison term of three years if the specification is 4363
of the type described in division (A) of section 2941.145 of the 4364
Revised Code that charges the offender with having a firearm on 4365
or about the offender's person or under the offender's control 4366
while committing the offense and displaying the firearm, 4367
brandishing the firearm, indicating that the offender possessed 4368
the firearm, or using it to facilitate the offense; 4369

(iii) A prison term of one year if the specification is of 4370
the type described in division (A) of section 2941.141 of the 4371
Revised Code that charges the offender with having a firearm on 4372
or about the offender's person or under the offender's control 4373

while committing the offense; 4374

(iv) A prison term of nine years if the specification is 4375
of the type described in division (D) of section 2941.144 of the 4376
Revised Code that charges the offender with having a firearm 4377
that is an automatic firearm or that was equipped with a firearm 4378
muffler or suppressor on or about the offender's person or under 4379
the offender's control while committing the offense and 4380
specifies that the offender previously has been convicted of or 4381
pleaded guilty to a specification of the type described in 4382
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4383
the Revised Code; 4384

(v) A prison term of fifty-four months if the 4385
specification is of the type described in division (D) of 4386
section 2941.145 of the Revised Code that charges the offender 4387
with having a firearm on or about the offender's person or under 4388
the offender's control while committing the offense and 4389
displaying the firearm, brandishing the firearm, indicating that 4390
the offender possessed the firearm, or using the firearm to 4391
facilitate the offense and that the offender previously has been 4392
convicted of or pleaded guilty to a specification of the type 4393
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 4394
2941.1412 of the Revised Code; 4395

(vi) A prison term of eighteen months if the specification 4396
is of the type described in division (D) of section 2941.141 of 4397
the Revised Code that charges the offender with having a firearm 4398
on or about the offender's person or under the offender's 4399
control while committing the offense and that the offender 4400
previously has been convicted of or pleaded guilty to a 4401
specification of the type described in section 2941.141, 4402
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 4403

(b) If a court imposes a prison term on an offender under 4404
division (B)(1)(a) of this section, the prison term shall not be 4405
reduced pursuant to section 2967.19, section 2929.20, section 4406
2967.193, or any other provision of Chapter 2967. or Chapter 4407
5120. of the Revised Code. Except as provided in division (B)(1) 4408
(g) of this section, a court shall not impose more than one 4409
prison term on an offender under division (B)(1)(a) of this 4410
section for felonies committed as part of the same act or 4411
transaction. 4412

(c)(i) Except as provided in division (B)(1)(e) of this 4413
section, if an offender who is convicted of or pleads guilty to 4414
a violation of section 2923.161 of the Revised Code or to a 4415
felony that includes, as an essential element, purposely or 4416
knowingly causing or attempting to cause the death of or 4417
physical harm to another, also is convicted of or pleads guilty 4418
to a specification of the type described in division (A) of 4419
section 2941.146 of the Revised Code that charges the offender 4420
with committing the offense by discharging a firearm from a 4421
motor vehicle other than a manufactured home, the court, after 4422
imposing a prison term on the offender for the violation of 4423
section 2923.161 of the Revised Code or for the other felony 4424
offense under division (A), (B)(2), or (B)(3) of this section, 4425
shall impose an additional prison term of five years upon the 4426
offender that shall not be reduced pursuant to section 2929.20, 4427
section 2967.19, section 2967.193, or any other provision of 4428
Chapter 2967. or Chapter 5120. of the Revised Code. 4429

(ii) Except as provided in division (B)(1)(e) of this 4430
section, if an offender who is convicted of or pleads guilty to 4431
a violation of section 2923.161 of the Revised Code or to a 4432
felony that includes, as an essential element, purposely or 4433
knowingly causing or attempting to cause the death of or 4434

physical harm to another, also is convicted of or pleads guilty 4435
to a specification of the type described in division (C) of 4436
section 2941.146 of the Revised Code that charges the offender 4437
with committing the offense by discharging a firearm from a 4438
motor vehicle other than a manufactured home and that the 4439
offender previously has been convicted of or pleaded guilty to a 4440
specification of the type described in section 2941.141, 4441
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 4442
the court, after imposing a prison term on the offender for the 4443
violation of section 2923.161 of the Revised Code or for the 4444
other felony offense under division (A), (B) (2), or (3) of this 4445
section, shall impose an additional prison term of ninety months 4446
upon the offender that shall not be reduced pursuant to section 4447
2929.20, 2967.19, 2967.193, or any other provision of Chapter 4448
2967. or Chapter 5120. of the Revised Code. 4449

(iii) A court shall not impose more than one additional 4450
prison term on an offender under division (B) (1) (c) of this 4451
section for felonies committed as part of the same act or 4452
transaction. If a court imposes an additional prison term on an 4453
offender under division (B) (1) (c) of this section relative to an 4454
offense, the court also shall impose a prison term under 4455
division (B) (1) (a) of this section relative to the same offense, 4456
provided the criteria specified in that division for imposing an 4457
additional prison term are satisfied relative to the offender 4458
and the offense. 4459

(d) If an offender who is convicted of or pleads guilty to 4460
an offense of violence that is a felony also is convicted of or 4461
pleads guilty to a specification of the type described in 4462
section 2941.1411 of the Revised Code that charges the offender 4463
with wearing or carrying body armor while committing the felony 4464
offense of violence, the court shall impose on the offender a 4465

prison term of two years. The prison term so imposed, subject to 4466
divisions (C) to (I) of section 2967.19 of the Revised Code, 4467
shall not be reduced pursuant to section 2929.20, section 4468
2967.19, section 2967.193, or any other provision of Chapter 4469
2967. or Chapter 5120. of the Revised Code. A court shall not 4470
impose more than one prison term on an offender under division 4471
(B) (1) (d) of this section for felonies committed as part of the 4472
same act or transaction. If a court imposes an additional prison 4473
term under division (B) (1) (a) or (c) of this section, the court 4474
is not precluded from imposing an additional prison term under 4475
division (B) (1) (d) of this section. 4476

(e) The court shall not impose any of the prison terms 4477
described in division (B) (1) (a) of this section or any of the 4478
additional prison terms described in division (B) (1) (c) of this 4479
section upon an offender for a violation of section 2923.12 or 4480
2923.123 of the Revised Code. The court shall not impose any of 4481
the prison terms described in division (B) (1) (a) or (b) of this 4482
section upon an offender for a violation of section 2923.122 4483
that involves a deadly weapon that is a firearm other than a 4484
dangerous ordnance, section 2923.16, or section 2923.121 of the 4485
Revised Code. The court shall not impose any of the prison terms 4486
described in division (B) (1) (a) of this section or any of the 4487
additional prison terms described in division (B) (1) (c) of this 4488
section upon an offender for a violation of section 2923.13 of 4489
the Revised Code unless all of the following apply: 4490

(i) The offender previously has been convicted of 4491
aggravated murder, murder, or any felony of the first or second 4492
degree. 4493

(ii) Less than five years have passed since the offender 4494
was released from prison or post-release control, whichever is 4495

later, for the prior offense. 4496

(f) (i) If an offender is convicted of or pleads guilty to 4497
a felony that includes, as an essential element, causing or 4498
attempting to cause the death of or physical harm to another and 4499
also is convicted of or pleads guilty to a specification of the 4500
type described in division (A) of section 2941.1412 of the 4501
Revised Code that charges the offender with committing the 4502
offense by discharging a firearm at a peace officer as defined 4503
in section 2935.01 of the Revised Code or a corrections officer, 4504
as defined in section 2941.1412 of the Revised Code, the court, 4505
after imposing a prison term on the offender for the felony 4506
offense under division (A), (B) (2), or (B) (3) of this section, 4507
shall impose an additional prison term of seven years upon the 4508
offender that shall not be reduced pursuant to section 2929.20, 4509
section 2967.19, section 2967.193, or any other provision of 4510
Chapter 2967. or Chapter 5120. of the Revised Code. 4511

(ii) If an offender is convicted of or pleads guilty to a 4512
felony that includes, as an essential element, causing or 4513
attempting to cause the death of or physical harm to another and 4514
also is convicted of or pleads guilty to a specification of the 4515
type described in division (B) of section 2941.1412 of the 4516
Revised Code that charges the offender with committing the 4517
offense by discharging a firearm at a peace officer, as defined 4518
in section 2935.01 of the Revised Code, or a corrections 4519
officer, as defined in section 2941.1412 of the Revised Code, 4520
and that the offender previously has been convicted of or 4521
pleaded guilty to a specification of the type described in 4522
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4523
the Revised Code, the court, after imposing a prison term on the 4524
offender for the felony offense under division (A), (B) (2), or 4525
(3) of this section, shall impose an additional prison term of 4526

one hundred twenty-six months upon the offender that shall not 4527
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 4528
any other provision of Chapter 2967. or 5120. of the Revised 4529
Code. 4530

(iii) If an offender is convicted of or pleads guilty to 4531
two or more felonies that include, as an essential element, 4532
causing or attempting to cause the death or physical harm to 4533
another and also is convicted of or pleads guilty to a 4534
specification of the type described under division (B) (1) (f) of 4535
this section in connection with two or more of the felonies of 4536
which the offender is convicted or to which the offender pleads 4537
guilty, the sentencing court shall impose on the offender the 4538
prison term specified under division (B) (1) (f) of this section 4539
for each of two of the specifications of which the offender is 4540
convicted or to which the offender pleads guilty and, in its 4541
discretion, also may impose on the offender the prison term 4542
specified under that division for any or all of the remaining 4543
specifications. If a court imposes an additional prison term on 4544
an offender under division (B) (1) (f) of this section relative to 4545
an offense, the court shall not impose a prison term under 4546
division (B) (1) (a) or (c) of this section relative to the same 4547
offense. 4548

(g) If an offender is convicted of or pleads guilty to two 4549
or more felonies, if one or more of those felonies are 4550
aggravated murder, murder, attempted aggravated murder, 4551
attempted murder, aggravated robbery, felonious assault, or 4552
rape, and if the offender is convicted of or pleads guilty to a 4553
specification of the type described under division (B) (1) (a) of 4554
this section in connection with two or more of the felonies, the 4555
sentencing court shall impose on the offender the prison term 4556
specified under division (B) (1) (a) of this section for each of 4557

the two most serious specifications of which the offender is 4558
convicted or to which the offender pleads guilty and, in its 4559
discretion, also may impose on the offender the prison term 4560
specified under that division for any or all of the remaining 4561
specifications. 4562

(2) (a) If division (B) (2) (b) of this section does not 4563
apply, the court may impose on an offender, in addition to the 4564
longest prison term authorized or required for the offense, an 4565
additional definite prison term of one, two, three, four, five, 4566
six, seven, eight, nine, or ten years if all of the following 4567
criteria are met: 4568

(i) The offender is convicted of or pleads guilty to a 4569
specification of the type described in section 2941.149 of the 4570
Revised Code that the offender is a repeat violent offender. 4571

(ii) The offense of which the offender currently is 4572
convicted or to which the offender currently pleads guilty is 4573
aggravated murder and the court does not impose a sentence of 4574
~~death or~~ life imprisonment without parole, murder, terrorism and 4575
the court does not impose a sentence of life imprisonment 4576
without parole, any felony of the first degree that is an 4577
offense of violence and the court does not impose a sentence of 4578
life imprisonment without parole, or any felony of the second 4579
degree that is an offense of violence and the trier of fact 4580
finds that the offense involved an attempt to cause or a threat 4581
to cause serious physical harm to a person or resulted in 4582
serious physical harm to a person. 4583

(iii) The court imposes the longest prison term for the 4584
offense that is not life imprisonment without parole. 4585

(iv) The court finds that the prison terms imposed 4586

pursuant to division (B) (2) (a) (iii) of this section and, if 4587
applicable, division (B) (1) or (3) of this section are 4588
inadequate to punish the offender and protect the public from 4589
future crime, because the applicable factors under section 4590
2929.12 of the Revised Code indicating a greater likelihood of 4591
recidivism outweigh the applicable factors under that section 4592
indicating a lesser likelihood of recidivism. 4593

(v) The court finds that the prison terms imposed pursuant 4594
to division (B) (2) (a) (iii) of this section and, if applicable, 4595
division (B) (1) or (3) of this section are demeaning to the 4596
seriousness of the offense, because one or more of the factors 4597
under section 2929.12 of the Revised Code indicating that the 4598
offender's conduct is more serious than conduct normally 4599
constituting the offense are present, and they outweigh the 4600
applicable factors under that section indicating that the 4601
offender's conduct is less serious than conduct normally 4602
constituting the offense. 4603

(b) The court shall impose on an offender the longest 4604
prison term authorized or required for the offense and shall 4605
impose on the offender an additional definite prison term of 4606
one, two, three, four, five, six, seven, eight, nine, or ten 4607
years if all of the following criteria are met: 4608

(i) The offender is convicted of or pleads guilty to a 4609
specification of the type described in section 2941.149 of the 4610
Revised Code that the offender is a repeat violent offender. 4611

(ii) The offender within the preceding twenty years has 4612
been convicted of or pleaded guilty to three or more offenses 4613
described in division (CC) (1) of section 2929.01 of the Revised 4614
Code, including all offenses described in that division of which 4615
the offender is convicted or to which the offender pleads guilty 4616

in the current prosecution and all offenses described in that 4617
division of which the offender previously has been convicted or 4618
to which the offender previously pleaded guilty, whether 4619
prosecuted together or separately. 4620

(iii) The offense or offenses of which the offender 4621
currently is convicted or to which the offender currently pleads 4622
guilty is aggravated murder and the court does not impose a 4623
sentence of ~~death or~~ life imprisonment without parole, murder, 4624
terrorism and the court does not impose a sentence of life 4625
imprisonment without parole, any felony of the first degree that 4626
is an offense of violence and the court does not impose a 4627
sentence of life imprisonment without parole, or any felony of 4628
the second degree that is an offense of violence and the trier 4629
of fact finds that the offense involved an attempt to cause or a 4630
threat to cause serious physical harm to a person or resulted in 4631
serious physical harm to a person. 4632

(c) For purposes of division (B) (2) (b) of this section, 4633
two or more offenses committed at the same time or as part of 4634
the same act or event shall be considered one offense, and that 4635
one offense shall be the offense with the greatest penalty. 4636

(d) A sentence imposed under division (B) (2) (a) or (b) of 4637
this section shall not be reduced pursuant to section 2929.20, 4638
section 2967.19, or section 2967.193, or any other provision of 4639
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 4640
shall serve an additional prison term imposed under this section 4641
consecutively to and prior to the prison term imposed for the 4642
underlying offense. 4643

(e) When imposing a sentence pursuant to division (B) (2) 4644
(a) or (b) of this section, the court shall state its findings 4645
explaining the imposed sentence. 4646

(3) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, division (C) or (D) of section 3719.172, division (E) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in section 2941.1410 of the Revised Code charging that the offender is a major drug offender, if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious offense in the pattern of corrupt activity being a felony of the first degree, or if the offender is guilty of an attempted violation of section 2907.02 of the Revised Code and, had the offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a mandatory prison term of the maximum prison term prescribed for a felony of the first degree that, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, cannot be reduced pursuant to section 2929.20, section 2967.19, or any other provision of Chapter 2967. or 5120. of the Revised Code.

(4) If the offender is being sentenced for a third or 4679
fourth degree felony OVI offense under division (G) (2) of 4680
section 2929.13 of the Revised Code, the sentencing court shall 4681
impose upon the offender a mandatory prison term in accordance 4682
with that division. In addition to the mandatory prison term, if 4683
the offender is being sentenced for a fourth degree felony OVI 4684
offense, the court, notwithstanding division (A) (4) of this 4685
section, may sentence the offender to a definite prison term of 4686
not less than six months and not more than thirty months, and if 4687
the offender is being sentenced for a third degree felony OVI 4688
offense, the sentencing court may sentence the offender to an 4689
additional prison term of any duration specified in division (A) 4690
(3) of this section. In either case, the additional prison term 4691
imposed shall be reduced by the sixty or one hundred twenty days 4692
imposed upon the offender as the mandatory prison term. The 4693
total of the additional prison term imposed under division (B) 4694
(4) of this section plus the sixty or one hundred twenty days 4695
imposed as the mandatory prison term shall equal a definite term 4696
in the range of six months to thirty months for a fourth degree 4697
felony OVI offense and shall equal one of the authorized prison 4698
terms specified in division (A) (3) of this section for a third 4699
degree felony OVI offense. If the court imposes an additional 4700
prison term under division (B) (4) of this section, the offender 4701
shall serve the additional prison term after the offender has 4702
served the mandatory prison term required for the offense. In 4703
addition to the mandatory prison term or mandatory and 4704
additional prison term imposed as described in division (B) (4) 4705
of this section, the court also may sentence the offender to a 4706
community control sanction under section 2929.16 or 2929.17 of 4707
the Revised Code, but the offender shall serve all of the prison 4708
terms so imposed prior to serving the community control 4709
sanction. 4710

If the offender is being sentenced for a fourth degree 4711
felony OVI offense under division (G) (1) of section 2929.13 of 4712
the Revised Code and the court imposes a mandatory term of local 4713
incarceration, the court may impose a prison term as described 4714
in division (A) (1) of that section. 4715

(5) If an offender is convicted of or pleads guilty to a 4716
violation of division (A) (1) or (2) of section 2903.06 of the 4717
Revised Code and also is convicted of or pleads guilty to a 4718
specification of the type described in section 2941.1414 of the 4719
Revised Code that charges that the victim of the offense is a 4720
peace officer, as defined in section 2935.01 of the Revised 4721
Code, or an investigator of the bureau of criminal 4722
identification and investigation, as defined in section 2903.11 4723
of the Revised Code, the court shall impose on the offender a 4724
prison term of five years. If a court imposes a prison term on 4725
an offender under division (B) (5) of this section, the prison 4726
term, subject to divisions (C) to (I) of section 2967.19 of the 4727
Revised Code, shall not be reduced pursuant to section 2929.20, 4728
section 2967.19, section 2967.193, or any other provision of 4729
Chapter 2967. or Chapter 5120. of the Revised Code. A court 4730
shall not impose more than one prison term on an offender under 4731
division (B) (5) of this section for felonies committed as part 4732
of the same act. 4733

(6) If an offender is convicted of or pleads guilty to a 4734
violation of division (A) (1) or (2) of section 2903.06 of the 4735
Revised Code and also is convicted of or pleads guilty to a 4736
specification of the type described in section 2941.1415 of the 4737
Revised Code that charges that the offender previously has been 4738
convicted of or pleaded guilty to three or more violations of 4739
division (A) or (B) of section 4511.19 of the Revised Code or an 4740
equivalent offense, as defined in section 2941.1415 of the 4741

Revised Code, or three or more violations of any combination of 4742
those divisions and offenses, the court shall impose on the 4743
offender a prison term of three years. If a court imposes a 4744
prison term on an offender under division (B) (6) of this 4745
section, the prison term, subject to divisions (C) to (I) of 4746
section 2967.19 of the Revised Code, shall not be reduced 4747
pursuant to section 2929.20, section 2967.19, section 2967.193, 4748
or any other provision of Chapter 2967. or Chapter 5120. of the 4749
Revised Code. A court shall not impose more than one prison term 4750
on an offender under division (B) (6) of this section for 4751
felonies committed as part of the same act. 4752

(7) (a) If an offender is convicted of or pleads guilty to 4753
a felony violation of section 2905.01, 2905.02, 2907.21, 4754
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, 4755
or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of 4756
the Revised Code and also is convicted of or pleads guilty to a 4757
specification of the type described in section 2941.1422 of the 4758
Revised Code that charges that the offender knowingly committed 4759
the offense in furtherance of human trafficking, the court shall 4760
impose on the offender a mandatory prison term that is one of 4761
the following: 4762

(i) If the offense is a felony of the first degree, a 4763
definite prison term of not less than five years and not greater 4764
than ten years; 4765

(ii) If the offense is a felony of the second or third 4766
degree, a definite prison term of not less than three years and 4767
not greater than the maximum prison term allowed for the offense 4768
by division (A) of section 2929.14 of the Revised Code; 4769

(iii) If the offense is a felony of the fourth or fifth 4770
degree, a definite prison term that is the maximum prison term 4771

allowed for the offense by division (A) of section 2929.14 of 4772
the Revised Code. 4773

(b) Subject to divisions (C) to (I) of section 2967.19 of 4774
the Revised Code, the prison term imposed under division (B) (7) 4775
(a) of this section shall not be reduced pursuant to section 4776
2929.20, section 2967.19, section 2967.193, or any other 4777
provision of Chapter 2967. of the Revised Code. A court shall 4778
not impose more than one prison term on an offender under 4779
division (B) (7) (a) of this section for felonies committed as 4780
part of the same act, scheme, or plan. 4781

(8) If an offender is convicted of or pleads guilty to a 4782
felony violation of section 2903.11, 2903.12, or 2903.13 of the 4783
Revised Code and also is convicted of or pleads guilty to a 4784
specification of the type described in section 2941.1423 of the 4785
Revised Code that charges that the victim of the violation was a 4786
woman whom the offender knew was pregnant at the time of the 4787
violation, notwithstanding the range of prison terms prescribed 4788
in division (A) of this section for felonies of the same degree 4789
as the violation, the court shall impose on the offender a 4790
mandatory prison term that is either a definite prison term of 4791
six months or one of the prison terms prescribed in section 4792
2929.14 of the Revised Code for felonies of the same degree as 4793
the violation. 4794

(C) (1) (a) Subject to division (C) (1) (b) of this section, 4795
if a mandatory prison term is imposed upon an offender pursuant 4796
to division (B) (1) (a) of this section for having a firearm on or 4797
about the offender's person or under the offender's control 4798
while committing a felony, if a mandatory prison term is imposed 4799
upon an offender pursuant to division (B) (1) (c) of this section 4800
for committing a felony specified in that division by 4801

discharging a firearm from a motor vehicle, or if both types of 4802
mandatory prison terms are imposed, the offender shall serve any 4803
mandatory prison term imposed under either division 4804
consecutively to any other mandatory prison term imposed under 4805
either division or under division (B) (1) (d) of this section, 4806
consecutively to and prior to any prison term imposed for the 4807
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 4808
this section or any other section of the Revised Code, and 4809
consecutively to any other prison term or mandatory prison term 4810
previously or subsequently imposed upon the offender. 4811

(b) If a mandatory prison term is imposed upon an offender 4812
pursuant to division (B) (1) (d) of this section for wearing or 4813
carrying body armor while committing an offense of violence that 4814
is a felony, the offender shall serve the mandatory term so 4815
imposed consecutively to any other mandatory prison term imposed 4816
under that division or under division (B) (1) (a) or (c) of this 4817
section, consecutively to and prior to any prison term imposed 4818
for the underlying felony under division (A), (B) (2), or (B) (3) 4819
of this section or any other section of the Revised Code, and 4820
consecutively to any other prison term or mandatory prison term 4821
previously or subsequently imposed upon the offender. 4822

(c) If a mandatory prison term is imposed upon an offender 4823
pursuant to division (B) (1) (f) of this section, the offender 4824
shall serve the mandatory prison term so imposed consecutively 4825
to and prior to any prison term imposed for the underlying 4826
felony under division (A), (B) (2), or (B) (3) of this section or 4827
any other section of the Revised Code, and consecutively to any 4828
other prison term or mandatory prison term previously or 4829
subsequently imposed upon the offender. 4830

(d) If a mandatory prison term is imposed upon an offender 4831

pursuant to division (B) (7) or (8) of this section, the offender 4832
shall serve the mandatory prison term so imposed consecutively 4833
to any other mandatory prison term imposed under that division 4834
or under any other provision of law and consecutively to any 4835
other prison term or mandatory prison term previously or 4836
subsequently imposed upon the offender. 4837

(2) If an offender who is an inmate in a jail, prison, or 4838
other residential detention facility violates section 2917.02, 4839
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 4840
(2) of section 2921.34 of the Revised Code, if an offender who 4841
is under detention at a detention facility commits a felony 4842
violation of section 2923.131 of the Revised Code, or if an 4843
offender who is an inmate in a jail, prison, or other 4844
residential detention facility or is under detention at a 4845
detention facility commits another felony while the offender is 4846
an escapee in violation of division (A) (1) or (2) of section 4847
2921.34 of the Revised Code, any prison term imposed upon the 4848
offender for one of those violations shall be served by the 4849
offender consecutively to the prison term or term of 4850
imprisonment the offender was serving when the offender 4851
committed that offense and to any other prison term previously 4852
or subsequently imposed upon the offender. 4853

(3) If a prison term is imposed for a violation of 4854
division (B) of section 2911.01 of the Revised Code, a violation 4855
of division (A) of section 2913.02 of the Revised Code in which 4856
the stolen property is a firearm or dangerous ordnance, or a 4857
felony violation of division (B) of section 2921.331 of the 4858
Revised Code, the offender shall serve that prison term 4859
consecutively to any other prison term or mandatory prison term 4860
previously or subsequently imposed upon the offender. 4861

(4) If multiple prison terms are imposed on an offender 4862
for convictions of multiple offenses, the court may require the 4863
offender to serve the prison terms consecutively if the court 4864
finds that the consecutive service is necessary to protect the 4865
public from future crime or to punish the offender and that 4866
consecutive sentences are not disproportionate to the 4867
seriousness of the offender's conduct and to the danger the 4868
offender poses to the public, and if the court also finds any of 4869
the following: 4870

(a) The offender committed one or more of the multiple 4871
offenses while the offender was awaiting trial or sentencing, 4872
was under a sanction imposed pursuant to section 2929.16, 4873
2929.17, or 2929.18 of the Revised Code, or was under post- 4874
release control for a prior offense. 4875

(b) At least two of the multiple offenses were committed 4876
as part of one or more courses of conduct, and the harm caused 4877
by two or more of the multiple offenses so committed was so 4878
great or unusual that no single prison term for any of the 4879
offenses committed as part of any of the courses of conduct 4880
adequately reflects the seriousness of the offender's conduct. 4881

(c) The offender's history of criminal conduct 4882
demonstrates that consecutive sentences are necessary to protect 4883
the public from future crime by the offender. 4884

(5) If a mandatory prison term is imposed upon an offender 4885
pursuant to division (B) (5) or (6) of this section, the offender 4886
shall serve the mandatory prison term consecutively to and prior 4887
to any prison term imposed for the underlying violation of 4888
division (A) (1) or (2) of section 2903.06 of the Revised Code 4889
pursuant to division (A) of this section or section 2929.142 of 4890
the Revised Code. If a mandatory prison term is imposed upon an 4891

offender pursuant to division (B)(5) of this section, and if a
mandatory prison term also is imposed upon the offender pursuant
to division (B)(6) of this section in relation to the same
violation, the offender shall serve the mandatory prison term
imposed pursuant to division (B)(5) of this section
consecutively to and prior to the mandatory prison term imposed
pursuant to division (B)(6) of this section and consecutively to
and prior to any prison term imposed for the underlying
violation of division (A)(1) or (2) of section 2903.06 of the
Revised Code pursuant to division (A) of this section or section
2929.142 of the Revised Code.

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

(D)(1) If a court imposes a prison term for a felony of
the first degree, for a felony of the second degree, for a
felony sex offense, or for a felony of the third degree that is
not a felony sex offense and in the commission of which the
offender caused or threatened to cause physical harm to a
person, it shall include in the sentence a requirement that the
offender be subject to a period of post-release control after
the offender's release from imprisonment, in accordance with
that division. If a court imposes a sentence including a prison
term of a type described in this division on or after July 11,
2006, the failure of a court to include a post-release control
requirement in the sentence pursuant to this division does not
negate, limit, or otherwise affect the mandatory period of post-
release control that is required for the offender under division
(B) of section 2967.28 of the Revised Code. Section 2929.191 of
the Revised Code applies if, prior to July 11, 2006, a court

imposed a sentence including a prison term of a type described 4923
in this division and failed to include in the sentence pursuant 4924
to this division a statement regarding post-release control. 4925

(2) If a court imposes a prison term for a felony of the 4926
third, fourth, or fifth degree that is not subject to division 4927
(D) (1) of this section, it shall include in the sentence a 4928
requirement that the offender be subject to a period of post- 4929
release control after the offender's release from imprisonment, 4930
in accordance with that division, if the parole board determines 4931
that a period of post-release control is necessary. Section 4932
2929.191 of the Revised Code applies if, prior to July 11, 2006, 4933
a court imposed a sentence including a prison term of a type 4934
described in this division and failed to include in the sentence 4935
pursuant to this division a statement regarding post-release 4936
control. 4937

(E) The court shall impose sentence upon the offender in 4938
accordance with section 2971.03 of the Revised Code, and Chapter 4939
2971. of the Revised Code applies regarding the prison term or 4940
term of life imprisonment without parole imposed upon the 4941
offender and the service of that term of imprisonment if any of 4942
the following apply: 4943

(1) A person is convicted of or pleads guilty to a violent 4944
sex offense or a designated homicide, assault, or kidnapping 4945
offense, and, in relation to that offense, the offender is 4946
adjudicated a sexually violent predator. 4947

(2) A person is convicted of or pleads guilty to a 4948
violation of division (A) (1) (b) of section 2907.02 of the 4949
Revised Code committed on or after January 2, 2007, and either 4950
the court does not impose a sentence of life without parole when 4951
authorized pursuant to division (B) of section 2907.02 of the 4952

Revised Code, or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code.

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

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

(5) A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, 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 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 4982
provision of law, section 5120.163 of the Revised Code applies 4983
regarding the person while the person is confined in a state 4984
correctional institution. 4985

(G) If an offender who is convicted of or pleads guilty to 4986
a felony that is an offense of violence also is convicted of or 4987
pleads guilty to a specification of the type described in 4988
section 2941.142 of the Revised Code that charges the offender 4989
with having committed the felony while participating in a 4990
criminal gang, the court shall impose upon the offender an 4991
additional prison term of one, two, or three years. 4992

(H) (1) If an offender who is convicted of or pleads guilty 4993
to aggravated murder, murder, or a felony of the first, second, 4994
or third degree that is an offense of violence also is convicted 4995
of or pleads guilty to a specification of the type described in 4996
section 2941.143 of the Revised Code that charges the offender 4997
with having committed the offense in a school safety zone or 4998
towards a person in a school safety zone, the court shall impose 4999
upon the offender an additional prison term of two years. The 5000
offender shall serve the additional two years consecutively to 5001
and prior to the prison term imposed for the underlying offense. 5002

(2) (a) If an offender is convicted of or pleads guilty to 5003
a felony violation of section 2907.22, 2907.24, 2907.241, or 5004
2907.25 of the Revised Code and to a specification of the type 5005
described in section 2941.1421 of the Revised Code and if the 5006
court imposes a prison term on the offender for the felony 5007
violation, the court may impose upon the offender an additional 5008
prison term as follows: 5009

(i) Subject to division (H) (2) (a) (ii) of this section, an 5010
additional prison term of one, two, three, four, five, or six 5011

months; 5012

(ii) If the offender previously has been convicted of or 5013
pleaded guilty to one or more felony or misdemeanor violations 5014
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 5015
the Revised Code and also was convicted of or pleaded guilty to 5016
a specification of the type described in section 2941.1421 of 5017
the Revised Code regarding one or more of those violations, an 5018
additional prison term of one, two, three, four, five, six, 5019
seven, eight, nine, ten, eleven, or twelve months. 5020

(b) In lieu of imposing an additional prison term under 5021
division (H)(2)(a) of this section, the court may directly 5022
impose on the offender a sanction that requires the offender to 5023
wear a real-time processing, continual tracking electronic 5024
monitoring device during the period of time specified by the 5025
court. The period of time specified by the court shall equal the 5026
duration of an additional prison term that the court could have 5027
imposed upon the offender under division (H)(2)(a) of this 5028
section. A sanction imposed under this division shall commence 5029
on the date specified by the court, provided that the sanction 5030
shall not commence until after the offender has served the 5031
prison term imposed for the felony violation of section 2907.22, 5032
2907.24, 2907.241, or 2907.25 of the Revised Code and any 5033
residential sanction imposed for the violation under section 5034
2929.16 of the Revised Code. A sanction imposed under this 5035
division shall be considered to be a community control sanction 5036
for purposes of section 2929.15 of the Revised Code, and all 5037
provisions of the Revised Code that pertain to community control 5038
sanctions shall apply to a sanction imposed under this division, 5039
except to the extent that they would by their nature be clearly 5040
inapplicable. The offender shall pay all costs associated with a 5041
sanction imposed under this division, including the cost of the 5042

use of the monitoring device. 5043

(I) At the time of sentencing, the court may recommend the 5044
offender for placement in a program of shock incarceration under 5045
section 5120.031 of the Revised Code or for placement in an 5046
intensive program prison under section 5120.032 of the Revised 5047
Code, disapprove placement of the offender in a program of shock 5048
incarceration or an intensive program prison of that nature, or 5049
make no recommendation on placement of the offender. In no case 5050
shall the department of rehabilitation and correction place the 5051
offender in a program or prison of that nature unless the 5052
department determines as specified in section 5120.031 or 5053
5120.032 of the Revised Code, whichever is applicable, that the 5054
offender is eligible for the placement. 5055

If the court disapproves placement of the offender in a 5056
program or prison of that nature, the department of 5057
rehabilitation and correction shall not place the offender in 5058
any program of shock incarceration or intensive program prison. 5059

If the court recommends placement of the offender in a 5060
program of shock incarceration or in an intensive program 5061
prison, and if the offender is subsequently placed in the 5062
recommended program or prison, the department shall notify the 5063
court of the placement and shall include with the notice a brief 5064
description of the placement. 5065

If the court recommends placement of the offender in a 5066
program of shock incarceration or in an intensive program prison 5067
and the department does not subsequently place the offender in 5068
the recommended program or prison, the department shall send a 5069
notice to the court indicating why the offender was not placed 5070
in the recommended program or prison. 5071

If the court does not make a recommendation under this 5072
division with respect to an offender and if the department 5073
determines as specified in section 5120.031 or 5120.032 of the 5074
Revised Code, whichever is applicable, that the offender is 5075
eligible for placement in a program or prison of that nature, 5076
the department shall screen the offender and determine if there 5077
is an available program of shock incarceration or an intensive 5078
program prison for which the offender is suited. If there is an 5079
available program of shock incarceration or an intensive program 5080
prison for which the offender is suited, the department shall 5081
notify the court of the proposed placement of the offender as 5082
specified in section 5120.031 or 5120.032 of the Revised Code 5083
and shall include with the notice a brief description of the 5084
placement. The court shall have ten days from receipt of the 5085
notice to disapprove the placement. 5086

(J) If a person is convicted of or pleads guilty to 5087
aggravated vehicular homicide in violation of division (A) (1) of 5088
section 2903.06 of the Revised Code and division (B) (2) (c) of 5089
that section applies, the person shall be sentenced pursuant to 5090
section 2929.142 of the Revised Code. 5091

(K) (1) The court shall impose an additional mandatory 5092
prison term of two, three, four, five, six, seven, eight, nine, 5093
ten, or eleven years on an offender who is convicted of or 5094
pleads guilty to a violent felony offense if the offender also 5095
is convicted of or pleads guilty to a specification of the type 5096
described in section 2941.1424 of the Revised Code that charges 5097
that the offender is a violent career criminal and had a firearm 5098
on or about the offender's person or under the offender's 5099
control while committing the presently charged violent felony 5100
offense and displayed or brandished the firearm, indicated that 5101
the offender possessed a firearm, or used the firearm to 5102

facilitate the offense. The offender shall serve the prison term 5103
imposed under this division consecutively to and prior to the 5104
prison term imposed for the underlying offense. The prison term 5105
shall not be reduced pursuant to section 2929.20 or 2967.19 or 5106
any other provision of Chapter 2967. or 5120. of the Revised 5107
Code. A court may not impose more than one sentence under 5108
division (B) (2) (a) of this section and this division for acts 5109
committed as part of the same act or transaction. 5110

(2) As used in division (K) (1) of this section, "violent 5111
career criminal" and "violent felony offense" have the same 5112
meanings as in section 2923.132 of the Revised Code. 5113

Sec. 2929.20. (A) As used in this section: 5114

(1) (a) Except as provided in division (A) (1) (b) of this 5115
section, "eligible offender" means any person who, on or after 5116
April 7, 2009, is serving a stated prison term that includes one 5117
or more nonmandatory prison terms. 5118

(b) "Eligible offender" does not include any person who, 5119
on or after April 7, 2009, is serving a stated prison term for 5120
any of the following criminal offenses that was a felony and was 5121
committed while the person held a public office in this state: 5122

(i) A violation of section 2921.02, 2921.03, 2921.05, 5123
2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised 5124
Code; 5125

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 5126
2921.12 of the Revised Code, when the conduct constituting the 5127
violation was related to the duties of the offender's public 5128
office or to the offender's actions as a public official holding 5129
that public office; 5130

(iii) A violation of an existing or former municipal 5131

ordinance or law of this or any other state or the United States 5132
that is substantially equivalent to any violation listed in 5133
division (A) (1) (b) (i) of this section; 5134

(iv) A violation of an existing or former municipal 5135
ordinance or law of this or any other state or the United States 5136
that is substantially equivalent to any violation listed in 5137
division (A) (1) (b) (ii) of this section, when the conduct 5138
constituting the violation was related to the duties of the 5139
offender's public office or to the offender's actions as a 5140
public official holding that public office; 5141

(v) A conspiracy to commit, attempt to commit, or 5142
complicity in committing any offense listed in division (A) (1) 5143
(b) (i) or described in division (A) (1) (b) (iii) of this section; 5144

(vi) A conspiracy to commit, attempt to commit, or 5145
complicity in committing any offense listed in division (A) (1) 5146
(b) (ii) or described in division (A) (1) (b) (iv) of this section, 5147
if the conduct constituting the offense that was the subject of 5148
the conspiracy, that would have constituted the offense 5149
attempted, or constituting the offense in which the offender was 5150
complicit was or would have been related to the duties of the 5151
offender's public office or to the offender's actions as a 5152
public official holding that public office. 5153

(2) "Nonmandatory prison term" means a prison term that is 5154
not a mandatory prison term. 5155

(3) "Public office" means any elected federal, state, or 5156
local government office in this state. 5157

(4) "Victim's representative" has the same meaning as in 5158
section 2930.01 of the Revised Code. 5159

(5) "Imminent danger of death," "medically incapacitated," 5160

and "terminal illness" have the same meanings as in section 5161
2967.05 of the Revised Code. 5162

(B) On the motion of an eligible offender or upon its own 5163
motion, the sentencing court may reduce the eligible offender's 5164
aggregated nonmandatory prison term or terms through a judicial 5165
release under this section. 5166

(C) An eligible offender may file a motion for judicial 5167
release with the sentencing court within the following 5168
applicable periods: 5169

(1) If the aggregated nonmandatory prison term or terms is 5170
less than two years, the eligible offender may file the motion 5171
not earlier than thirty days after the offender is delivered to 5172
a state correctional institution or, if the prison term includes 5173
a mandatory prison term or terms, not earlier than thirty days 5174
after the expiration of all mandatory prison terms. 5175

(2) If the aggregated nonmandatory prison term or terms is 5176
at least two years but less than five years, the eligible 5177
offender may file the motion not earlier than one hundred eighty 5178
days after the offender is delivered to a state correctional 5179
institution or, if the prison term includes a mandatory prison 5180
term or terms, not earlier than one hundred eighty days after 5181
the expiration of all mandatory prison terms. 5182

(3) If the aggregated nonmandatory prison term or terms is 5183
five years, the eligible offender may file the motion not 5184
earlier than the date on which the eligible offender has served 5185
four years of the offender's stated prison term or, if the 5186
prison term includes a mandatory prison term or terms, not 5187
earlier than four years after the expiration of all mandatory 5188
prison terms. 5189

(4) If the aggregated nonmandatory prison term or terms is 5190
more than five years but not more than ten years, the eligible 5191
offender may file the motion not earlier than the date on which 5192
the eligible offender has served five years of the offender's 5193
stated prison term or, if the prison term includes a mandatory 5194
prison term or terms, not earlier than five years after the 5195
expiration of all mandatory prison terms. 5196

(5) If the aggregated nonmandatory prison term or terms is 5197
more than ten years, the eligible offender may file the motion 5198
not earlier than the later of the date on which the offender has 5199
served one-half of the offender's stated prison term or the date 5200
specified in division (C) (4) of this section. 5201

(D) Upon receipt of a timely motion for judicial release 5202
filed by an eligible offender under division (C) of this section 5203
or upon the sentencing court's own motion made within the 5204
appropriate time specified in that division, the court may deny 5205
the motion without a hearing or schedule a hearing on the 5206
motion. The court shall not grant the motion without a hearing. 5207
If a court denies a motion without a hearing, the court later 5208
may consider judicial release for that eligible offender on a 5209
subsequent motion filed by that eligible offender unless the 5210
court denies the motion with prejudice. If a court denies a 5211
motion with prejudice, the court may later consider judicial 5212
release on its own motion. If a court denies a motion after a 5213
hearing, the court shall not consider a subsequent motion for 5214
that eligible offender. The court shall hold only one hearing 5215
for any eligible offender. 5216

A hearing under this section shall be conducted in open 5217
court not less than thirty or more than sixty days after the 5218
motion is filed, provided that the court may delay the hearing 5219

for one hundred eighty additional days. If the court holds a hearing, the court shall enter a ruling on the motion within ten days after the hearing. If the court denies the motion without a hearing, the court shall enter its ruling on the motion within sixty days after the motion is filed.

(E) If a court schedules a hearing under division (D) of this section, the court shall notify the eligible offender and the head of the state correctional institution in which the eligible offender is confined prior to the hearing. The head of the state correctional institution immediately shall notify the appropriate person at the department of rehabilitation and correction of the hearing, and the department within twenty-four hours after receipt of the notice, shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the offender's name and all of the information specified in division (A) (1) (c) (i) of that section. If the court schedules a hearing for judicial release, the court promptly shall give notice of the hearing to the prosecuting attorney of the county in which the eligible offender was indicted. Upon receipt of the notice from the court, the prosecuting attorney shall do whichever of the following is applicable:

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

(2) If the offense was an offense of violence that is a felony of the first, second, or third degree, except as otherwise provided in this division, notify the victim or the victim's representative of the hearing regardless of whether the victim or victim's representative has requested the notification. The notice of the hearing shall not be given under

this division to a victim or victim's representative if the 5250
victim or victim's representative has requested pursuant to 5251
division (B) (2) of section 2930.03 of the Revised Code that the 5252
victim or the victim's representative not be provided the 5253
notice. If notice is to be provided to a victim or victim's 5254
representative under this division, the prosecuting attorney may 5255
give the notice by any reasonable means, including regular mail, 5256
telephone, and electronic mail, in accordance with division (D) 5257
(1) of section 2930.16 of the Revised Code. If the notice is 5258
based on an offense committed prior to March 22, 2013, the 5259
notice also shall include the opt-out information described in 5260
division (D) (1) of section 2930.16 of the Revised Code. The 5261
prosecuting attorney, in accordance with division (D) (2) of 5262
section 2930.16 of the Revised Code, shall keep a record of all 5263
attempts to provide the notice, and of all notices provided, 5264
under this division. Division (E) (2) of this section, and the 5265
notice-related provisions of division (K) of this section, 5266
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 5267
2967.12, division (E) (1) (b) of section 2967.19, division (A) (3) 5268
(b) of section 2967.26, division (D) (1) of section 2967.28, and 5269
division (A) (2) of section 5149.101 of the Revised Code enacted 5270
in the act in which division (E) (2) of this section was enacted, 5271
shall be known as "Roberta's Law." 5272

(F) Upon an offender's successful completion of 5273
rehabilitative activities, the head of the state correctional 5274
institution may notify the sentencing court of the successful 5275
completion of the activities. 5276

(G) Prior to the date of the hearing on a motion for 5277
judicial release under this section, the head of the state 5278
correctional institution in which the eligible offender is 5279
confined shall send to the court an institutional summary report 5280

on the eligible offender's conduct in the institution and in any 5281
institution from which the eligible offender may have been 5282
transferred. Upon the request of the prosecuting attorney of the 5283
county in which the eligible offender was indicted or of any law 5284
enforcement agency, the head of the state correctional 5285
institution, at the same time the person sends the institutional 5286
summary report to the court, also shall send a copy of the 5287
report to the requesting prosecuting attorney and law 5288
enforcement agencies. The institutional summary report shall 5289
cover the eligible offender's participation in school, 5290
vocational training, work, treatment, and other rehabilitative 5291
activities and any disciplinary action taken against the 5292
eligible offender. The report shall be made part of the record 5293
of the hearing. A presentence investigation report is not 5294
required for judicial release. 5295

(H) If the court grants a hearing on a motion for judicial 5296
release under this section, the eligible offender shall attend 5297
the hearing if ordered to do so by the court. Upon receipt of a 5298
copy of the journal entry containing the order, the head of the 5299
state correctional institution in which the eligible offender is 5300
incarcerated shall deliver the eligible offender to the sheriff 5301
of the county in which the hearing is to be held. The sheriff 5302
shall convey the eligible offender to and from the hearing. 5303

(I) At the hearing on a motion for judicial release under 5304
this section, the court shall afford the eligible offender and 5305
the eligible offender's attorney an opportunity to present 5306
written and, if present, oral information relevant to the 5307
motion. The court shall afford a similar opportunity to the 5308
prosecuting attorney, the victim or the victim's representative, 5309
and any other person the court determines is likely to present 5310
additional relevant information. The court shall consider any 5311

statement of a victim made pursuant to section 2930.14 or 5312
2930.17 of the Revised Code, any victim impact statement 5313
prepared pursuant to section 2947.051 of the Revised Code, and 5314
any report made under division (G) of this section. The court 5315
may consider any written statement of any person submitted to 5316
the court pursuant to division (L) of this section. After ruling 5317
on the motion, the court shall notify the victim of the ruling 5318
in accordance with sections 2930.03 and 2930.16 of the Revised 5319
Code. 5320

(J) (1) A court shall not grant a judicial release under 5321
this section to an eligible offender who is imprisoned for a 5322
felony of the first or second degree, or to an eligible offender 5323
who committed an offense under Chapter 2925. or 3719. of the 5324
Revised Code and for whom there was a presumption under section 5325
2929.13 of the Revised Code in favor of a prison term, unless 5326
the court, with reference to factors under section 2929.12 of 5327
the Revised Code, finds both of the following: 5328

(a) That a sanction other than a prison term would 5329
adequately punish the offender and protect the public from 5330
future criminal violations by the eligible offender because the 5331
applicable factors indicating a lesser likelihood of recidivism 5332
outweigh the applicable factors indicating a greater likelihood 5333
of recidivism; 5334

(b) That a sanction other than a prison term would not 5335
demean the seriousness of the offense because factors indicating 5336
that the eligible offender's conduct in committing the offense 5337
was less serious than conduct normally constituting the offense 5338
outweigh factors indicating that the eligible offender's conduct 5339
was more serious than conduct normally constituting the offense. 5340

(2) A court that grants a judicial release to an eligible 5341

offender under division (J) (1) of this section shall specify on 5342
the record both findings required in that division and also 5343
shall list all the factors described in that division that were 5344
presented at the hearing. 5345

(K) If the court grants a motion for judicial release 5346
under this section, the court shall order the release of the 5347
eligible offender, shall place the eligible offender under an 5348
appropriate community control sanction, under appropriate 5349
conditions, and under the supervision of the department of 5350
probation serving the court and shall reserve the right to 5351
reimpose the sentence that it reduced if the offender violates 5352
the sanction. If the court reimposes the reduced sentence, it 5353
may do so either concurrently with, or consecutive to, any new 5354
sentence imposed upon the eligible offender as a result of the 5355
violation that is a new offense. Except as provided in division 5356
(R) (2) of this section, the period of community control shall be 5357
no longer than five years. The court, in its discretion, may 5358
reduce the period of community control by the amount of time the 5359
eligible offender spent in jail or prison for the offense and in 5360
prison. If the court made any findings pursuant to division (J) 5361
(1) of this section, the court shall serve a copy of the 5362
findings upon counsel for the parties within fifteen days after 5363
the date on which the court grants the motion for judicial 5364
release. 5365

If the court grants a motion for judicial release, the 5366
court shall notify the appropriate person at the department of 5367
rehabilitation and correction, and the department shall post 5368
notice of the release on the database it maintains pursuant to 5369
section 5120.66 of the Revised Code. The court also shall notify 5370
the prosecuting attorney of the county in which the eligible 5371
offender was indicted that the motion has been granted. Unless 5372

the victim or the victim's representative has requested pursuant 5373
to division (B) (2) of section 2930.03 of the Revised Code that 5374
the victim or victim's representative not be provided the 5375
notice, the prosecuting attorney shall notify the victim or the 5376
victim's representative of the judicial release in any manner, 5377
and in accordance with the same procedures, pursuant to which 5378
the prosecuting attorney is authorized to provide notice of the 5379
hearing pursuant to division (E) (2) of this section. If the 5380
notice is based on an offense committed prior to March 22, 2013, 5381
the notice to the victim or victim's representative also shall 5382
include the opt-out information described in division (D) (1) of 5383
section 2930.16 of the Revised Code. 5384

(L) In addition to and independent of the right of a 5385
victim to make a statement pursuant to section 2930.14, 2930.17, 5386
or 2946.051 of the Revised Code and any right of a person to 5387
present written information or make a statement pursuant to 5388
division (I) of this section, any person may submit to the 5389
court, at any time prior to the hearing on the offender's motion 5390
for judicial release, a written statement concerning the effects 5391
of the offender's crime or crimes, the circumstances surrounding 5392
the crime or crimes, the manner in which the crime or crimes 5393
were perpetrated, and the person's opinion as to whether the 5394
offender should be released. 5395

(M) The changes to this section that are made on September 5396
30, 2011, apply to any judicial release decision made on or 5397
after September 30, 2011, for any eligible offender. 5398

(N) Notwithstanding the eligibility requirements specified 5399
in division (A) of this section and the filing time frames 5400
specified in division (C) of this section and notwithstanding 5401
the findings required under division (J) of this section, the 5402

sentencing court, upon the court's own motion and after 5403
considering whether the release of the offender into society 5404
would create undue risk to public safety, may grant a judicial 5405
release to an offender who is not serving a life sentence at any 5406
time during the offender's imposed sentence when the director of 5407
rehabilitation and correction certifies to the sentencing court 5408
through the chief medical officer for the department of 5409
rehabilitation and correction that the offender is in imminent 5410
danger of death, is medically incapacitated, or is suffering 5411
from a terminal illness. 5412

(O) The director of rehabilitation and correction shall 5413
not certify any offender under division (N) of this section who 5414
is serving a death sentence. 5415

(P) A motion made by the court under division (N) of this 5416
section is subject to the notice, hearing, and other procedural 5417
requirements specified in divisions (D), (E), (G), (H), (I), 5418
(K), and (L) of this section, except for the following: 5419

(1) The court may waive the offender's appearance at any 5420
hearing scheduled by the court if the offender's condition makes 5421
it impossible for the offender to participate meaningfully in 5422
the proceeding. 5423

(2) The court may grant the motion without a hearing, 5424
provided that the prosecuting attorney and victim or victim's 5425
representative to whom notice of the hearing was provided under 5426
division (E) of this section indicate that they do not wish to 5427
participate in the hearing or present information relevant to 5428
the motion. 5429

(Q) The court may request health care records from the 5430
department of rehabilitation and correction to verify the 5431

certification made under division (N) of this section. 5432

(R) (1) If the court grants judicial release under division 5433
(N) of this section, the court shall do all of the following: 5434

(a) Order the release of the offender; 5435

(b) Place the offender under an appropriate community 5436
control sanction, under appropriate conditions; 5437

(c) Place the offender under the supervision of the 5438
department of probation serving the court or under the 5439
supervision of the adult parole authority. 5440

(2) The court, in its discretion, may revoke the judicial 5441
release if the offender violates the community control sanction 5442
described in division (R) (1) of this section. The period of that 5443
community control is not subject to the five-year limitation 5444
described in division (K) of this section and shall not expire 5445
earlier than the date on which all of the offender's mandatory 5446
prison terms expire. 5447

(S) If the health of an offender who is released under 5448
division (N) of this section improves so that the offender is no 5449
longer terminally ill, medically incapacitated, or in imminent 5450
danger of death, the court shall, upon the court's own motion, 5451
revoke the judicial release. The court shall not grant the 5452
motion without a hearing unless the offender waives a hearing. 5453
If a hearing is held, the court shall afford the offender and 5454
the offender's attorney an opportunity to present written and, 5455
if the offender or the offender's attorney is present, oral 5456
information relevant to the motion. The court shall afford a 5457
similar opportunity to the prosecuting attorney, the victim or 5458
the victim's representative, and any other person the court 5459
determines is likely to present additional relevant information. 5460

A court that grants a motion under this division shall specify 5461
its findings on the record. 5462

Sec. 2929.61. (A) Persons charged with an offense that was 5463
formerly a capital offense and that was committed prior to 5464
January 1, 1974, shall be prosecuted under the law as it existed 5465
at the time the offense was committed, and, if convicted, shall 5466
be imprisoned for life, except that whenever the statute under 5467
which any such person is prosecuted provides for a lesser 5468
penalty under the circumstances of the particular case, such 5469
lesser penalty shall be imposed. 5470

(B) Persons charged with an offense, other than an offense 5471
that was formerly a capital offense, that was committed prior to 5472
January 1, 1974, shall be prosecuted under the law as it existed 5473
at the time the offense was committed. Persons convicted or 5474
sentenced on or after January 1, 1974, for an offense committed 5475
prior to January 1, 1974, shall be sentenced according to the 5476
penalty for commission of the substantially equivalent offense 5477
under Amended Substitute House Bill 511 of the 109th General 5478
Assembly. If the offense for which sentence is being imposed 5479
does not have a substantial equivalent under that act, or if 5480
that act provides a more severe penalty than that originally 5481
prescribed for the offense of which the person is convicted, 5482
then sentence shall be imposed under the law as it existed prior 5483
to January 1, 1974. 5484

(C) Persons charged with an offense that is a felony of 5485
the third or fourth degree and that was committed on or after 5486
January 1, 1974, and before July 1, 1983, shall be prosecuted 5487
under the law as it existed at the time the offense was 5488
committed. Persons convicted or sentenced on or after July 1, 5489
1983, for an offense that is a felony of the third or fourth 5490

degree and that was committed on or after January 1, 1974, and 5491
before July 1, 1983, shall be notified by the court sufficiently 5492
in advance of sentencing that they may choose to be sentenced 5493
pursuant to either the law in effect at the time of the 5494
commission of the offense or the law in effect at the time of 5495
sentencing. This notice shall be written and shall include the 5496
differences between and possible effects of the alternative 5497
sentence forms and the effect of the person's refusal to choose. 5498
The person to be sentenced shall then inform the court in 5499
writing of ~~his~~ the person's choice, and shall be sentenced 5500
accordingly. Any person choosing to be sentenced pursuant to the 5501
law in effect at the time of the commission of an offense that 5502
is a felony of the third or fourth degree shall then be eligible 5503
for parole, and this person cannot at a later date have ~~his~~ the 5504
person's sentence converted to a definite sentence. If the 5505
person refuses to choose between the two possible sentences, the 5506
person shall be sentenced pursuant to the law in effect at the 5507
time of the commission of the offense. 5508

(D) Persons charged with an offense that was a felony of 5509
the first or second degree at the time it was committed, that 5510
was committed on or after January 1, 1974, and that was 5511
committed prior to July 1, 1983, shall be prosecuted for that 5512
offense and, if convicted, shall be sentenced under the law as 5513
it existed at the time the offense was committed. 5514

Sec. 2930.03. (A) A person or entity required or 5515
authorized under this chapter to give notice to a victim shall 5516
give the notice to the victim by any means reasonably calculated 5517
to provide prompt actual notice. Except when a provision 5518
requires that notice is to be given in a specific manner, a 5519
notice may be oral or written. 5520

(B) (1) Except for receipt of the initial information and 5521
notice required to be given to a victim under divisions (A) and 5522
(B) of section 2930.04, section 2930.05, and divisions (A) and 5523
(B) of section 2930.06 of the Revised Code and the notice 5524
required to be given to a victim under division (D) of section 5525
2930.16 of the Revised Code, a victim who wishes to receive any 5526
notice authorized by this chapter shall make a request for the 5527
notice to the prosecutor or the custodial agency that is to 5528
provide the notice, as specified in this chapter. If the victim 5529
does not make a request as described in this division, the 5530
prosecutor or custodial agency is not required to provide any 5531
notice described in this chapter other than the initial 5532
information and notice required to be given to a victim under 5533
divisions (A) and (B) of section 2930.04, section 2930.05, and 5534
divisions (A) and (B) of section 2930.06 of the Revised Code and 5535
the notice required to be given to a victim under division (D) 5536
of section 2930.16 of the Revised Code. 5537

(2) A victim who does not wish to receive any of the 5538
notices required to be given to a victim under division (E) (2) 5539
or (K) of section 2929.20, division (D) of section 2930.16, 5540
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 5541
section 2967.19, division (A) (3) (b) of section 2967.26, division 5542
(D) (1) of section 2967.28, or division (A) (2) of section 5543
5149.101 of the Revised Code shall make a request to the 5544
prosecutor or custodial agency that is to provide the particular 5545
notice that the notice not be provided to the victim. Unless the 5546
victim makes a request as described in this division, the 5547
prosecutor or custodial agency shall provide the notices 5548
required to be given to a victim under division (E) (2) or (K) of 5549
section 2929.20, division (D) of section 2930.16, division ~~(H)~~ 5550
(G) of section 2967.12, division (E) (1) (b) of section 2967.19, 5551

division (A) (3) (b) of section 2967.26, division (D) (1) of 5552
section 2967.28, or division (A) (2) of section 5149.101 of the 5553
Revised Code in any manner, and in accordance with the 5554
procedures, specified in the particular division. This division 5555
also applies to a victim's representative or a member of a 5556
victim's immediate family that is authorized to receive any of 5557
the notices specified in this division. 5558

(C) A person or agency that is required to furnish notice 5559
under this chapter shall give the notice to the victim at the 5560
address or telephone number provided to the person or agency by 5561
the victim. A victim who requests to receive notice under this 5562
chapter as described in division (B) of this section shall 5563
inform the person or agency of the name, address, or telephone 5564
number of the victim and of any change to that information. 5565

(D) A person or agency that has furnished information to a 5566
victim in accordance with any requirement or authorization under 5567
this chapter shall notify the victim promptly of any significant 5568
changes to that information. 5569

(E) Divisions (A) to (D) of this section do not apply 5570
regarding a notice that a prosecutor is required to provide 5571
under section 2930.061 of the Revised Code. A prosecutor 5572
required to provide notice under that section shall provide the 5573
notice as specified in that section. 5574

Sec. 2930.06. (A) The prosecutor in a case, to the extent 5575
practicable, shall confer with the victim in the case before 5576
pretrial diversion is granted to the defendant or alleged 5577
juvenile offender in the case, before amending or dismissing an 5578
indictment, information, or complaint against that defendant or 5579
alleged juvenile offender, before agreeing to a negotiated plea 5580
for that defendant or alleged juvenile offender, before a trial 5581

of that defendant by judge or jury, or before the juvenile court 5582
conducts an adjudicatory hearing for that alleged juvenile 5583
offender. If the juvenile court disposes of a case prior to the 5584
prosecutor's involvement in the case, the court or a court 5585
employee shall notify the victim in the case that the alleged 5586
juvenile offender will be granted pretrial diversion, the 5587
complaint against that alleged juvenile offender will be amended 5588
or dismissed, or the court will conduct an adjudicatory hearing 5589
for that alleged juvenile offender. If the prosecutor fails to 5590
confer with the victim at any of those times, the court, if 5591
informed of the failure, shall note on the record the failure 5592
and the prosecutor's reasons for the failure. A prosecutor's 5593
failure to confer with a victim as required by this division and 5594
a court's failure to provide the notice as required by this 5595
division do not affect the validity of an agreement between the 5596
prosecutor and the defendant or alleged juvenile offender in the 5597
case, a pretrial diversion of the defendant or alleged juvenile 5598
offender, an amendment or dismissal of an indictment, 5599
information, or complaint filed against the defendant or alleged 5600
juvenile offender, a plea entered by the defendant or alleged 5601
juvenile defender, an admission entered by the defendant or 5602
alleged juvenile offender, or any other disposition in the case. 5603
A court shall not dismiss a criminal complaint, charge, 5604
information, or indictment or a delinquent child complaint 5605
solely at the request of the victim and over the objection of 5606
the prosecuting attorney, village solicitor, city director of 5607
law, or other chief legal officer responsible for the 5608
prosecution of the case. 5609

(B) After a prosecution in a case has been commenced, the 5610
prosecutor or a designee of the prosecutor other than a court or 5611
court employee, to the extent practicable, promptly shall give 5612

the victim all of the following information, except that, if the 5613
juvenile court disposes of a case prior to the prosecutor's 5614
involvement in the case, the court or a court employee, to the 5615
extent practicable, promptly shall give the victim all of the 5616
following information: 5617

(1) The name of the crime or specified delinquent act with 5618
which the defendant or alleged juvenile offender in the case has 5619
been charged and the name of the defendant or alleged juvenile 5620
offender; 5621

(2) The file number of the case; 5622

(3) A brief statement regarding the procedural steps in a 5623
criminal prosecution or delinquency proceeding involving a crime 5624
or specified delinquent act similar to the crime or specified 5625
delinquent act with which the defendant or alleged juvenile 5626
offender has been charged and the right of the victim to be 5627
present during all proceedings held throughout the prosecution 5628
of the case; 5629

(4) A summary of the rights of a victim under this 5630
chapter; 5631

(5) Procedures the victim or the prosecutor may follow if 5632
the victim becomes subject to threats or intimidation by the 5633
defendant, alleged juvenile offender, or any other person; 5634

(6) The name and business telephone number of a person to 5635
contact for further information with respect to the case; 5636

(7) The right of the victim to have a victim's 5637
representative exercise the victim's rights under this chapter 5638
in accordance with section 2930.02 of the Revised Code and the 5639
procedure by which a victim's representative may be designated; 5640

(8) Notice that any notification under division (C) of 5641
this section, sections 2930.07 to 2930.15, division (A), (B), or 5642
(C) of section 2930.16, sections 2930.17 to 2930.19, and section 5643
5139.56 of the Revised Code will be given to the victim only if 5644
the victim asks to receive the notification and that notice 5645
under division (E) (2) or (K) of section 2929.20, division (D) of 5646
section 2930.16, division ~~(H)~~ (G) of section 2967.12, division 5647
(E) (1) (b) of section 2967.19, division (A) (3) (b) of section 5648
2967.26, division (D) (1) of section 2967.28, or division (A) (2) 5649
of section 5149.101 of the Revised Code will be given unless the 5650
victim asks that the notification not be provided. 5651

(C) Upon the request of the victim, the prosecutor or, if 5652
it is a delinquency proceeding and a prosecutor is not involved 5653
in the case, the court shall give the victim notice of the date, 5654
time, and place of any scheduled criminal or juvenile 5655
proceedings in the case and notice of any changes in those 5656
proceedings or in the schedule in the case. 5657

(D) A victim who requests notice under division (C) of 5658
this section and who elects pursuant to division (B) of section 5659
2930.03 of the Revised Code to receive any further notice from 5660
the prosecutor or, if it is a delinquency proceeding and a 5661
prosecutor is not involved in the case, the court under this 5662
chapter shall keep the prosecutor or the court informed of the 5663
victim's current address and telephone number until the case is 5664
dismissed or terminated, the defendant is acquitted or 5665
sentenced, the delinquent child complaint is dismissed, the 5666
defendant is adjudicated a delinquent child, or the appellate 5667
process is completed, whichever is the final disposition in the 5668
case. 5669

(E) If a defendant is charged with the commission of a 5670

misdemeanor offense that is not identified in division (A) (2) of 5671
section 2930.01 of the Revised Code and if a police report or a 5672
complaint, indictment, or information that charges the 5673
commission of that offense and provides the basis for a criminal 5674
prosecution of that defendant identifies one or more individuals 5675
as individuals against whom that offense was committed, after a 5676
prosecution in the case has been commenced, the prosecutor or a 5677
designee of the prosecutor other than a court or court employee, 5678
to the extent practicable, promptly shall notify each of the 5679
individuals so identified in the report, complaint, indictment, 5680
or information that, if the defendant is convicted of or pleads 5681
guilty to the offense, the individual may make an oral or 5682
written statement to the court hearing the case regarding the 5683
sentence to be imposed upon the defendant and that the court 5684
must consider any statement so made that is relevant. Before 5685
imposing sentence in the case, the court shall permit the 5686
individuals so identified in the report, complaint, indictment, 5687
or information to make an oral or written statement. Division 5688
(A) of section 2930.14 of the Revised Code applies regarding any 5689
statement so made. The court shall consider a statement so made, 5690
in accordance with division (B) of that section and division (D) 5691
of section 2929.22 of the Revised Code. 5692

Sec. 2930.16. (A) If a defendant is incarcerated, a victim 5693
in a case who has requested to receive notice under this section 5694
shall be given notice of the incarceration of the defendant. If 5695
an alleged juvenile offender is committed to the temporary 5696
custody of a school, camp, institution, or other facility 5697
operated for the care of delinquent children or to the legal 5698
custody of the department of youth services, a victim in a case 5699
who has requested to receive notice under this section shall be 5700
given notice of the commitment. Promptly after sentence is 5701

imposed upon the defendant or the commitment of the alleged 5702
juvenile offender is ordered, the prosecutor in the case shall 5703
notify the victim of the date on which the defendant will be 5704
released from confinement or the prosecutor's reasonable 5705
estimate of that date or the date on which the alleged juvenile 5706
offender will have served the minimum period of commitment or 5707
the prosecutor's reasonable estimate of that date. The 5708
prosecutor also shall notify the victim of the name of the 5709
custodial agency of the defendant or alleged juvenile offender 5710
and tell the victim how to contact that custodial agency. If the 5711
custodial agency is the department of rehabilitation and 5712
correction, the prosecutor shall notify the victim of the 5713
services offered by the office of victims' services pursuant to 5714
section 5120.60 of the Revised Code. If the custodial agency is 5715
the department of youth services, the prosecutor shall notify 5716
the victim of the services provided by the office of victims' 5717
services within the release authority of the department pursuant 5718
to section 5139.55 of the Revised Code and the victim's right 5719
pursuant to section 5139.56 of the Revised Code to submit a 5720
written request to the release authority to be notified of 5721
actions the release authority takes with respect to the alleged 5722
juvenile offender. The victim shall keep the custodial agency 5723
informed of the victim's current address and telephone number. 5724

(B) (1) Upon the victim's request or in accordance with 5725
division (D) of this section, the prosecutor promptly shall 5726
notify the victim of any hearing for judicial release of the 5727
defendant pursuant to section 2929.20 of the Revised Code, of 5728
any hearing for release of the defendant pursuant to section 5729
2967.19 of the Revised Code, or of any hearing for judicial 5730
release or early release of the alleged juvenile offender 5731
pursuant to section 2151.38 of the Revised Code and of the 5732

victim's right to make a statement under those sections. The 5733
court shall notify the victim of its ruling in each of those 5734
hearings and on each of those applications. 5735

(2) If an offender is sentenced to a prison term pursuant 5736
to division (A) (3) or (B) of section 2971.03 of the Revised 5737
Code, upon the request of the victim of the crime or in 5738
accordance with division (D) of this section, the prosecutor 5739
promptly shall notify the victim of any hearing to be conducted 5740
pursuant to section 2971.05 of the Revised Code to determine 5741
whether to modify the requirement that the offender serve the 5742
entire prison term in a state correctional facility in 5743
accordance with division (C) of that section, whether to 5744
continue, revise, or revoke any existing modification of that 5745
requirement, or whether to terminate the prison term in 5746
accordance with division (D) of that section. The court shall 5747
notify the victim of any order issued at the conclusion of the 5748
hearing. 5749

(C) Upon the victim's request made at any time before the 5750
particular notice would be due or in accordance with division 5751
(D) of this section, the custodial agency of a defendant or 5752
alleged juvenile offender shall give the victim any of the 5753
following notices that is applicable: 5754

(1) At least sixty days before the adult parole authority 5755
recommends a pardon or commutation of sentence for the defendant 5756
or at least sixty days prior to a hearing before the adult 5757
parole authority regarding a grant of parole to the defendant, 5758
notice of the victim's right to submit a statement regarding the 5759
impact of the defendant's release in accordance with section 5760
2967.12 of the Revised Code and, if applicable, of the victim's 5761
right to appear at a full board hearing of the parole board to 5762

give testimony as authorized by section 5149.101 of the Revised Code; 5763
5764

(2) At least sixty days before the defendant is transferred to transitional control under section 2967.26 of the Revised Code, notice of the pendency of the transfer and of the victim's right under that section to submit a statement regarding the impact of the transfer; 5765
5766
5767
5768
5769

(3) At least sixty days before the release authority of the department of youth services holds a release review, release hearing, or discharge review for the alleged juvenile offender, notice of the pendency of the review or hearing, of the victim's right to make an oral or written statement regarding the impact of the crime upon the victim or regarding the possible release or discharge, and, if the notice pertains to a hearing, of the victim's right to attend and make statements or comments at the hearing as authorized by section 5139.56 of the Revised Code; 5770
5771
5772
5773
5774
5775
5776
5777
5778

(4) Prompt notice of the defendant's or alleged juvenile offender's escape from a facility of the custodial agency in which the defendant was incarcerated or in which the alleged juvenile offender was placed after commitment, of the defendant's or alleged juvenile offender's absence without leave from a mental health or developmental disabilities facility or from other custody, and of the capture of the defendant or alleged juvenile offender after an escape or absence; 5779
5780
5781
5782
5783
5784
5785
5786

(5) Notice of the defendant's or alleged juvenile offender's death while in confinement or custody; 5787
5788

(6) Notice of the filing of a petition by the director of rehabilitation and correction pursuant to section 2967.19 of the Revised Code requesting the early release under that section of 5789
5790
5791

the defendant; 5792

(7) Notice of the defendant's or alleged juvenile 5793
offender's release from confinement or custody and the terms and 5794
conditions of the release. 5795

(D) (1) If a defendant is incarcerated for the commission 5796
of aggravated murder, murder, or an offense of violence that is 5797
a felony of the first, second, or third degree or is under a 5798
sentence of life imprisonment or if an alleged juvenile offender 5799
has been charged with the commission of an act that would be 5800
aggravated murder, murder, or an offense of violence that is a 5801
felony of the first, second, or third degree or be subject to a 5802
sentence of life imprisonment if committed by an adult, except 5803
as otherwise provided in this division, the notices described in 5804
divisions (B) and (C) of this section shall be given regardless 5805
of whether the victim has requested the notification. The 5806
notices described in divisions (B) and (C) of this section shall 5807
not be given under this division to a victim if the victim has 5808
requested pursuant to division (B) (2) of section 2930.03 of the 5809
Revised Code that the victim not be provided the notice. 5810
Regardless of whether the victim has requested that the notices 5811
described in division (C) of this section be provided or not be 5812
provided, the custodial agency shall give notice similar to 5813
those notices to the prosecutor in the case, to the sentencing 5814
court, to the law enforcement agency that arrested the defendant 5815
or alleged juvenile offender if any officer of that agency was a 5816
victim of the offense, and to any member of the victim's 5817
immediate family who requests notification. If the notice given 5818
under this division to the victim is based on an offense 5819
committed prior to March 22, 2013, and if the prosecutor or 5820
custodial agency has not previously successfully provided any 5821
notice to the victim under this division or division (B) or (C) 5822

of this section with respect to that offense and the offender 5823
who committed it, the notice also shall inform the victim that 5824
the victim may request that the victim not be provided any 5825
further notices with respect to that offense and the offender 5826
who committed it and shall describe the procedure for making 5827
that request. If the notice given under this division to the 5828
victim pertains to a hearing regarding a grant of a parole to 5829
the defendant, the notice also shall inform the victim that the 5830
victim, a member of the victim's immediate family, or the 5831
victim's representative may request a victim conference, as 5832
described in division (E) of this section, and shall provide an 5833
explanation of a victim conference. 5834

The prosecutor or custodial agency may give the notices to 5835
which this division applies by any reasonable means, including 5836
regular mail, telephone, and electronic mail. If the prosecutor 5837
or custodial agency attempts to provide notice to a victim under 5838
this division but the attempt is unsuccessful because the 5839
prosecutor or custodial agency is unable to locate the victim, 5840
is unable to provide the notice by its chosen method because it 5841
cannot determine the mailing address, telephone number, or 5842
electronic mail address at which to provide the notice, or, if 5843
the notice is sent by mail, the notice is returned, the 5844
prosecutor or custodial agency shall make another attempt to 5845
provide the notice to the victim. If the second attempt is 5846
unsuccessful, the prosecutor or custodial agency shall make at 5847
least one more attempt to provide the notice. If the notice is 5848
based on an offense committed prior to March 22, 2013, in each 5849
attempt to provide the notice to the victim, the notice shall 5850
include the opt-out information described in the preceding 5851
paragraph. The prosecutor or custodial agency, in accordance 5852
with division (D) (2) of this section, shall keep a record of all 5853

attempts to provide the notice, and of all notices provided, 5854
under this division. 5855

Division (D) (1) of this section, and the notice-related 5856
provisions of divisions (E) (2) and (K) of section 2929.20, 5857
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 5858
section 2967.19, division (A) (3) (b) of section 2967.26, division 5859
(D) (1) of section 2967.28, and division (A) (2) of section 5860
5149.101 of the Revised Code enacted in the act in which 5861
division (D) (1) of this section was enacted, shall be known as 5862
"Roberta's Law." 5863

(2) Each prosecutor and custodial agency that attempts to 5864
give any notice to which division (D) (1) of this section applies 5865
shall keep a record of all attempts to give the notice. The 5866
record shall indicate the person who was to be the recipient of 5867
the notice, the date on which the attempt was made, the manner 5868
in which the attempt was made, and the person who made the 5869
attempt. If the attempt is successful and the notice is given, 5870
the record shall indicate that fact. The record shall be kept in 5871
a manner that allows public inspection of attempts and notices 5872
given to persons other than victims without revealing the names, 5873
addresses, or other identifying information relating to victims. 5874
The record of attempts and notices given to victims is not a 5875
public record, but the prosecutor or custodial agency shall 5876
provide upon request a copy of that record to a prosecuting 5877
attorney, judge, law enforcement agency, or member of the 5878
general assembly. The record of attempts and notices given to 5879
persons other than victims is a public record. A record kept 5880
under this division may be indexed by offender name, or in any 5881
other manner determined by the prosecutor or the custodial 5882
agency. Each prosecutor or custodial agency that is required to 5883
keep a record under this division shall determine the procedures 5884

for keeping the record and the manner in which it is to be kept, 5885
subject to the requirements of this division. 5886

(E) The adult parole authority shall adopt rules under 5887
Chapter 119. of the Revised Code providing for a victim 5888
conference, upon request of the victim, a member of the victim's 5889
immediate family, or the victim's representative, prior to a 5890
parole hearing in the case of a prisoner who is incarcerated for 5891
the commission of aggravated murder, murder, or an offense of 5892
violence that is a felony of the first, second, or third degree 5893
or is under a sentence of life imprisonment. The rules shall 5894
provide for, but not be limited to, all of the following: 5895

(1) Subject to division (E) (3) of this section, attendance 5896
by the victim, members of the victim's immediate family, the 5897
victim's representative, and, if practicable, other individuals; 5898

(2) Allotment of up to one hour for the conference; 5899

(3) A specification of the number of persons specified in 5900
division (E) (1) of this section who may be present at any single 5901
victim conference, if limited by the department pursuant to 5902
division (F) of this section. 5903

(F) The department may limit the number of persons 5904
specified in division (E) (1) of this section who may be present 5905
at any single victim conference, provided that the department 5906
shall not limit the number of persons who may be present at any 5907
single conference to fewer than three. If the department limits 5908
the number of persons who may be present at any single victim 5909
conference, the department shall permit and schedule, upon 5910
request of the victim, a member of the victim's immediate 5911
family, or the victim's representative, multiple victim 5912
conferences for the persons specified in division (E) (1) of this 5913

section. 5914

(G) As used in this section, "victim's immediate family" 5915
has the same meaning as in section 2967.12 of the Revised Code. 5916

Sec. 2930.19. (A) In a manner consistent with the duty of 5917
a prosecutor to represent the interests of the public as a 5918
whole, a prosecutor shall seek compliance with this chapter on 5919
behalf of a victim, a member of the victim's family, or the 5920
victim's representative. 5921

(B) The failure of a public official or public agency to 5922
comply with the requirements of this chapter does not give rise 5923
to a claim for damages against that public official or public 5924
agency, except that a public agency as an employer may be held 5925
responsible for a violation of section 2930.18 of the Revised 5926
Code. 5927

(C) The failure of any person or entity to provide a 5928
right, privilege, or notice to a victim under this chapter does 5929
not constitute grounds for declaring a mistrial or new trial, 5930
for setting aside a conviction, sentence, adjudication, or 5931
disposition, or for granting postconviction release to a 5932
defendant or alleged juvenile offender. 5933

~~(D) If there is a conflict between a provision in this 5934
chapter and a specific statute governing the procedure in a case 5935
involving a capital offense, the specific statute supersedes the 5936
provision in this chapter. 5937~~

~~(E)~~ If the victim of a crime is incarcerated in a state or 5938
local correctional facility or is in the legal custody of the 5939
department of youth services, the victim's rights under this 5940
chapter may be modified by court order to prevent any security 5941
risk, hardship, or undue burden upon a public official or public 5942

agency with a duty under this chapter. 5943

Sec. 2937.222. (A) On the motion of the prosecuting 5944
attorney or on the judge's own motion, the judge shall hold a 5945
hearing to determine whether an accused person charged with 5946
aggravated murder ~~when it is not a capital offense~~, murder, a 5947
felony of the first or second degree, a violation of section 5948
2903.06 of the Revised Code, a violation of section 2903.211 of 5949
the Revised Code that is a felony, or a felony OVI offense shall 5950
be denied bail. The judge shall order that the accused be 5951
detained until the conclusion of the hearing. Except for good 5952
cause, a continuance on the motion of the state shall not exceed 5953
three court days. Except for good cause, a continuance on the 5954
motion of the accused shall not exceed five court days unless 5955
the motion of the accused waives in writing the five-day limit 5956
and states in writing a specific period for which the accused 5957
requests a continuance. A continuance granted upon a motion of 5958
the accused that waives in writing the five-day limit shall not 5959
exceed five court days after the period of continuance requested 5960
in the motion. 5961

At the hearing, the accused has the right to be 5962
represented by counsel and, if the accused is indigent, to have 5963
counsel appointed. The judge shall afford the accused an 5964
opportunity to testify, to present witnesses and other 5965
information, and to cross-examine witnesses who appear at the 5966
hearing. The rules concerning admissibility of evidence in 5967
criminal trials do not apply to the presentation and 5968
consideration of information at the hearing. Regardless of 5969
whether the hearing is being held on the motion of the 5970
prosecuting attorney or on the court's own motion, the state has 5971
the burden of proving that the proof is evident or the 5972
presumption great that the accused committed the offense with 5973

which the accused is charged, of proving that the accused poses 5974
a substantial risk of serious physical harm to any person or to 5975
the community, and of proving that no release conditions will 5976
reasonably assure the safety of that person and the community. 5977

The judge may reopen the hearing at any time before trial 5978
if the judge finds that information exists that was not known to 5979
the movant at the time of the hearing and that that information 5980
has a material bearing on whether bail should be denied. If a 5981
municipal court or county court enters an order denying bail, a 5982
judge of the court of common pleas having jurisdiction over the 5983
case may continue that order or may hold a hearing pursuant to 5984
this section to determine whether to continue that order. 5985

(B) No accused person shall be denied bail pursuant to 5986
this section unless the judge finds by clear and convincing 5987
evidence that the proof is evident or the presumption great that 5988
the accused committed the offense described in division (A) of 5989
this section with which the accused is charged, finds by clear 5990
and convincing evidence that the accused poses a substantial 5991
risk of serious physical harm to any person or to the community, 5992
and finds by clear and convincing evidence that no release 5993
conditions will reasonably assure the safety of that person and 5994
the community. 5995

(C) The judge, in determining whether the accused person 5996
described in division (A) of this section poses a substantial 5997
risk of serious physical harm to any person or to the community 5998
and whether there are conditions of release that will reasonably 5999
assure the safety of that person and the community, shall 6000
consider all available information regarding all of the 6001
following: 6002

(1) The nature and circumstances of the offense charged, 6003

including whether the offense is an offense of violence or 6004
involves alcohol or a drug of abuse; 6005

(2) The weight of the evidence against the accused; 6006

(3) The history and characteristics of the accused, 6007
including, but not limited to, both of the following: 6008

(a) The character, physical and mental condition, family 6009
ties, employment, financial resources, length of residence in 6010
the community, community ties, past conduct, history relating to 6011
drug or alcohol abuse, and criminal history of the accused; 6012

(b) Whether, at the time of the current alleged offense or 6013
at the time of the arrest of the accused, the accused was on 6014
probation, parole, post-release control, or other release 6015
pending trial, sentencing, appeal, or completion of sentence for 6016
the commission of an offense under the laws of this state, 6017
another state, or the United States or under a municipal 6018
ordinance. 6019

(4) The nature and seriousness of the danger to any person 6020
or the community that would be posed by the person's release. 6021

(D) (1) An order of the court of common pleas denying bail 6022
pursuant to this section is a final appealable order. In an 6023
appeal pursuant to division (D) of this section, the court of 6024
appeals shall do all of the following: 6025

(a) Give the appeal priority on its calendar; 6026

(b) Liberally modify or dispense with formal requirements 6027
in the interest of a speedy and just resolution of the appeal; 6028

(c) Decide the appeal expeditiously; 6029

(d) Promptly enter its judgment affirming or reversing the 6030

order denying bail. 6031

(2) The pendency of an appeal under this section does not 6032
deprive the court of common pleas of jurisdiction to conduct 6033
further proceedings in the case or to further consider the order 6034
denying bail in accordance with this section. If, during the 6035
pendency of an appeal under division (D) of this section, the 6036
court of common pleas sets aside or terminates the order denying 6037
bail, the court of appeals shall dismiss the appeal. 6038

(E) As used in this section: 6039

(1) "Court day" has the same meaning as in section 5122.01 6040
of the Revised Code. 6041

(2) "Felony OVI offense" means a third degree felony OVI 6042
offense and a fourth degree felony OVI offense. 6043

(3) "Fourth degree felony OVI offense" and "third degree 6044
felony OVI offense" have the same meanings as in section 2929.01 6045
of the Revised Code. 6046

Sec. 2941.021. Any criminal offense which is not 6047
punishable by ~~death or~~ life imprisonment may be prosecuted by 6048
information filed in the common pleas court by the prosecuting 6049
attorney if the defendant, after ~~he has~~ having been advised by 6050
the court of the nature of the charge against ~~him~~ the defendant 6051
and of ~~his~~ the defendant's rights under the constitution, is 6052
represented by counsel or has affirmatively waived counsel by 6053
waiver in writing and in open court, waives in writing and in 6054
open court prosecution by indictment. 6055

Sec. 2941.14. ~~(A)~~ In an indictment for aggravated murder, 6056
murder, or voluntary or involuntary manslaughter, the manner in 6057
which, or the means by which the death was caused need not be 6058
set forth. 6059

~~(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, 6090
or information charging the designated homicide, assault, or 6091
kidnapping offense also includes both a specification of the 6092
type described in section 2941.147 of the Revised Code and a 6093
specification that the offender is a sexually violent predator. 6094

(b) The offender is convicted of or pleads guilty to a 6095
violation of division (A) (1) (b) of section 2907.02 of the 6096
Revised Code committed on or after January 2, 2007, and division 6097
(B) of section 2907.02 of the Revised Code does not prohibit the 6098
court from sentencing the offender pursuant to section 2971.03 6099
of the Revised Code. 6100

(c) The offender is convicted of or pleads guilty to 6101
attempted rape committed on or after January 2, 2007, and to a 6102
specification of the type described in section 2941.1418, 6103
2941.1419, or 2941.1420 of the Revised Code. 6104

(d) The offender is convicted of or pleads guilty to a 6105
violation of section 2905.01 of the Revised Code and to a 6106
specification of the type described in section 2941.147 of the 6107
Revised Code, and section 2905.01 of the Revised Code requires a 6108
court to sentence the offender pursuant to section 2971.03 of 6109
the Revised Code. 6110

(e) The offender is convicted of or pleads guilty to 6111
aggravated murder and to a specification of the type described 6112
in section 2941.147 of the Revised Code, and division ~~(A) (2) (b)~~ 6113
~~(ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C)~~ 6114
~~(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section~~ 6115
~~2929.03, or division (A) or (B) (C) (1) of section 2929.06~~ 6116
2929.02 of the Revised Code requires a court to sentence the 6117
offender pursuant to division (B) (3) of section 2971.03 of the 6118
Revised Code. 6119

(f) The offender is convicted of or pleads guilty to 6120
murder and to a specification of the type described in section 6121
2941.147 of the Revised Code, and division ~~(B) (2)~~ (C) (1) of 6122
section 2929.02 of the Revised Code requires a court to sentence 6123
the offender pursuant to section 2971.03 of the Revised Code. 6124

(2) A specification required under division (A) (1) (a) of 6125
this section that an offender is a sexually violent predator 6126
shall be stated at the end of the body of the indictment, count, 6127
or information and shall be stated in substantially the 6128
following form: 6129

"Specification (or, specification to the first count). The 6130
grand jury (or insert the person's or prosecuting attorney's 6131
name when appropriate) further find and specify that the 6132
offender is a sexually violent predator." 6133

(B) In determining for purposes of this section whether a 6134
person is a sexually violent predator, all of the factors set 6135
forth in divisions (H) (1) to (6) of section 2971.01 of the 6136
Revised Code that apply regarding the person may be considered 6137
as evidence tending to indicate that it is likely that the 6138
person will engage in the future in one or more sexually violent 6139
offenses. 6140

(C) As used in this section, "designated homicide, 6141
assault, or kidnapping offense," "violent sex offense," and 6142
"sexually violent predator" have the same meanings as in section 6143
2971.01 of the Revised Code. 6144

Sec. 2941.401. When a person has entered upon a term of 6145
imprisonment in a correctional institution of this state, and 6146
when during the continuance of the term of imprisonment there is 6147
pending in this state any untried indictment, information, or 6148

complaint against the prisoner, ~~he~~ the prisoner shall be brought 6149
to trial within one hundred eighty days after ~~he~~ the prisoner 6150
causes to be delivered to the prosecuting attorney and the 6151
appropriate court in which the matter is pending, written notice 6152
of the place of ~~his~~ the prisoner's imprisonment and a request 6153
for a final disposition to be made of the matter, except that 6154
for good cause shown in open court, with the prisoner or ~~his~~ the 6155
prisoner's counsel present, the court may grant any necessary or 6156
reasonable continuance. The request of the prisoner shall be 6157
accompanied by a certificate of the warden or superintendent 6158
having custody of the prisoner, stating the term of commitment 6159
under which the prisoner is being held, the time served and 6160
remaining to be served on the sentence, the amount of good time 6161
earned, the time of parole eligibility of the prisoner, and any 6162
decisions of the adult parole authority relating to the 6163
prisoner. 6164

The written notice and request for final disposition shall 6165
be given or sent by the prisoner to the warden or superintendent 6166
having custody of ~~him~~ the prisoner, who shall promptly forward 6167
it with the certificate to the appropriate prosecuting attorney 6168
and court by registered or certified mail, return receipt 6169
requested. 6170

The warden or superintendent having custody of the 6171
prisoner shall promptly inform ~~him~~ the prisoner in writing of 6172
the source and contents of any untried indictment, information, 6173
or complaint against ~~him~~ the prisoner, concerning which the 6174
warden or superintendent has knowledge, and of ~~his~~ the 6175
prisoner's right to make a request for final disposition 6176
thereof. 6177

Escape from custody by the prisoner, subsequent to ~~his~~ the 6178

prisoner's execution of the request for final disposition, voids 6179
the request. 6180

If the action is not brought to trial within the time 6181
provided, subject to continuance allowed pursuant to this 6182
section, no court any longer has jurisdiction thereof, the 6183
indictment, information, or complaint is void, and the court 6184
shall enter an order dismissing the action with prejudice. 6185

This section does not apply to any person adjudged to be 6186
mentally ill or who is under sentence of life imprisonment ~~or~~ 6187
~~death, or to any prisoner under sentence of death.~~ 6188

Sec. 2941.43. If the convict referred to in section 6189
2941.40 of the Revised Code is acquitted, ~~he~~ the convict shall 6190
be forthwith returned by the sheriff to the state correctional 6191
institution to serve out the remainder of ~~his~~ the convict's 6192
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 6193
state correctional institution, ~~he~~ the convict shall be returned 6194
to the state correctional institution by the sheriff to serve 6195
~~his new~~ the convict's term. If ~~he is sentenced to death, the~~ 6196
~~death sentence shall be executed as if he were not under~~ 6197
~~sentence of imprisonment in a state correctional institution.~~ 6198

Sec. 2941.51. (A) Counsel appointed to a case or selected 6199
by an indigent person under division (E) of section 120.16 or 6200
division (E) of section 120.26 of the Revised Code, or otherwise 6201
appointed by the court, except for counsel appointed by the 6202
court to provide legal representation for a person charged with 6203
a violation of an ordinance of a municipal corporation, shall be 6204
paid for their services by the county the compensation and 6205
expenses that the trial court approves. Each request for payment 6206
shall be accompanied by a financial disclosure form and an 6207
affidavit of indigency that are completed by the indigent person 6208

on forms prescribed by the state public defender. Compensation 6209
and expenses shall not exceed the amounts fixed by the board of 6210
county commissioners pursuant to division (B) of this section. 6211

(B) The board of county commissioners shall establish a 6212
schedule of fees by case or on an hourly basis to be paid by the 6213
county for legal services provided by appointed counsel. Prior 6214
to establishing such schedule, the board shall request the bar 6215
association or associations of the county to submit a proposed 6216
~~schedule for cases other than capital cases.~~ The schedule 6217
submitted shall be subject to the review, amendment, and 6218
approval of the board of county commissioners, ~~except with~~ 6219
~~respect to capital cases. With respect to capital cases, the~~ 6220
~~schedule shall provide for fees by case or on an hourly basis to~~ 6221
~~be paid to counsel in the amount or at the rate set by the~~ 6222
~~capital case attorney fee council pursuant to division (D) of~~ 6223
~~section 120.33 of the Revised Code, and the board of county~~ 6224
~~commissioners shall approve that amount or rate.~~ 6225

~~With respect to capital cases, counsel shall be paid~~ 6226
~~compensation and expenses in accordance with the amount or at~~ 6227
~~the rate set by the capital case attorney fee council pursuant~~ 6228
~~to division (D) of section 120.33 of the Revised Code.~~ 6229

(C) In a case where counsel have been appointed to conduct 6230
an appeal under Chapter 120. of the Revised Code, such 6231
compensation shall be fixed by the court of appeals or the 6232
supreme court, as provided in divisions (A) and (B) of this 6233
section. 6234

(D) The fees and expenses approved by the court under this 6235
section shall not be taxed as part of the costs and shall be 6236
paid by the county. However, if the person represented has, or 6237
reasonably may be expected to have, the means to meet some part 6238

of the cost of the services rendered to the person, the person 6239
shall pay the county an amount that the person reasonably can be 6240
expected to pay. Pursuant to section 120.04 of the Revised Code, 6241
the county shall pay to the state public defender a percentage 6242
of the payment received from the person in an amount 6243
proportionate to the percentage of the costs of the person's 6244
case that were paid to the county by the state public defender 6245
pursuant to this section. The money paid to the state public 6246
defender shall be credited to the client payment fund created 6247
pursuant to division (B) (5) of section 120.04 of the Revised 6248
Code. 6249

(E) The county auditor shall draw a warrant on the county 6250
treasurer for the payment of such counsel in the amount fixed by 6251
the court, plus the expenses that the court fixes and certifies 6252
to the auditor. The county auditor shall report periodically, 6253
but not less than annually, to the board of county commissioners 6254
and to the Ohio public defender commission the amounts paid out 6255
pursuant to the approval of the court under this section, ~~—~~ 6256
~~separately stating costs and expenses that are reimbursable—~~ 6257
~~under section 120.35 of the Revised Code.~~ The board, after 6258
review and approval of the auditor's report, may then certify it 6259
to the state public defender for reimbursement. The request for 6260
reimbursement shall be accompanied by a financial disclosure 6261
form completed by each indigent person for whom counsel was 6262
provided on a form prescribed by the state public defender. The 6263
state public defender shall review the report and, in accordance 6264
with the standards, guidelines, and maximums established 6265
pursuant to divisions (B) (7) and (8) of section 120.04 of the 6266
Revised Code, pay fifty per cent of the total cost, ~~other than—~~ 6267
~~costs and expenses that are reimbursable under section 120.35 of—~~ 6268
~~the Revised Code, if any,~~ of paying appointed counsel in each 6269

county and pay fifty per cent of costs and expenses that are 6270
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 6271
to the board. 6272

(F) If any county system for paying appointed counsel 6273
fails to maintain the standards for the conduct of the system 6274
established by the rules of the Ohio public defender commission 6275
pursuant to divisions (B) and (C) of section 120.03 of the 6276
Revised Code or the standards established by the state public 6277
defender pursuant to division (B) (7) of section 120.04 of the 6278
Revised Code, the commission shall notify the board of county 6279
commissioners of the county that the county system for paying 6280
appointed counsel has failed to comply with its rules. Unless 6281
the board corrects the conduct of its appointed counsel system 6282
to comply with the rules within ninety days after the date of 6283
the notice, the state public defender may deny all or part of 6284
the county's reimbursement from the state provided for in this 6285
section. 6286

Sec. 2945.06. In any case in which a defendant waives ~~his~~ 6287
the defendant's right to trial by jury and elects to be tried by 6288
the court under section 2945.05 of the Revised Code, any judge 6289
of the court in which the cause is pending shall proceed to 6290
hear, try, and determine the cause in accordance with the rules 6291
and in like manner as if the cause were being tried before a 6292
jury. ~~If the accused is charged with an offense punishable with~~ 6293
~~death, he shall be tried by a court to be composed of three~~ 6294
~~judges, consisting of the judge presiding at the time in the~~ 6295
~~trial of criminal cases and two other judges to be designated by~~ 6296
~~the presiding judge or chief justice of that court, and in case~~ 6297
~~there is neither a presiding judge nor a chief justice, by the~~ 6298
~~chief justice of the supreme court. The judges or a majority of~~ 6299
~~them may decide all questions of fact and law arising upon the~~ 6300

~~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. 2945.10. The trial of an issue upon an indictment or
information shall proceed before the trial court or jury as
follows:

(A) Counsel for the state must first state the case for
the prosecution, and may briefly state the evidence by which the
counsel for the state expects to sustain it.

(B) The defendant or the defendant's counsel must then
state the defense, and may briefly state the evidence which the
defendant or the defendant's counsel expects to offer in support
of it.

(C) The state must first produce its evidence and the
defendant shall then produce the defendant's evidence.

(D) The state will then be confined to rebutting evidence,
but the court, for good reason, in furtherance of justice, may
permit evidence to be offered by either side out of its order.

(E) When the evidence is concluded, ~~one of the following~~ 6330
~~applies regarding jury instructions:~~ 6331

~~(1) In a capital case that is being heard by a jury, the~~ 6332
~~court shall prepare written instructions to the jury on the~~ 6333
~~points of law, shall provide copies of the written instructions~~ 6334
~~to the jury before orally instructing the jury, and shall permit~~ 6335
~~the jury to retain and consult the instructions during the~~ 6336
~~court's presentation of the oral instructions and during the~~ 6337
~~jury's deliberations.~~ 6338

~~(2) In a case that is not a capital case, either party may~~ 6339
request instructions to the jury on the points of law, which 6340
instructions shall be reduced to writing if either party 6341
requests it. 6342

(F) When the evidence is concluded, unless the case is 6343
submitted without argument, the counsel for the state shall 6344
commence, the defendant or the defendant's counsel follow, and 6345
the counsel for the state conclude the argument to the jury. 6346

(G) The court, after the argument is concluded and before 6347
proceeding with other business, shall forthwith charge the jury. 6348
Such charge shall be reduced to writing by the court if either 6349
party requests it before the argument to the jury is commenced. 6350
Such charge, or other charge or instruction provided for in this 6351
section, when so written and given, shall not be orally 6352
qualified, modified, or explained to the jury by the court. 6353
Written charges and instructions shall be taken by the jury in 6354
their retirement and returned with their verdict into court and 6355
remain on file with the papers of the case. 6356

The court may deviate from the order of proceedings listed 6357
in this section. 6358

Sec. 2945.13. When two or more persons are jointly 6359
indicted for a felony, ~~except a capital offense,~~ they shall be 6360
tried jointly unless the court, for good cause shown on 6361
application therefor by the prosecuting attorney or one or more 6362
of said defendants, orders one or more of said defendants to be 6363
tried separately. 6364

Sec. 2945.21. (A) (1) In criminal cases in which there is 6365
only one defendant, each party, in addition to the challenges 6366
for cause authorized by law, may peremptorily challenge three of 6367
the jurors in misdemeanor cases and four of the jurors in felony 6368
cases ~~other than capital cases.~~ If there is more than one 6369
defendant, each defendant may peremptorily challenge the same 6370
number of jurors as if ~~he~~ the defendant were the sole defendant. 6371

~~(2) Notwithstanding Criminal Rule 24, in capital cases in~~ 6372
~~which there is only one defendant, each party, in addition to~~ 6373
~~the challenges for cause authorized by law, may peremptorily~~ 6374
~~challenge twelve of the jurors. If there is more than one~~ 6375
~~defendant, each defendant may peremptorily challenge the same~~ 6376
~~number of jurors as if he were the sole defendant.~~ 6377

~~(3)~~ In any case in which there are multiple defendants, 6378
the prosecuting attorney may peremptorily challenge a number of 6379
jurors equal to the total number of peremptory challenges 6380
allowed to all of the defendants. 6381

(B) If any indictments, informations, or complaints are 6382
consolidated for trial, the consolidated cases shall be 6383
considered, for purposes of exercising peremptory challenges, as 6384
though the defendants or offenses had been joined in the same 6385
indictment, information, or complaint. 6386

(C) The exercise of peremptory challenges authorized by 6387

this section shall be in accordance with the procedures of 6388
Criminal Rule 24. 6389

Sec. 2945.25. A person called as a juror in a criminal 6390
case may be challenged for the following causes: 6391

(A) That ~~he~~ the person was a member of the grand jury that 6392
found the indictment in the case; 6393

(B) That ~~he~~ the person is possessed of a state of mind 6394
evincing enmity or bias toward the defendant or the state; but 6395
no person summoned as a juror shall be disqualified by reason of 6396
a previously formed or expressed opinion with reference to the 6397
guilt or innocence of the accused, if the court is satisfied, 6398
from examination of the juror or from other evidence, that ~~he~~ 6399
the juror will render an impartial verdict according to the law 6400
and the evidence submitted to the jury at the trial; 6401

(C) ~~In the trial of a capital offense, that he~~ 6402
~~unequivocally states that under no circumstances will he follow~~ 6403
~~the instructions of a trial judge and consider fairly the~~ 6404
~~imposition of a sentence of death in a particular case. A~~ 6405
~~prospective juror's conscientious or religious opposition to the~~ 6406
~~death penalty in and of itself is not grounds for a challenge~~ 6407
~~for cause. All parties shall be given wide latitude in voir dire~~ 6408
~~questioning in this regard.~~ 6409

~~(D)~~ That ~~he~~ the person is related by consanguinity or 6410
affinity within the fifth degree to the person alleged to be 6411
injured or attempted to be injured by the offense charged, or to 6412
the person on whose complaint the prosecution was instituted, or 6413
to the defendant; 6414

~~(E)~~ ~~(D)~~ That ~~he~~ the person served on a petit jury drawn in 6415
the same cause against the same defendant, and that jury was 6416

discharged after hearing the evidence or rendering a verdict on 6417
the evidence that was set aside; 6418

~~(F)~~ (E) That ~~he~~ the person served as a juror in a civil 6419
case brought against the defendant for the same act; 6420

~~(G)~~ (F) That ~~he~~ the person has been subpoenaed in good 6421
faith as a witness in the case; 6422

~~(H)~~ (G) That ~~he~~ the person is a chronic alcoholic, or drug 6423
dependent person; 6424

~~(I)~~ (H) That ~~he~~ the person has been convicted of a crime 6425
that by law disqualifies ~~him~~ the person from serving on a jury; 6426

~~(J)~~ (I) That ~~he~~ the person has an action pending between 6427
~~him~~ the person and the state or the defendant; 6428

~~(K)~~ (J) That ~~he~~ the person or ~~his~~ the person's spouse is a 6429
party to another action then pending in any court in which an 6430
attorney in the cause then on trial is an attorney, either for 6431
or against ~~him~~ the person; 6432

~~(L)~~ (K) That ~~he~~ the person is the person alleged to be 6433
injured or attempted to be injured by the offense charged, or is 6434
the person on whose complaint the prosecution was instituted, or 6435
the defendant; 6436

~~(M)~~ (L) That ~~he~~ the person is the employer or employee, or 6437
the spouse, parent, son, or daughter of the employer or 6438
employee, or the counselor, agent, or attorney of any person 6439
included in division (L) of this section; 6440

~~(N)~~ (M) That English is not ~~his~~ the person's native 6441
language, and ~~his~~ the person's knowledge of English is 6442
insufficient to permit ~~him~~ the person to understand the facts 6443
and law in the case; 6444

~~(O)~~ (N) That ~~he~~ the person otherwise is unsuitable for any 6445
other cause to serve as a juror. 6446

The validity of each challenge listed in this section 6447
shall be determined by the court. 6448

Sec. 2945.33. When a cause is finally submitted the jurors 6449
must be kept together in a convenient place under the charge of 6450
an officer until they agree upon a verdict, or are discharged by 6451
the court. The court, ~~except in cases where the offense charged~~ 6452
~~may be punishable by death,~~ may permit the jurors to separate 6453
during the adjournment of court overnight, under proper 6454
cautions, or under supervision of an officer. Such officer shall 6455
not permit a communication to be made to them, nor make any 6456
~~himself communication to them~~ except to ask if they have agreed 6457
upon a verdict, unless ~~he~~ the officer does so by order of the 6458
court. Such officer shall not communicate to any person, before 6459
the verdict is delivered, any matter in relation to their 6460
deliberation. Upon the trial of any prosecution for misdemeanor, 6461
the court may permit the jury to separate during their 6462
deliberation, or upon adjournment of the court overnight. 6463

~~In cases where the offense charged may be punished by~~ 6464
~~death, after the case is finally submitted to the jury, the~~ 6465
~~jurors shall be kept in charge of the proper officer and proper~~ 6466
~~arrangements for their care and maintenance shall be made as~~ 6467
~~under section 2945.31 of the Revised Code.~~ 6468

Sec. 2945.38. (A) If the issue of a defendant's competence 6469
to stand trial is raised and if the court, upon conducting the 6470
hearing provided for in section 2945.37 of the Revised Code, 6471
finds that the defendant is competent to stand trial, the 6472
defendant shall be proceeded against as provided by law. If the 6473
court finds the defendant competent to stand trial and the 6474

defendant is receiving psychotropic drugs or other medication, 6475
the court may authorize the continued administration of the 6476
drugs or medication or other appropriate treatment in order to 6477
maintain the defendant's competence to stand trial, unless the 6478
defendant's attending physician advises the court against 6479
continuation of the drugs, other medication, or treatment. 6480

(B) (1) (a) If, after taking into consideration all relevant 6481
reports, information, and other evidence, the court finds that 6482
the defendant is incompetent to stand trial and that there is a 6483
substantial probability that the defendant will become competent 6484
to stand trial within one year if the defendant is provided with 6485
a course of treatment, the court shall order the defendant to 6486
undergo treatment. If the defendant has been charged with a 6487
felony offense and if, after taking into consideration all 6488
relevant reports, information, and other evidence, the court 6489
finds that the defendant is incompetent to stand trial, but the 6490
court is unable at that time to determine whether there is a 6491
substantial probability that the defendant will become competent 6492
to stand trial within one year if the defendant is provided with 6493
a course of treatment, the court shall order continuing 6494
evaluation and treatment of the defendant for a period not to 6495
exceed four months to determine whether there is a substantial 6496
probability that the defendant will become competent to stand 6497
trial within one year if the defendant is provided with a course 6498
of treatment. 6499

(b) The court order for the defendant to undergo treatment 6500
or continuing evaluation and treatment under division (B) (1) (a) 6501
of this section shall specify that the defendant, if determined 6502
to require mental health treatment or continuing evaluation and 6503
treatment, either shall be committed to the department of mental 6504
health and addiction services for treatment or continuing 6505

evaluation and treatment at a hospital, facility, or agency, as 6506
determined to be clinically appropriate by the department of 6507
mental health and addiction services or shall be committed to a 6508
facility certified by the department of mental health and 6509
addiction services as being qualified to treat mental illness, 6510
to a public or community mental health facility, or to a 6511
psychiatrist or another mental health professional for treatment 6512
or continuing evaluation and treatment. Prior to placing the 6513
defendant, the department of mental health and addiction 6514
services shall obtain court approval for that placement 6515
following a hearing. The court order for the defendant to 6516
undergo treatment or continuing evaluation and treatment under 6517
division (B) (1) (a) of this section shall specify that the 6518
defendant, if determined to require treatment or continuing 6519
evaluation and treatment for an intellectual disability, shall 6520
receive treatment or continuing evaluation and treatment at an 6521
institution or facility operated by the department of 6522
developmental disabilities, at a facility certified by the 6523
department of developmental disabilities as being qualified to 6524
treat intellectual disabilities, at a public or private 6525
intellectual disabilities facility, or by a psychiatrist or 6526
another intellectual disabilities professional. In any case, the 6527
order may restrict the defendant's freedom of movement as the 6528
court considers necessary. The prosecutor in the defendant's 6529
case shall send to the chief clinical officer of the hospital, 6530
facility, or agency where the defendant is placed by the 6531
department of mental health and addiction services, or to the 6532
managing officer of the institution, the director of the program 6533
or facility, or the person to which the defendant is committed, 6534
copies of relevant police reports and other background 6535
information that pertains to the defendant and is available to 6536
the prosecutor unless the prosecutor determines that the release 6537

of any of the information in the police reports or any of the 6538
other background information to unauthorized persons would 6539
interfere with the effective prosecution of any person or would 6540
create a substantial risk of harm to any person. 6541

In determining the place of commitment, the court shall 6542
consider the extent to which the person is a danger to the 6543
person and to others, the need for security, and the type of 6544
crime involved and shall order the least restrictive alternative 6545
available that is consistent with public safety and treatment 6546
goals. In weighing these factors, the court shall give 6547
preference to protecting public safety. 6548

(c) If the defendant is found incompetent to stand trial, 6549
if the chief clinical officer of the hospital, facility, or 6550
agency where the defendant is placed, or the managing officer of 6551
the institution, the director of the program or facility, or the 6552
person to which the defendant is committed for treatment or 6553
continuing evaluation and treatment under division (B)(1)(b) of 6554
this section determines that medication is necessary to restore 6555
the defendant's competency to stand trial, and if the defendant 6556
lacks the capacity to give informed consent or refuses 6557
medication, the chief clinical officer of the hospital, 6558
facility, or agency where the defendant is placed, or the 6559
managing officer of the institution, the director of the program 6560
or facility, or the person to which the defendant is committed 6561
for treatment or continuing evaluation and treatment may 6562
petition the court for authorization for the involuntary 6563
administration of medication. The court shall hold a hearing on 6564
the petition within five days of the filing of the petition if 6565
the petition was filed in a municipal court or a county court 6566
regarding an incompetent defendant charged with a misdemeanor or 6567
within ten days of the filing of the petition if the petition 6568

was filed in a court of common pleas regarding an incompetent 6569
defendant charged with a felony offense. Following the hearing, 6570
the court may authorize the involuntary administration of 6571
medication or may dismiss the petition. 6572

(2) If the court finds that the defendant is incompetent 6573
to stand trial and that, even if the defendant is provided with 6574
a course of treatment, there is not a substantial probability 6575
that the defendant will become competent to stand trial within 6576
one year, the court shall order the discharge of the defendant, 6577
unless upon motion of the prosecutor or on its own motion, the 6578
court either seeks to retain jurisdiction over the defendant 6579
pursuant to section 2945.39 of the Revised Code or files an 6580
affidavit in the probate court for the civil commitment of the 6581
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 6582
alleging that the defendant is a mentally ill person subject to 6583
court order or a person with an intellectual disability subject 6584
to institutionalization by court order. If an affidavit is filed 6585
in the probate court, the trial court shall send to the probate 6586
court copies of all written reports of the defendant's mental 6587
condition that were prepared pursuant to section 2945.371 of the 6588
Revised Code. 6589

The trial court may issue the temporary order of detention 6590
that a probate court may issue under section 5122.11 or 5123.71 6591
of the Revised Code, to remain in effect until the probable 6592
cause or initial hearing in the probate court. Further 6593
proceedings in the probate court are civil proceedings governed 6594
by Chapter 5122. or 5123. of the Revised Code. 6595

(C) No defendant shall be required to undergo treatment, 6596
including any continuing evaluation and treatment, under 6597
division (B) (1) of this section for longer than whichever of the 6598

following periods is applicable: 6599

(1) One year, if the most serious offense with which the 6600
defendant is charged is one of the following offenses: 6601

(a) Aggravated murder, murder, or an offense of violence 6602
for which a sentence of ~~death or~~ life imprisonment may be 6603
imposed; 6604

(b) An offense of violence that is a felony of the first 6605
or second degree; 6606

(c) A conspiracy to commit, an attempt to commit, or 6607
complicity in the commission of an offense described in division 6608
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 6609
complicity is a felony of the first or second degree. 6610

(2) Six months, if the most serious offense with which the 6611
defendant is charged is a felony other than a felony described 6612
in division (C) (1) of this section; 6613

(3) Sixty days, if the most serious offense with which the 6614
defendant is charged is a misdemeanor of the first or second 6615
degree; 6616

(4) Thirty days, if the most serious offense with which 6617
the defendant is charged is a misdemeanor of the third or fourth 6618
degree, a minor misdemeanor, or an unclassified misdemeanor. 6619

(D) Any defendant who is committed pursuant to this 6620
section shall not voluntarily admit the defendant or be 6621
voluntarily admitted to a hospital or institution pursuant to 6622
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 6623
Code. 6624

(E) Except as otherwise provided in this division, a 6625
defendant who is charged with an offense and is committed by the 6626

court under this section to the department of mental health and 6627
addiction services or is committed to an institution or facility 6628
for the treatment of intellectual disabilities shall not be 6629
granted unsupervised on-grounds movement, supervised off-grounds 6630
movement, or nonsecured status except in accordance with the 6631
court order. The court may grant a defendant supervised off- 6632
grounds movement to obtain medical treatment or specialized 6633
habilitation treatment services if the person who supervises the 6634
treatment or the continuing evaluation and treatment of the 6635
defendant ordered under division (B)(1)(a) of this section 6636
informs the court that the treatment or continuing evaluation 6637
and treatment cannot be provided at the hospital or facility 6638
where the defendant is placed by the department of mental health 6639
and addiction services or the institution or facility to which 6640
the defendant is committed. The chief clinical officer of the 6641
hospital or facility where the defendant is placed by the 6642
department of mental health and addiction services or the 6643
managing officer of the institution or director of the facility 6644
to which the defendant is committed, or a designee of any of 6645
those persons, may grant a defendant movement to a medical 6646
facility for an emergency medical situation with appropriate 6647
supervision to ensure the safety of the defendant, staff, and 6648
community during that emergency medical situation. The chief 6649
clinical officer of the hospital or facility where the defendant 6650
is placed by the department of mental health and addiction 6651
services or the managing officer of the institution or director 6652
of the facility to which the defendant is committed shall notify 6653
the court within twenty-four hours of the defendant's movement 6654
to the medical facility for an emergency medical situation under 6655
this division. 6656

(F) The person who supervises the treatment or continuing 6657

evaluation and treatment of a defendant ordered to undergo 6658
treatment or continuing evaluation and treatment under division 6659
(B) (1) (a) of this section shall file a written report with the 6660
court at the following times: 6661

(1) Whenever the person believes the defendant is capable 6662
of understanding the nature and objective of the proceedings 6663
against the defendant and of assisting in the defendant's 6664
defense; 6665

(2) For a felony offense, fourteen days before expiration 6666
of the maximum time for treatment as specified in division (C) 6667
of this section and fourteen days before the expiration of the 6668
maximum time for continuing evaluation and treatment as 6669
specified in division (B) (1) (a) of this section, and, for a 6670
misdemeanor offense, ten days before the expiration of the 6671
maximum time for treatment, as specified in division (C) of this 6672
section; 6673

(3) At a minimum, after each six months of treatment; 6674

(4) Whenever the person who supervises the treatment or 6675
continuing evaluation and treatment of a defendant ordered under 6676
division (B) (1) (a) of this section believes that there is not a 6677
substantial probability that the defendant will become capable 6678
of understanding the nature and objective of the proceedings 6679
against the defendant or of assisting in the defendant's defense 6680
even if the defendant is provided with a course of treatment. 6681

(G) A report under division (F) of this section shall 6682
contain the examiner's findings, the facts in reasonable detail 6683
on which the findings are based, and the examiner's opinion as 6684
to the defendant's capability of understanding the nature and 6685
objective of the proceedings against the defendant and of 6686

assisting in the defendant's defense. If, in the examiner's 6687
opinion, the defendant remains incapable of understanding the 6688
nature and objective of the proceedings against the defendant 6689
and of assisting in the defendant's defense and there is a 6690
substantial probability that the defendant will become capable 6691
of understanding the nature and objective of the proceedings 6692
against the defendant and of assisting in the defendant's 6693
defense if the defendant is provided with a course of treatment, 6694
if in the examiner's opinion the defendant remains mentally ill 6695
or continues to have an intellectual disability, and if the 6696
maximum time for treatment as specified in division (C) of this 6697
section has not expired, the report also shall contain the 6698
examiner's recommendation as to the least restrictive placement 6699
or commitment alternative that is consistent with the 6700
defendant's treatment needs for restoration to competency and 6701
with the safety of the community. The court shall provide copies 6702
of the report to the prosecutor and defense counsel. 6703

(H) If a defendant is committed pursuant to division (B) 6704
(1) of this section, within ten days after the treating 6705
physician of the defendant or the examiner of the defendant who 6706
is employed or retained by the treating facility advises that 6707
there is not a substantial probability that the defendant will 6708
become capable of understanding the nature and objective of the 6709
proceedings against the defendant or of assisting in the 6710
defendant's defense even if the defendant is provided with a 6711
course of treatment, within ten days after the expiration of the 6712
maximum time for treatment as specified in division (C) of this 6713
section, within ten days after the expiration of the maximum 6714
time for continuing evaluation and treatment as specified in 6715
division (B) (1) (a) of this section, within thirty days after a 6716
defendant's request for a hearing that is made after six months 6717

of treatment, or within thirty days after being advised by the 6718
treating physician or examiner that the defendant is competent 6719
to stand trial, whichever is the earliest, the court shall 6720
conduct another hearing to determine if the defendant is 6721
competent to stand trial and shall do whichever of the following 6722
is applicable: 6723

(1) If the court finds that the defendant is competent to 6724
stand trial, the defendant shall be proceeded against as 6725
provided by law. 6726

(2) If the court finds that the defendant is incompetent 6727
to stand trial, but that there is a substantial probability that 6728
the defendant will become competent to stand trial if the 6729
defendant is provided with a course of treatment, and the 6730
maximum time for treatment as specified in division (C) of this 6731
section has not expired, the court, after consideration of the 6732
examiner's recommendation, shall order that treatment be 6733
continued, may change the facility or program at which the 6734
treatment is to be continued, and shall specify whether the 6735
treatment is to be continued at the same or a different facility 6736
or program. 6737

(3) If the court finds that the defendant is incompetent 6738
to stand trial, if the defendant is charged with an offense 6739
listed in division (C)(1) of this section, and if the court 6740
finds that there is not a substantial probability that the 6741
defendant will become competent to stand trial even if the 6742
defendant is provided with a course of treatment, or if the 6743
maximum time for treatment relative to that offense as specified 6744
in division (C) of this section has expired, further proceedings 6745
shall be as provided in sections 2945.39, 2945.401, and 2945.402 6746
of the Revised Code. 6747

(4) If the court finds that the defendant is incompetent 6748
to stand trial, if the most serious offense with which the 6749
defendant is charged is a misdemeanor or a felony other than a 6750
felony listed in division (C)(1) of this section, and if the 6751
court finds that there is not a substantial probability that the 6752
defendant will become competent to stand trial even if the 6753
defendant is provided with a course of treatment, or if the 6754
maximum time for treatment relative to that offense as specified 6755
in division (C) of this section has expired, the court shall 6756
dismiss the indictment, information, or complaint against the 6757
defendant. A dismissal under this division is not a bar to 6758
further prosecution based on the same conduct. The court shall 6759
discharge the defendant unless the court or prosecutor files an 6760
affidavit in probate court for civil commitment pursuant to 6761
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 6762
civil commitment is filed, the court may detain the defendant 6763
for ten days pending civil commitment. All of the following 6764
provisions apply to persons charged with a misdemeanor or a 6765
felony other than a felony listed in division (C)(1) of this 6766
section who are committed by the probate court subsequent to the 6767
court's or prosecutor's filing of an affidavit for civil 6768
commitment under authority of this division: 6769

(a) The chief clinical officer of the entity, hospital, or 6770
facility, the managing officer of the institution, the director 6771
of the program, or the person to which the defendant is 6772
committed or admitted shall do all of the following: 6773

(i) Notify the prosecutor, in writing, of the discharge of 6774
the defendant, send the notice at least ten days prior to the 6775
discharge unless the discharge is by the probate court, and 6776
state in the notice the date on which the defendant will be 6777
discharged; 6778

(ii) Notify the prosecutor, in writing, when the defendant 6779
is absent without leave or is granted unsupervised, off-grounds 6780
movement, and send this notice promptly after the discovery of 6781
the absence without leave or prior to the granting of the 6782
unsupervised, off-grounds movement, whichever is applicable; 6783

(iii) Notify the prosecutor, in writing, of the change of 6784
the defendant's commitment or admission to voluntary status, 6785
send the notice promptly upon learning of the change to 6786
voluntary status, and state in the notice the date on which the 6787
defendant was committed or admitted on a voluntary status. 6788

(b) Upon receiving notice that the defendant will be 6789
granted unsupervised, off-grounds movement, the prosecutor 6790
either shall re-indict the defendant or promptly notify the 6791
court that the prosecutor does not intend to prosecute the 6792
charges against the defendant. 6793

(I) If a defendant is convicted of a crime and sentenced 6794
to a jail or workhouse, the defendant's sentence shall be 6795
reduced by the total number of days the defendant is confined 6796
for evaluation to determine the defendant's competence to stand 6797
trial or treatment under this section and sections 2945.37 and 6798
2945.371 of the Revised Code or by the total number of days the 6799
defendant is confined for evaluation to determine the 6800
defendant's mental condition at the time of the offense charged. 6801

Sec. 2949.02. (A) If a person is convicted of any bailable 6802
offense, including, but not limited to, a violation of an 6803
ordinance of a municipal corporation, in a municipal or county 6804
court or in a court of common pleas and if the person gives to 6805
the trial judge or magistrate a written notice of the person's 6806
intention to file or apply for leave to file an appeal to the 6807
court of appeals, the trial judge or magistrate may suspend~~7-~~ 6808

~~subject to division (A) (2) (b) of section 2953.09 of the Revised Code,~~ execution of the sentence or judgment imposed for any fixed time that will give the person time either to prepare and file, or to apply for leave to file, the appeal. In all bailable cases, except as provided in division (B) of this section, the trial judge or magistrate may release the person on bail in accordance with Criminal Rule 46, and the bail shall at least be conditioned that the person will appeal without delay and abide by the judgment and sentence of the court.

(B) Notwithstanding any provision of Criminal Rule 46 to the contrary, a trial judge of a court of common pleas shall not release on bail pursuant to division (A) of this section a person who is convicted of a bailable offense if the person is sentenced to imprisonment for life or if that offense is a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious sexual penetration in violation of former section 2907.12 of the Revised Code.

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

Sec. 2949.03. If a judgment of conviction by a court of

common pleas, municipal court, or county court is affirmed by a 6839
court of appeals and remanded to the trial court for execution 6840
of the sentence or judgment imposed, and the person so convicted 6841
gives notice of ~~his~~ the person's intention to file a notice of 6842
appeal to the supreme court, the trial court, on the filing of a 6843
motion by such person within three days after the rendition by 6844
the court of appeals of the judgment of affirmation, may further 6845
~~suspend, subject to division (A) (2) (b) of section 2953.09 of the~~ 6846
~~Revised Code,~~ the execution of the sentence or judgment imposed 6847
for a time sufficient to give such person an opportunity to file 6848
a notice of appeal to the supreme court, but the sentence or 6849
judgment imposed shall not be suspended more than thirty days 6850
for that purpose. 6851

Sec. 2953.02. In ~~a capital case in which a sentence of~~ 6852
~~death is imposed for an offense committed before January 1,~~ 6853
~~1995, and in any other~~ criminal case, including a conviction for 6854
the violation of an ordinance of a municipal corporation, the 6855
judgment or final order of a court of record inferior to the 6856
court of appeals may be reviewed in the court of appeals. A 6857
final order of an administrative officer or agency may be 6858
reviewed in the court of common pleas. A judgment or final order 6859
of the court of appeals involving a question arising under the 6860
Constitution of the United States or of this state may be 6861
appealed to the supreme court as a matter of right. This right 6862
of appeal from judgments and final orders of the court of 6863
appeals shall extend to ~~cases in which a sentence of death is~~ 6864
~~imposed for an offense committed before January 1, 1995, and in~~ 6865
~~which the death penalty has been affirmed,~~ felony cases in which 6866
the supreme court has directed the court of appeals to certify 6867
its record, and in all other criminal cases of public or general 6868
interest wherein the supreme court has granted a motion to 6869

certify the record of the court of appeals. ~~In a capital case in~~ 6870
~~which a sentence of death is imposed for an offense committed on~~ 6871
~~or after January 1, 1995, the judgment or final order may be~~ 6872
~~appealed from the trial court directly to the supreme court as a~~ 6873
~~matter of right. The supreme court in criminal cases shall not~~ 6874
~~be required to determine as to the weight of the evidence,~~ 6875
~~except that, in cases in which a sentence of death is imposed~~ 6876
~~for an offense committed on or after January 1, 1995, and in~~ 6877
~~which the question of the weight of the evidence to support the~~ 6878
~~judgment has been raised on appeal, the supreme court shall~~ 6879
~~determine as to the weight of the evidence to support the~~ 6880
~~judgment and shall determine as to the weight of the evidence to~~ 6881
~~support the sentence of death as provided in section 2929.05 of~~ 6882
~~the Revised Code.~~ 6883

Sec. 2953.07. ~~(A)~~ Upon the hearing of an appeal other than 6884
an appeal from a mayor's court, the appellate court may affirm 6885
the judgment or reverse it, in whole or in part, or modify it, 6886
and order the accused to be discharged or grant a new trial. The 6887
appellate court may remand the accused for the sole purpose of 6888
correcting a sentence imposed contrary to law, provided that, on 6889
an appeal of a sentence imposed upon a person who is convicted 6890
of or pleads guilty to a felony that is brought under section 6891
2953.08 of the Revised Code, division (G) of that section 6892
applies to the court. If the judgment is reversed, the appellant 6893
shall recover from the appellee all court costs incurred to 6894
secure the reversal, including the cost of transcripts. ~~In~~ 6895
~~capital cases, when the judgment is affirmed and the day fixed~~ 6896
~~for the execution is passed, the appellate court shall appoint a~~ 6897
~~day for it, and the clerk of the appellate court shall issue a~~ 6898
~~warrant under the seal of the appellate court, to the sheriff of~~ 6899
~~the proper county, or the warden of the appropriate state~~ 6900

~~correctional institution, commanding the sheriff or warden to
carry the sentence into execution on the day so appointed. The
sheriff or warden shall execute and return the warrant as in
other cases, and the clerk shall record the warrant and return.~~

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

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

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

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

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

(2) The sentence consisted of or included a prison term
and the offense for which it was imposed is a felony of the
fourth or fifth degree or is a felony drug offense that is a
violation of a provision of Chapter 2925. of the Revised Code

and that is specified as being subject to division (B) of 6930
section 2929.13 of the Revised Code for purposes of sentencing. 6931
If the court specifies that it found one or more of the factors 6932
in division (B) (1) (b) of section 2929.13 of the Revised Code to 6933
apply relative to the defendant, the defendant is not entitled 6934
under this division to appeal as a matter of right the sentence 6935
imposed upon the offender. 6936

(3) The person was convicted of or pleaded guilty to a 6937
violent sex offense or a designated homicide, assault, or 6938
kidnapping offense, was adjudicated a sexually violent predator 6939
in relation to that offense, and was sentenced pursuant to 6940
division (A) (3) of section 2971.03 of the Revised Code, if the 6941
minimum term of the indefinite term imposed pursuant to division 6942
(A) (3) of section 2971.03 of the Revised Code is the longest 6943
term available for the offense from among the range of terms 6944
listed in section 2929.14 of the Revised Code. As used in this 6945
division, "designated homicide, assault, or kidnapping offense" 6946
and "violent sex offense" have the same meanings as in section 6947
2971.01 of the Revised Code. As used in this division, 6948
"adjudicated a sexually violent predator" has the same meaning 6949
as in section 2929.01 of the Revised Code, and a person is 6950
"adjudicated a sexually violent predator" in the same manner and 6951
the same circumstances as are described in that section. 6952

(4) The sentence is contrary to law. 6953

(5) The sentence consisted of an additional prison term of 6954
ten years imposed pursuant to division (B) (2) (a) of section 6955
2929.14 of the Revised Code. 6956

(B) In addition to any other right to appeal and except as 6957
provided in division (D) of this section, a prosecuting 6958
attorney, a city director of law, village solicitor, or similar 6959

chief legal officer of a municipal corporation, or the attorney 6960
general, if one of those persons prosecuted the case, may appeal 6961
as a matter of right a sentence imposed upon a defendant who is 6962
convicted of or pleads guilty to a felony or, in the 6963
circumstances described in division (B) (3) of this section the 6964
modification of a sentence imposed upon such a defendant, on any 6965
of the following grounds: 6966

(1) The sentence did not include a prison term despite a 6967
presumption favoring a prison term for the offense for which it 6968
was imposed, as set forth in section 2929.13 or Chapter 2925. of 6969
the Revised Code. 6970

(2) The sentence is contrary to law. 6971

(3) The sentence is a modification under section 2929.20 6972
of the Revised Code of a sentence that was imposed for a felony 6973
of the first or second degree. 6974

(C) (1) In addition to the right to appeal a sentence 6975
granted under division (A) or (B) of this section, a defendant 6976
who is convicted of or pleads guilty to a felony may seek leave 6977
to appeal a sentence imposed upon the defendant on the basis 6978
that the sentencing judge has imposed consecutive sentences 6979
under division (C) (3) of section 2929.14 of the Revised Code and 6980
that the consecutive sentences exceed the maximum prison term 6981
allowed by division (A) of that section for the most serious 6982
offense of which the defendant was convicted. Upon the filing of 6983
a motion under this division, the court of appeals may grant 6984
leave to appeal the sentence if the court determines that the 6985
allegation included as the basis of the motion is true. 6986

(2) A defendant may seek leave to appeal an additional 6987
sentence imposed upon the defendant pursuant to division (B) (2) 6988

(a) or (b) of section 2929.14 of the Revised Code if the 6989
additional sentence is for a definite prison term that is longer 6990
than five years. 6991

(D) (1) A sentence imposed upon a defendant is not subject 6992
to review under this section if the sentence is authorized by 6993
law, has been recommended jointly by the defendant and the 6994
prosecution in the case, and is imposed by a sentencing judge. 6995

(2) Except as provided in division (C) (2) of this section, 6996
a sentence imposed upon a defendant is not subject to review 6997
under this section if the sentence is imposed pursuant to 6998
division (B) (2) (b) of section 2929.14 of the Revised Code. 6999
Except as otherwise provided in this division, a defendant 7000
retains all rights to appeal as provided under this chapter or 7001
any other provision of the Revised Code. A defendant has the 7002
right to appeal under this chapter or any other provision of the 7003
Revised Code the court's application of division (B) (2) (c) of 7004
section 2929.14 of the Revised Code. 7005

(3) A sentence imposed for aggravated murder or murder 7006
pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised 7007
Code is not subject to review under this section. 7008

(E) A defendant, prosecuting attorney, city director of 7009
law, village solicitor, or chief municipal legal officer shall 7010
file an appeal of a sentence under this section to a court of 7011
appeals within the time limits specified in Rule 4(B) of the 7012
Rules of Appellate Procedure, provided that if the appeal is 7013
pursuant to division (B) (3) of this section, the time limits 7014
specified in that rule shall not commence running until the 7015
court grants the motion that makes the sentence modification in 7016
question. A sentence appeal under this section shall be 7017
consolidated with any other appeal in the case. If no other 7018

appeal is filed, the court of appeals may review only the 7019
portions of the trial record that pertain to sentencing. 7020

(F) On the appeal of a sentence under this section, the 7021
record to be reviewed shall include all of the following, as 7022
applicable: 7023

(1) Any presentence, psychiatric, or other investigative 7024
report that was submitted to the court in writing before the 7025
sentence was imposed. An appellate court that reviews a 7026
presentence investigation report prepared pursuant to section 7027
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 7028
connection with the appeal of a sentence under this section 7029
shall comply with division (D) (3) of section 2951.03 of the 7030
Revised Code when the appellate court is not using the 7031
presentence investigation report, and the appellate court's use 7032
of a presentence investigation report of that nature in 7033
connection with the appeal of a sentence under this section does 7034
not affect the otherwise confidential character of the contents 7035
of that report as described in division (D) (1) of section 7036
2951.03 of the Revised Code and does not cause that report to 7037
become a public record, as defined in section 149.43 of the 7038
Revised Code, following the appellate court's use of the report. 7039

(2) The trial record in the case in which the sentence was 7040
imposed; 7041

(3) Any oral or written statements made to or by the court 7042
at the sentencing hearing at which the sentence was imposed; 7043

(4) Any written findings that the court was required to 7044
make in connection with the modification of the sentence 7045
pursuant to a judicial release under division (I) of section 7046
2929.20 of the Revised Code. 7047

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

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

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

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

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

(H) A judgment or final order of a court of appeals under this section may be appealed, by leave of court, to the supreme court. 7077
7078
7079

Sec. 2953.09. (A) (1) Upon filing an appeal in the supreme court, the execution of the sentence or judgment imposed in cases of felony is suspended. 7080
7081
7082

(2) ~~(a)~~ If a notice of appeal is filed pursuant to the Rules of Appellate Procedure by a defendant who is convicted in a municipal or county court or a court of common pleas of a felony or misdemeanor under the Revised Code or an ordinance of a municipal corporation, the filing of the notice of appeal does not suspend execution of the sentence or judgment imposed. However, consistent with divisions (A) (2) (b), (B), and (C) of this section, Appellate Rule 8, and Criminal Rule 46, the municipal or county court, court of common pleas, or court of appeals may suspend execution of the sentence or judgment imposed during the pendency of the appeal and shall determine whether that defendant is entitled to bail and the amount and nature of any bail that is required. The bail shall at least be conditioned that the defendant will prosecute the appeal without delay and abide by the judgment and sentence of the court. 7083
7084
7085
7086
7087
7088
7089
7090
7091
7092
7093
7094
7095
7096
7097

~~(b) (i) A court of common pleas or court of appeals may suspend the execution of a sentence of death imposed for an offense committed before January 1, 1995, only if no date for execution has been set by the supreme court, good cause is shown for the suspension, the defendant files a motion requesting the suspension, and notice has been given to the prosecuting attorney of the appropriate county.~~ 7098
7099
7100
7101
7102
7103
7104

~~(ii) A court of common pleas may suspend the execution of a sentence of death imposed for an offense committed on or after~~ 7105
7106

~~January 1, 1995, only if no date for execution has been set by
the supreme court, good cause is shown, the defendant files a
motion requesting the suspension, and notice has been given to
the prosecuting attorney of the appropriate county.~~

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

(B) Notwithstanding any provision of Criminal Rule 46 to
the contrary, a trial judge of a court of common pleas shall not
release on bail pursuant to division (A) (2) (a) of this section a
defendant who is convicted of a bailable offense if the
defendant is sentenced to imprisonment for life or if that
offense is a violation of section 2903.01, 2903.02, 2903.03,
2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02,
2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious
sexual penetration in violation of former section 2907.12 of the
Revised Code.

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

Sec. 2953.10. When an appeal is taken from a court of 7137
appeals to the supreme court, the supreme court has the same 7138
power and authority to suspend the execution of sentence during 7139
the pendency of the appeal and admit the defendant to bail as 7140
does the court of appeals unless another section of the Revised 7141
Code or the Rules of Practice of the Supreme Court specify a 7142
distinct bail or suspension of sentence authority. 7143

~~When an appeal in a case in which a sentence of death is~~ 7144
~~imposed for an offense committed on or after January 1, 1995, is~~ 7145
~~taken directly from the trial court to the supreme court, the~~ 7146
~~supreme court has the same power and authority to suspend the~~ 7147
~~execution of the sentence during the pendency of the appeal and~~ 7148
~~admit the defendant to bail as does the court of appeals for~~ 7149
~~cases in which a sentence of death is imposed for an offense~~ 7150
~~committed before January 1, 1995, unless another section of the~~ 7151
~~Revised Code or the Rules of Practice of the Supreme Court~~ 7152
~~specify a distinct bail or suspension of sentence authority.~~ 7153

Sec. 2953.21. (A) (1) (a) Any person who has been convicted 7154
of a criminal offense or adjudicated a delinquent child and who 7155
claims that there was such a denial or infringement of the 7156
person's rights as to render the judgment void or voidable under 7157
the Ohio Constitution or the Constitution of the United States, 7158
~~any person who has been convicted of a criminal offense and~~ 7159
~~sentenced to death and who claims that there was a denial or~~ 7160
~~infringement of the person's rights under either of those~~ 7161
~~Constitutions that creates a reasonable probability of an~~ 7162
~~altered verdict,~~ and any person who has been convicted of a 7163
criminal offense that is a felony and who is an offender for 7164
whom DNA testing that was performed under sections 2953.71 to 7165
2953.81 of the Revised Code or under former section 2953.82 of 7166
the Revised Code and analyzed in the context of and upon 7167

consideration of all available admissible evidence related to 7168
the person's case as described in division (D) of section 7169
2953.74 of the Revised Code provided results that establish, by 7170
clear and convincing evidence, actual innocence of that felony 7171
offense ~~or, if the person was sentenced to death, establish, by~~ 7172
~~clear and convincing evidence, actual innocence of the~~ 7173
~~aggravating circumstance or circumstances the person was found~~ 7174
~~guilty of committing and that is or are the basis of that~~ 7175
~~sentence of death,~~ may file a petition in the court that imposed 7176
sentence, stating the grounds for relief relied upon, and asking 7177
the court to vacate or set aside the judgment or sentence or to 7178
grant other appropriate relief. The petitioner may file a 7179
supporting affidavit and other documentary evidence in support 7180
of the claim for relief. 7181

(b) As used in division (A) (1) (a) of this section, "actual 7182
innocence" means that, had the results of the DNA testing 7183
conducted under sections 2953.71 to 2953.81 of the Revised Code 7184
or under former section 2953.82 of the Revised Code been 7185
presented at trial, and had those results been analyzed in the 7186
context of and upon consideration of all available admissible 7187
evidence related to the person's case as described in division 7188
(D) of section 2953.74 of the Revised Code, no reasonable 7189
factfinder would have found the petitioner guilty of the offense 7190
of which the petitioner was convicted, ~~or, if the person was~~ 7191
~~sentenced to death, no reasonable factfinder would have found~~ 7192
~~the petitioner guilty of the aggravating circumstance or~~ 7193
~~circumstances the petitioner was found guilty of committing and~~ 7194
~~that is or are the basis of that sentence of death.~~ 7195

(c) As used in divisions (A) (1) (a) and (b) of this 7196
section, "former section 2953.82 of the Revised Code" means 7197
section 2953.82 of the Revised Code as it existed prior to July 7198

6, 2010.

7199

~~(d) At any time in conjunction with the filing of a petition for postconviction relief under division (A) of this section by a person who has been sentenced to death, or with the litigation of a petition so filed, the court, for good cause shown, may authorize the petitioner in seeking the postconviction relief and the prosecuting attorney of the county served by the court in defending the proceeding, to take depositions and to issue subpoenas and subpoenas duces tecum in accordance with divisions (A) (1) (d), (A) (1) (e), and (C) of this section, and to any other form of discovery as in a civil action that the court in its discretion permits. The court may limit the extent of discovery under this division. In addition to discovery that is relevant to the claim and was available under Criminal Rule 16 through conclusion of the original criminal trial, the court, for good cause shown, may authorize the petitioner or prosecuting attorney to take depositions and issue subpoenas and subpoenas duces tecum in either of the following circumstances:~~

7200
7201
7202
7203
7204
7205
7206
7207
7208
7209
7210
7211
7212
7213
7214
7215
7216
7217

~~(i) For any witness who testified at trial or who was disclosed by the state prior to trial, except as otherwise provided in this division, the petitioner or prosecuting attorney shows clear and convincing evidence that the witness is material and that a deposition of the witness or the issuing of a subpoena or subpoena duces tecum is of assistance in order to substantiate or refute the petitioner's claim that there is a reasonable probability of an altered verdict. This division does not apply if the witness was unavailable for trial or would not voluntarily be interviewed by the defendant or prosecuting attorney.~~

7218
7219
7220
7221
7222
7223
7224
7225
7226
7227
7228

~~(ii) For any witness with respect to whom division (A) (1) (d) (i) of this section does not apply, the petitioner or prosecuting attorney shows good cause that the witness is material and that a deposition of the witness or the issuing of a subpoena or subpoena duces tecum is of assistance in order to substantiate or refute the petitioner's claim that there is a reasonable probability of an altered verdict.~~

~~(e) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests postconviction discovery as described in division (A) (1) (d) of this section or if the prosecuting attorney of the county served by the court requests postconviction discovery as described in that division, within ten days after the docketing of the request, or within any other time that the court sets for good cause shown, the prosecuting attorney shall respond by answer or motion to the petitioner's request or the petitioner shall respond by answer or motion to the prosecuting attorney's request, whichever is applicable.~~

~~(f) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests postconviction discovery as described in division (A) (1) (d) of this section or if the prosecuting attorney of the county served by the court requests postconviction discovery as described in that division, upon motion by the petitioner, the prosecuting attorney, or the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order that justice requires to protect a party or person from oppression or undue burden or expense, including but not limited to the orders described in divisions (A) (1) (g) (i) to (viii) of this section. The court also may make any such order if, in its discretion, it~~

~~determines that the discovery sought would be irrelevant to the
claims made in the petition; and if the court makes any such
order on that basis, it shall explain in the order the reasons
why the discovery would be irrelevant.~~ 7260
7261
7262
7263

~~(g) If a petitioner, prosecuting attorney, or person from
whom discovery is sought makes a motion for an order under
division (A) (1) (f) of this section and the order is denied in
whole or in part, the court, on terms and conditions as are
just, may order that any party or person provide or permit
discovery as described in division (A) (1) (d) of this section.
The provisions of Civil Rule 37(A) (4) apply to the award of
expenses incurred in relation to the motion, except that in no
case shall a court require a petitioner who is indigent to pay
expenses under those provisions.~~ 7264
7265
7266
7267
7268
7269
7270
7271
7272
7273

~~Before any person moves for an order under division (A) (1)
(f) of this section, that person shall make a reasonable effort
to resolve the matter through discussion with the petitioner or
prosecuting attorney seeking discovery. A motion for an order
under division (A) (1) (f) of this section shall be accompanied by
a statement reciting the effort made to resolve the matter in
accordance with this paragraph.~~ 7274
7275
7276
7277
7278
7279
7280

~~The orders that may be made under division (A) (1) (f) of
this section include, but are not limited to, any of the
following:~~ 7281
7282
7283

~~(i) That the discovery not be had;~~ 7284

~~(ii) That the discovery may be had only on specified terms
and conditions, including a designation of the time or place;~~ 7285
7286

~~(iii) That the discovery may be had only by a method of
discovery other than that selected by the party seeking~~ 7287
7288

~~discovery;~~ 7289

~~(iv) That certain matters not be inquired into or that the scope of the discovery be limited to certain matters;~~ 7290
7291

~~(v) That discovery be conducted with no one present except persons designated by the court;~~ 7292
7293

~~(vi) That a deposition after being sealed be opened only by order of the court;~~ 7294
7295

~~(vii) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;~~ 7296
7297
7298

~~(viii) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.~~ 7299
7300
7301

~~(h) Any postconviction discovery authorized under division (A) (1) (d) of this section shall be completed not later than eighteen months after the start of the discovery proceedings unless, for good cause shown, the court extends that period for completing the discovery.~~ 7302
7303
7304
7305
7306

~~(i) Nothing in division (A) (1) (d) of this section authorizes, or shall be construed as authorizing, the relitigation, or discovery in support of relitigation, of any matter barred by the doctrine of res judicata.~~ 7307
7308
7309
7310

~~(j) Division (A) (1) of this section does not apply to any person who has been convicted of a criminal offense and sentenced to death and who has unsuccessfully raised the same claims in a petition for postconviction relief.~~ 7311
7312
7313
7314

(2) Except as otherwise provided in section 2953.23 of the Revised Code, a petition under division (A) (1) of this section 7315
7316

shall be filed no later than three hundred sixty-five days after 7317
the date on which the trial transcript is filed in the court of 7318
appeals in the direct appeal of the judgment of conviction or 7319
adjudication ~~or, if the direct appeal involves a sentence of~~ 7320
~~death, the date on which the trial transcript is filed in the~~ 7321
~~supreme court.~~ If no appeal is taken, except as otherwise 7322
provided in section 2953.23 of the Revised Code, the petition 7323
shall be filed no later than three hundred sixty-five days after 7324
the expiration of the time for filing the appeal. 7325

~~(3) In a petition filed under division (A) of this~~ 7326
~~section, a person who has been sentenced to death may ask the~~ 7327
~~court to render void or voidable the judgment with respect to~~ 7328
~~the conviction of aggravated murder or the specification of an~~ 7329
~~aggravating circumstance or the sentence of death.~~ 7330

~~(4)~~ A petitioner shall state in the original or amended 7331
petition filed under division (A) of this section all grounds 7332
for relief claimed by the petitioner. Except as provided in 7333
section 2953.23 of the Revised Code, any ground for relief that 7334
is not so stated in the petition is waived. 7335

~~(5)~~ (4) If the petitioner in a petition filed under 7336
division (A) of this section was convicted of or pleaded guilty 7337
to a felony, the petition may include a claim that the 7338
petitioner was denied the equal protection of the laws in 7339
violation of the Ohio Constitution or the United States 7340
Constitution because the sentence imposed upon the petitioner 7341
for the felony was part of a consistent pattern of disparity in 7342
sentencing by the judge who imposed the sentence, with regard to 7343
the petitioner's race, gender, ethnic background, or religion. 7344
If the supreme court adopts a rule requiring a court of common 7345
pleas to maintain information with regard to an offender's race, 7346

gender, ethnic background, or religion, the supporting evidence 7347
for the petition shall include, but shall not be limited to, a 7348
copy of that type of information relative to the petitioner's 7349
sentence and copies of that type of information relative to 7350
sentences that the same judge imposed upon other persons. 7351

~~(6) Notwithstanding any law or court rule to the contrary, 7352
there is no limit on the number of pages in, or on the length 7353
of, a petition filed under division (A) of this section by a 7354
person who has been sentenced to death. If any court rule 7355
specifies a limit on the number of pages in, or on the length 7356
of, a petition filed under division (A) of this section or on a 7357
prosecuting attorney's response to such a petition by answer or 7358
motion and a person who has been sentenced to death files a 7359
petition that exceeds the limit specified for the petition, the 7360
prosecuting attorney may respond by an answer or motion that 7361
exceeds the limit specified for the response. 7362~~

(B) The clerk of the court in which the petition for 7363
postconviction relief and, if applicable, a request for 7364
~~postconviction discovery described in division (A) (1) (d) of this 7365
section is filed shall docket the petition and the request and 7366
bring ~~them~~ it promptly to the attention of the court. The clerk 7367
of the court in which the petition for postconviction relief 7368
and, if applicable, a request for postconviction discovery 7369
~~described in division (A) (1) (d) of this section is filed 7370
immediately shall forward a copy of the petition and a copy of 7371
the request if filed by the petitioner to the prosecuting 7372
attorney of the county served by the court. If the request for 7373
postconviction discovery is filed by the prosecuting attorney, 7374
the clerk of the court immediately shall forward a copy of the 7375
request to the petitioner or the petitioner's counsel. 7376~~~~

~~(C) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests a deposition or the prosecuting attorney in the case requests a deposition, and if the court grants the request under division (A) (1) (d) of this section, the court shall notify the petitioner or the petitioner's counsel and the prosecuting attorney. The deposition shall be conducted pursuant to divisions (B), (D), and (E) of Criminal Rule 15. Notwithstanding division (C) of Criminal Rule 15, the petitioner is not entitled to attend the deposition. The prosecuting attorney shall be permitted to attend and participate in any deposition.~~

~~(D) The court shall consider a petition that is timely filed under division (A) (2) of this section even if a direct appeal of the judgment is pending. Before granting a hearing on a petition filed under division (A) of this section, the court shall determine whether there are substantive grounds for relief. In making such a determination, the court shall consider, in addition to the petition, the supporting affidavits, and the documentary evidence, all the files and records pertaining to the proceedings against the petitioner, including, but not limited to, the indictment, the court's journal entries, the journalized records of the clerk of the court, and the court reporter's transcript. The court reporter's transcript, if ordered and certified by the court, shall be taxed as court costs. If the court dismisses the petition, it shall make and file findings of fact and conclusions of law with respect to such dismissal. If the petition was filed by a person who has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the dismissal of the petition and of each claim it contains.~~

~~(E)~~ (D) Within ten days after the docketing of the 7408
petition, or within any further time that the court may fix for 7409
good cause shown, the prosecuting attorney shall respond by 7410
answer or motion. ~~Division (A) (6) of this section applies with~~ 7411
~~respect to the prosecuting attorney's response.~~ Within twenty 7412
days from the date the issues are raised, either party may move 7413
for summary judgment. The right to summary judgment shall appear 7414
on the face of the record. 7415

~~(F)~~ (E) Unless the petition and the files and records of 7416
the case show the petitioner is not entitled to relief, the 7417
court shall proceed to a prompt hearing on the issues even if a 7418
direct appeal of the case is pending. If the court notifies the 7419
parties that it has found grounds for granting relief, either 7420
party may request an appellate court in which a direct appeal of 7421
the judgment is pending to remand the pending case to the court. 7422

~~(G) A petitioner who files a petition under division (A)~~ 7423
~~of this section may amend the petition as follows:~~ 7424

~~(1) If the petition was filed by a person who has been~~ 7425
~~sentenced to death, at any time that is not later than one~~ 7426
~~hundred eighty days after the petition is filed, the petitioner~~ 7427
~~may amend the petition with or without leave or prejudice to the~~ 7428
~~proceedings.~~ 7429

~~(2) If division (G) (1) of this section does not apply, at~~ 7430
(F) At any time before the answer or motion is filed, the 7431
petitioner may amend the petition with or without leave or 7432
prejudice to the proceedings. 7433

~~(3) The petitioner may amend the petition with leave of~~ 7434
court at any time ~~after the expiration of the applicable period~~ 7435
~~specified in division (G) (1) or (2) of this section thereafter.~~ 7436

~~(H)~~ (G) If the court does not find grounds for granting relief, it shall make and file findings of fact and conclusions of law and shall enter judgment denying relief on the petition. ~~If the petition was filed by a person who has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the denial of relief on the petition and of each claim it contains.~~ If no direct appeal of the case is pending and the court finds grounds for relief or if a pending direct appeal of the case has been remanded to the court pursuant to a request made pursuant to division ~~(F)~~ (E) of this section and the court finds grounds for granting relief, it shall make and file findings of fact and conclusions of law and shall enter a judgment that vacates and sets aside the judgment in question, and, in the case of a petitioner who is a prisoner in custody, shall discharge or resentence the petitioner or grant a new trial as the court determines appropriate. ~~If the petitioner has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the finding of grounds for granting the relief, with respect to each claim contained in the petition.~~ The court also may make supplementary orders to the relief granted, concerning such matters as rearraignment, retrial, custody, and bail. If the trial court's order granting the petition is reversed on appeal and if the direct appeal of the case has been remanded from an appellate court pursuant to a request under division ~~(F)~~ (E) of this section, the appellate court reversing the order granting the petition shall notify the appellate court in which the direct appeal of the case was pending at the time of the remand of the reversal and remand of the trial court's order. Upon the reversal and remand of the trial court's order granting the petition, regardless of whether notice is sent or received, the direct appeal of the case that was remanded is reinstated.

~~(I) Upon the filing of a petition pursuant to division (A) of this section by a person sentenced to death, only the supreme court may stay execution of the sentence of death.~~ 7469
7470
7471

~~(J) (1) If a person sentenced to death intends to file a petition under this section, the court shall appoint counsel to represent the person upon a finding that the person is indigent and that the person either accepts the appointment of counsel or is unable to make a competent decision whether to accept or reject the appointment of counsel. The court may decline to appoint counsel for the person only upon a finding, after a hearing if necessary, that the person rejects the appointment of counsel and understands the legal consequences of that decision or upon a finding that the person is not indigent.~~ 7472
7473
7474
7475
7476
7477
7478
7479
7480
7481

~~(2) The court shall not appoint as counsel under division (J) (1) of this section an attorney who represented the petitioner at trial in the case to which the petition relates unless the person and the attorney expressly request the appointment. The court shall appoint as counsel under division (J) (1) of this section only an attorney who is 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. The ineffectiveness or incompetence of counsel during proceedings under this section does not constitute grounds for relief in a proceeding under this section, in an appeal of any action under this section, or in an application to reopen a direct appeal.~~ 7482
7483
7484
7485
7486
7487
7488
7489
7490
7491
7492
7493
7494
7495

~~(3) Division (J) of this section does not preclude attorneys who represent the state of Ohio from invoking the provisions of 28 U.S.C. 154 with respect to capital cases that~~ 7496
7497
7498

~~were pending in federal habeas corpus proceedings prior to July 1, 1996, insofar as the petitioners in those cases were represented in proceedings under this section by one or more counsel appointed by the court under this section or section 120.06, 120.16, 120.26, or 120.33 of the Revised Code and those appointed counsel meet the requirements of division (J) (2) of this section.~~

~~(K)~~ (H) Subject to the appeal of a sentence for a felony that is authorized by section 2953.08 of the Revised Code, the remedy set forth in this section is the exclusive remedy by which a person may bring a collateral challenge to the validity of a conviction or sentence in a criminal case or to the validity of an adjudication of a child as a delinquent child for the commission of an act that would be a criminal offense if committed by an adult or the validity of a related order of disposition.

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

(1) Both of the following apply:

(a) Either the petitioner shows that the petitioner was unavoidably prevented from discovery of the facts upon which the petitioner must rely to present the claim for relief, or, subsequent to the period prescribed in division (A) (2) of section 2953.21 of the Revised Code or to the filing of an earlier petition, the United States Supreme Court recognized a

new federal or state right that applies retroactively to persons 7529
in the petitioner's situation, and the petition asserts a claim 7530
based on that right. 7531

(b) The petitioner shows by clear and convincing evidence 7532
that, but for constitutional error at trial, no reasonable 7533
factfinder would have found the petitioner guilty of the offense 7534
of which the petitioner was convicted ~~or, if the claim~~ 7535
~~challenges a sentence of death that, but for constitutional~~ 7536
~~error at the sentencing hearing, no reasonable factfinder would~~ 7537
~~have found the petitioner eligible for the death sentence.~~ 7538

(2) The petitioner was convicted of a felony, the 7539
petitioner is an offender for whom DNA testing was performed 7540
under sections 2953.71 to 2953.81 of the Revised Code or under 7541
former section 2953.82 of the Revised Code and analyzed in the 7542
context of and upon consideration of all available admissible 7543
evidence related to the inmate's case as described in division 7544
(D) of section 2953.74 of the Revised Code, and the results of 7545
the DNA testing establish, by clear and convincing evidence, 7546
actual innocence of that felony offense ~~or, if the person was~~ 7547
~~sentenced to death, establish, by clear and convincing evidence,~~ 7548
~~actual innocence of the aggravating circumstance or~~ 7549
~~circumstances the person was found guilty of committing and that~~ 7550
~~is or are the basis of that sentence of death.~~ 7551

As used in this division, "actual innocence" has the same 7552
meaning as in division (A) (1) (b) of section 2953.21 of the 7553
Revised Code, and "former section 2953.82 of the Revised Code" 7554
has the same meaning as in division (A) (1) (c) of section 2953.21 7555
of the Revised Code. 7556

(B) An order awarding or denying relief sought in a 7557
petition filed pursuant to section 2953.21 of the Revised Code 7558

is a final judgment and may be appealed pursuant to Chapter 7559
2953. of the Revised Code. 7560

~~If a petition filed pursuant to section 2953.21 of the 7561
Revised Code by a person who has been sentenced to death is 7562
denied and the person appeals the judgment, notwithstanding any 7563
law or court rule to the contrary, there is no limit on the 7564
number of pages in, or on the length of, a notice of appeal or 7565
briefs related to an appeal filed by the person. If any court 7566
rule specifies a limit on the number of pages in, or on the 7567
length of, a notice of appeal or briefs described in this 7568
division or on a prosecuting attorney's response or briefs with 7569
respect to such an appeal and a person who has been sentenced to 7570
death files a notice of appeal or briefs that exceed the limit 7571
specified for the petition, the prosecuting attorney may file a 7572
response or briefs that exceed the limit specified for the 7573
answer or briefs. 7574~~

Sec. 2953.71. As used in sections 2953.71 to 2953.83 of 7575
the Revised Code: 7576

(A) "Application" or "application for DNA testing" means a 7577
request through postconviction relief for the state to do DNA 7578
testing on biological material from the case in which the 7579
offender was convicted of the offense for which the offender is 7580
an eligible offender and is requesting the DNA testing under 7581
sections 2953.71 to 2953.81 of the Revised Code. 7582

(B) "Biological material" means any product of a human 7583
body containing DNA. 7584

(C) "Chain of custody" means a record or other evidence 7585
that tracks a subject sample of biological material from the 7586
time the biological material was first obtained until the time 7587

it currently exists in its place of storage and, in relation to 7588
a DNA sample, a record or other evidence that tracks the DNA 7589
sample from the time it was first obtained until it currently 7590
exists in its place of storage. For purposes of this division, 7591
examples of when biological material or a DNA sample is first 7592
obtained include, but are not limited to, obtaining the material 7593
or sample at the scene of a crime, from a victim, from an 7594
offender, or in any other manner or time as is appropriate in 7595
the facts and circumstances present. 7596

(D) "Custodial agency" means the group or entity that has 7597
the responsibility to maintain biological material in question. 7598

(E) "Custodian" means the person who is the primary 7599
representative of a custodial agency. 7600

(F) "Eligible offender" means an offender who is eligible 7601
under division (C) of section 2953.72 of the Revised Code to 7602
request DNA testing to be conducted under sections 2953.71 to 7603
2953.81 of the Revised Code. 7604

(G) "Exclusion" or "exclusion result" means a result of 7605
DNA testing that scientifically precludes or forecloses the 7606
subject offender as a contributor of biological material 7607
recovered from the crime scene or victim in question, in 7608
relation to the offense for which the offender is an eligible 7609
offender and for which the ~~sentence of death or prison~~ term was 7610
imposed upon the offender. 7611

(H) "Extracting personnel" means medically approved 7612
personnel who are employed to physically obtain an offender's 7613
DNA specimen for purposes of DNA testing under sections 2953.71 7614
to 2953.81 of the Revised Code. 7615

(I) "Inclusion" or "inclusion result" means a result of 7616

DNA testing that scientifically cannot exclude, or that holds 7617
accountable, the subject offender as a contributor of biological 7618
material recovered from the crime scene or victim in question, 7619
in relation to the offense for which the offender is an eligible 7620
offender and for which the ~~sentence of death or prison~~ term was 7621
imposed upon the offender. 7622

(J) "Inconclusive" or "inconclusive result" means a result 7623
of DNA testing that is rendered when a scientifically 7624
appropriate and definitive DNA analysis or result, or both, 7625
cannot be determined. 7626

(K) "Offender" means a criminal offender who was sentenced 7627
by a court, or by a jury and a court, of this state. 7628

(L) "Outcome determinative" means that had the results of 7629
DNA testing of the subject offender been presented at the trial 7630
of the subject offender requesting DNA testing and been found 7631
relevant and admissible with respect to the felony offense for 7632
which the offender is an eligible offender and is requesting the 7633
DNA testing, and had those results been analyzed in the context 7634
of and upon consideration of all available admissible evidence 7635
related to the offender's case as described in division (D) of 7636
section 2953.74 of the Revised Code, there is a strong 7637
probability that no reasonable factfinder would have found the 7638
offender guilty of that offense ~~or, if the offender was~~ 7639
~~sentenced to death relative to that offense, would have found~~ 7640
~~the offender guilty of the aggravating circumstance or~~ 7641
~~circumstances the offender was found guilty of committing and~~ 7642
~~that is or are the basis of that sentence of death.~~ 7643

(M) "Parent sample" means the biological material first 7644
obtained from a crime scene or a victim of an offense for which 7645
an offender is an eligible offender, and from which a sample 7646

will be presently taken to do a DNA comparison to the DNA of the 7647
subject offender under sections 2953.71 to 2953.81 of the 7648
Revised Code. 7649

(N) "Prison" and "community control sanction" have the 7650
same meanings as in section 2929.01 of the Revised Code. 7651

(O) "Prosecuting attorney" means the prosecuting attorney 7652
who, or whose office, prosecuted the case in which the subject 7653
offender was convicted of the offense for which the offender is 7654
an eligible offender and is requesting the DNA testing. 7655

(P) "Prosecuting authority" means the prosecuting attorney 7656
or the attorney general. 7657

(Q) "Reasonable diligence" means a degree of diligence 7658
that is comparable to the diligence a reasonable person would 7659
employ in searching for information regarding an important 7660
matter in the person's own life. 7661

(R) "Testing authority" means a laboratory at which DNA 7662
testing will be conducted under sections 2953.71 to 2953.81 of 7663
the Revised Code. 7664

(S) "Parole" and "post-release control" have the same 7665
meanings as in section 2967.01 of the Revised Code. 7666

(T) "Sexually oriented offense" and "child-victim oriented 7667
offense" have the same meanings as in section 2950.01 of the 7668
Revised Code. 7669

(U) "Definitive DNA test" means a DNA test that clearly 7670
establishes that biological material from the perpetrator of the 7671
crime was recovered from the crime scene and also clearly 7672
establishes whether or not the biological material is that of 7673
the eligible offender. A prior DNA test is not definitive if the 7674

eligible offender proves by a preponderance of the evidence that 7675
because of advances in DNA technology there is a possibility of 7676
discovering new biological material from the perpetrator that 7677
the prior DNA test may have failed to discover. Prior testing 7678
may have been a prior "definitive DNA test" as to some 7679
biological evidence but may not have been a prior "definitive 7680
DNA test" as to other biological evidence. 7681

Sec. 2953.72. (A) Any eligible offender who wishes to 7682
request DNA testing under sections 2953.71 to 2953.81 of the 7683
Revised Code shall submit an application for the testing to the 7684
court of common pleas specified in section 2953.73 of the 7685
Revised Code, on a form prescribed by the attorney general for 7686
this purpose. The eligible offender shall submit the application 7687
in accordance with the procedures set forth in section 2953.73 7688
of the Revised Code. The eligible offender shall specify on the 7689
application the offense or offenses for which the offender is an 7690
eligible offender and is requesting the DNA testing. Along with 7691
the application, the eligible offender shall submit an 7692
acknowledgment that is on a form prescribed by the attorney 7693
general for this purpose and that is signed by the offender. The 7694
acknowledgment shall set forth all of the following: 7695

(1) That sections 2953.71 to 2953.81 of the Revised Code 7696
contemplate applications for DNA testing of an eligible offender 7697
at a stage of a prosecution or case after the offender has been 7698
sentenced, that any exclusion or inclusion result of DNA testing 7699
rendered pursuant to those sections may be used by a party in 7700
any proceeding as described in section 2953.81 of the Revised 7701
Code, and that all requests for any DNA testing made at trial 7702
will continue to be handled by the prosecuting attorney in the 7703
case; 7704

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

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

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

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

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

(7) That, if the court rejects an eligible offender's 7735
application for DNA testing because the offender does not 7736
satisfy the acceptance criteria described in division (A) (4) of 7737
this section, the court will not accept or consider subsequent 7738
applications; 7739

(8) That the acknowledgment memorializes the provisions of 7740
sections 2953.71 to 2953.81 of the Revised Code with respect to 7741
the application of postconviction DNA testing to offenders, that 7742
those provisions do not give any offender any additional 7743
constitutional right that the offender did not already have, 7744
that the court has no duty or obligation to provide 7745
postconviction DNA testing to offenders, that the court of 7746
common pleas has the sole discretion subject to an appeal as 7747
described in this division to determine whether an offender is 7748
an eligible offender and whether an eligible offender's 7749
application for DNA testing satisfies the acceptance criteria 7750
described in division (A) (4) of this section and whether the 7751
application should be accepted or rejected, that if the court of 7752
common pleas rejects an eligible offender's application, the 7753
offender may ~~seek leave of the supreme court to appeal the~~ 7754
~~rejection to that court if the offender was sentenced to death~~ 7755
~~for the offense for which the offender is requesting the DNA~~ 7756
~~testing and, if the offender was not sentenced to death for that~~ 7757
~~offense, may~~ appeal the rejection to the court of appeals, and 7758
that no determination otherwise made by the court of common 7759
pleas in the exercise of its discretion regarding the 7760
eligibility of an offender or regarding postconviction DNA 7761
testing under those provisions is reviewable by or appealable to 7762
any court; 7763

(9) That the manner in which sections 2953.71 to 2953.81 7764
of the Revised Code with respect to the offering of 7765

postconviction DNA testing to offenders are carried out does not 7766
confer any constitutional right upon any offender, that the 7767
state has established guidelines and procedures relative to 7768
those provisions to ensure that they are carried out with both 7769
justice and efficiency in mind, and that an offender who 7770
participates in any phase of the mechanism contained in those 7771
provisions, including, but not limited to, applying for DNA 7772
testing and being rejected, having an application for DNA 7773
testing accepted and not receiving the test, or having DNA 7774
testing conducted and receiving unfavorable results, does not 7775
gain as a result of the participation any constitutional right 7776
to challenge, or, except as provided in division (A) (8) of this 7777
section, any right to any review or appeal of, the manner in 7778
which those provisions are carried out; 7779

(10) That the most basic aspect of sections 2953.71 to 7780
2953.81 of the Revised Code is that, in order for DNA testing to 7781
occur, there must be an offender sample against which other 7782
evidence may be compared, that, if an eligible offender's 7783
application is accepted but the offender subsequently refuses to 7784
submit to the collection of the sample of biological material 7785
from the offender or hinders the state from obtaining a sample 7786
of biological material from the offender, the goal of those 7787
provisions will be frustrated, and that an offender's refusal or 7788
hindrance shall cause the court to rescind its prior acceptance 7789
of the application for DNA testing for the offender and deny the 7790
application. 7791

(B) The attorney general shall prescribe a form to be used 7792
to make an application for DNA testing under division (A) of 7793
this section and section 2953.73 of the Revised Code and a form 7794
to be used to provide the acknowledgment described in division 7795
(A) of this section. The forms shall include all information 7796

described in division (A) of this section, spaces for an 7797
offender to insert all information necessary to complete the 7798
forms, including, but not limited to, specifying the offense or 7799
offenses for which the offender is an eligible offender and is 7800
requesting the DNA testing, and any other information or 7801
material the attorney general determines is necessary or 7802
relevant. The attorney general shall distribute copies of the 7803
prescribed forms to the department of rehabilitation and 7804
correction, the department shall ensure that each prison in 7805
which offenders are housed has a supply of copies of the forms, 7806
and the department shall ensure that copies of the forms are 7807
provided free of charge to any offender who requests them. 7808

(C) (1) An offender is eligible to request DNA testing to 7809
be conducted under sections 2953.71 to 2953.81 of the Revised 7810
Code only if all of the following apply: 7811

(a) The offense for which the offender claims to be an 7812
eligible offender is a felony, and the offender was convicted by 7813
a judge or jury of that offense. 7814

(b) One of the following applies: 7815

(i) The offender was sentenced to a prison term ~~or~~ 7816
~~sentence of death~~ for the felony described in division (C) (1) (a) 7817
of this section, and the offender is in prison serving that 7818
prison term ~~or under that sentence of death~~, has been paroled or 7819
is on probation regarding that felony, is under post-release 7820
control regarding that felony, or has been released from that 7821
prison term and is under a community control sanction regarding 7822
that felony. 7823

(ii) The offender was not sentenced to a prison term ~~or~~ 7824
~~sentence of death~~ for the felony described in division (C) (1) (a) 7825

of this section, but was sentenced to a community control 7826
sanction for that felony and is under that community control 7827
sanction. 7828

(iii) The felony described in division (C)(1)(a) of this 7829
section was a sexually oriented offense or child-victim oriented 7830
offense, and the offender has a duty to comply with sections 7831
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7832
relative to that felony. 7833

(2) An offender is not an eligible offender under division 7834
(C)(1) of this section regarding any offense to which the 7835
offender pleaded guilty or no contest. 7836

(3) An offender is not an eligible offender under division 7837
(C)(1) of this section regarding any offense if the offender 7838
dies prior to submitting an application for DNA testing related 7839
to that offense under section 2953.73 of the Revised Code. 7840

Sec. 2953.73. (A) An eligible offender who wishes to 7841
request DNA testing to be conducted under sections 2953.71 to 7842
2953.81 of the Revised Code shall submit an application for DNA 7843
testing on a form prescribed by the attorney general for this 7844
purpose and shall submit the form to the court of common pleas 7845
that sentenced the offender for the offense for which the 7846
offender is an eligible offender and is requesting DNA testing. 7847

(B) If an eligible offender submits an application for DNA 7848
testing under division (A) of this section, upon the submission 7849
of the application, all of the following apply: 7850

(1) The eligible offender shall serve a copy of the 7851
application on the prosecuting attorney and the attorney 7852
general. 7853

(2) The application shall be assigned to the judge of that 7854

court of common pleas who was the trial judge in the case in 7855
which the eligible offender was convicted of the offense for 7856
which the offender is requesting DNA testing, or, if that judge 7857
no longer is a judge of that court, it shall be assigned 7858
according to court rules. The judge to whom the application is 7859
assigned shall decide the application. The application shall 7860
become part of the file in the case. 7861

(C) If an eligible offender submits an application for DNA 7862
testing under division (A) of this section, regardless of 7863
whether the offender has commenced any federal habeas corpus 7864
proceeding relative to the case in which the offender was 7865
convicted of the offense for which the offender is an eligible 7866
offender and is requesting DNA testing, any response to the 7867
application by the prosecuting attorney or the attorney general 7868
shall be filed not later than forty-five days after the date on 7869
which the eligible offender submits the application. The 7870
prosecuting attorney or the attorney general, or both, may, but 7871
are not required to, file a response to the application. If the 7872
prosecuting attorney or the attorney general files a response 7873
under this division, the prosecuting attorney or attorney 7874
general, whoever filed the response, shall serve a copy of the 7875
response on the eligible offender. 7876

(D) If an eligible offender submits an application for DNA 7877
testing under division (A) of this section, the court shall make 7878
the determination as to whether the application should be 7879
accepted or rejected. The court shall expedite its review of the 7880
application. The court shall make the determination in 7881
accordance with the criteria and procedures set forth in 7882
sections 2953.74 to 2953.81 of the Revised Code and, in making 7883
the determination, shall consider the application, the 7884
supporting affidavits, and the documentary evidence and, in 7885

addition to those materials, shall consider all the files and 7886
records pertaining to the proceedings against the applicant, 7887
including, but not limited to, the indictment, the court's 7888
journal entries, the journalized records of the clerk of the 7889
court, and the court reporter's transcript and all responses to 7890
the application filed under division (C) of this section by a 7891
prosecuting attorney or the attorney general, unless the 7892
application and the files and records show the applicant is not 7893
entitled to DNA testing, in which case the application may be 7894
denied. The court is not required to conduct an evidentiary 7895
hearing in conducting its review of, and in making its 7896
determination as to whether to accept or reject, the 7897
application. Upon making its determination, the court shall 7898
enter a judgment and order that either accepts or rejects the 7899
application and that includes within the judgment and order the 7900
reasons for the acceptance or rejection as applied to the 7901
criteria and procedures set forth in sections 2953.71 to 2953.81 7902
of the Revised Code. The court shall send a copy of the judgment 7903
and order to the eligible offender who filed it, the prosecuting 7904
attorney, and the attorney general. 7905

(E) A judgment and order of a court entered under division 7906
(D) of this section is appealable only as provided in this 7907
division. If an eligible offender submits an application for DNA 7908
testing under section 2953.73 of the Revised Code and the court 7909
of common pleas rejects the application under division (D) of 7910
this section, ~~one of the following applies:~~ 7911

~~(1) If the offender was sentenced to death for the offense~~ 7912
~~for which the offender claims to be an eligible offender and is~~ 7913
~~requesting DNA testing, the offender may seek leave of the~~ 7914
~~supreme court to appeal the rejection to the supreme court.~~ 7915
~~Courts of appeals do not have jurisdiction to review any~~ 7916

~~rejection if the offender was sentenced to death for the offense~~ 7917
~~for which the offender claims to be an eligible offender and is~~ 7918
~~requesting DNA testing.~~ 7919

~~(2) If the offender was not sentenced to death for the~~ 7920
~~offense for which the offender claims to be an eligible offender~~ 7921
~~and is requesting DNA testing,~~ the rejection is a final 7922
appealable order, and the offender may appeal it to the court of 7923
appeals of the district in which is located that court of common 7924
pleas. 7925

(F) Notwithstanding any provision of law regarding fees 7926
and costs, no filing fee shall be required of, and no court 7927
costs shall be assessed against, an eligible offender who is 7928
indigent and who submits an application under this section. 7929

(G) If a court rejects an eligible offender's application 7930
for DNA testing under division (D) of this section, unless the 7931
rejection is overturned on appeal, no court shall require the 7932
state to administer a DNA test under sections 2953.71 to 2953.81 7933
of the Revised Code on the eligible offender. 7934

Sec. 2953.81. If an eligible offender submits an 7935
application for DNA testing under section 2953.73 of the Revised 7936
Code and if DNA testing is performed based on that application, 7937
upon completion of the testing, all of the following apply: 7938

(A) The court or a designee of the court shall require the 7939
state to maintain the results of the testing and to maintain and 7940
preserve both the parent sample of the biological material used 7941
and the offender sample of the biological material used. The 7942
testing authority may be designated as the person to maintain 7943
the results of the testing or to maintain and preserve some or 7944
all of the samples, or both. The results of the testing remain 7945

state's evidence. The samples shall be preserved during the 7946
entire period of time for which the offender is imprisoned or 7947
confined relative to the sentence in question, is on parole or 7948
probation relative to that sentence, is under post-release 7949
control or a community control sanction relative to that 7950
sentence, or has a duty to comply with sections 2950.04, 7951
2950.041, 2950.05, and 2950.06 of the Revised Code relative to 7952
that sentence. Additionally, if the prison term or confinement 7953
under the sentence in question expires, ~~if the sentence in~~ 7954
~~question is a sentence of death and the offender is executed,~~ or 7955
if the parole or probation period, the period of post-release 7956
control, the community control sanction, or the duty to comply 7957
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 7958
Revised Code under the sentence in question ends, the samples 7959
shall be preserved for a reasonable period of time of not less 7960
than twenty-four months after the term or confinement expires, ~~the~~ 7961
~~offender is executed,~~ or the parole or probation period, the 7962
period of post-release control, the community control sanction, 7963
or the duty to comply with sections 2950.04, 2950.041, 2950.05, 7964
and 2950.06 of the Revised Code ends, whichever is applicable. 7965
The court shall determine the period of time that is reasonable 7966
for purposes of this division, provided that the period shall 7967
not be less than twenty-four months after the term or 7968
confinement expires, ~~the offender is executed,~~ or the parole or 7969
probation period, the period of post-release control, the 7970
community control sanction, or the duty to comply with sections 7971
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7972
ends, whichever is applicable. 7973

(B) The results of the testing are a public record. 7974

(C) The court or the testing authority shall provide a 7975
copy of the results of the testing to the prosecuting attorney, 7976

the attorney general, and the subject offender. 7977

(D) If the postconviction proceeding in question is 7978
pending at that time in a court of this state, the court of 7979
common pleas that decided the DNA application or the testing 7980
authority shall provide a copy of the results of the testing to 7981
any court of this state, and, if it is pending in a federal 7982
court, the court of common pleas that decided the DNA 7983
application or the testing authority shall provide a copy of the 7984
results of the testing to that federal court. 7985

(E) The testing authority shall provide a copy of the 7986
results of the testing to the court of common pleas that decided 7987
the DNA application. 7988

(F) The offender or the state may enter the results of the 7989
testing into any proceeding. 7990

Sec. 2967.03. The adult parole authority may exercise its 7991
functions and duties in relation to the pardon, commutation of 7992
sentence, or reprieve of a convict upon direction of the 7993
governor or upon its own initiative. It may exercise its 7994
functions and duties in relation to the parole of a prisoner who 7995
is eligible for parole upon the initiative of the head of the 7996
institution in which the prisoner is confined or upon its own 7997
initiative. When a prisoner becomes eligible for parole, the 7998
head of the institution in which the prisoner is confined shall 7999
notify the authority in the manner prescribed by the authority. 8000
The authority may investigate and examine, or cause the 8001
investigation and examination of, prisoners confined in state 8002
correctional institutions concerning their conduct in the 8003
institutions, their mental and moral qualities and 8004
characteristics, their knowledge of a trade or profession, their 8005
former means of livelihood, their family relationships, and any 8006

other matters affecting their fitness to be at liberty without 8007
being a threat to society. 8008

The authority may recommend to the governor the pardon, 8009
commutation of sentence, or reprieve of any convict or prisoner 8010
or grant a parole to any prisoner for whom parole is authorized, 8011
if in its judgment there is reasonable ground to believe that 8012
granting a pardon, commutation, or reprieve to the convict or 8013
paroling the prisoner would further the interests of justice and 8014
be consistent with the welfare and security of society. However, 8015
the authority shall not recommend a pardon or commutation of 8016
sentence, or grant a parole to, any convict or prisoner until 8017
the authority has complied with the applicable notice 8018
requirements of sections 2930.16 and 2967.12 of the Revised Code 8019
and until it has considered any statement made by a victim or a 8020
victim's representative that is relevant to the convict's or 8021
prisoner's case and that was sent to the authority pursuant to 8022
section 2930.17 of the Revised Code, any other statement made by 8023
a victim or a victim's representative that is relevant to the 8024
convict's or prisoner's case and that was received by the 8025
authority after it provided notice of the pendency of the action 8026
under sections 2930.16 and 2967.12 of the Revised Code, and any 8027
written statement of any person submitted to the court pursuant 8028
to division ~~(I)~~(H) of section 2967.12 of the Revised Code. If a 8029
victim, victim's representative, or the victim's spouse, parent, 8030
sibling, or child appears at a full board hearing of the parole 8031
board and gives testimony as authorized by section 5149.101 of 8032
the Revised Code, the authority shall consider the testimony in 8033
determining whether to grant a parole. The trial judge and 8034
prosecuting attorney of the trial court in which a person was 8035
convicted shall furnish to the authority, at the request of the 8036
authority, a summarized statement of the facts proved at the 8037

trial and of all other facts having reference to the propriety 8038
of recommending a pardon or commutation or granting a parole, 8039
together with a recommendation for or against a pardon, 8040
commutation, or parole, and the reasons for the recommendation. 8041
The trial judge, the prosecuting attorney, specified law 8042
enforcement agency members, and a representative of the prisoner 8043
may appear at a full board hearing of the parole board and give 8044
testimony in regard to the grant of a parole to the prisoner as 8045
authorized by section 5149.101 of the Revised Code. All state 8046
and local officials shall furnish information to the authority, 8047
when so requested by it in the performance of its duties. 8048

The adult parole authority shall exercise its functions 8049
and duties in relation to the release of prisoners who are 8050
serving a stated prison term in accordance with section 2967.28 8051
of the Revised Code. 8052

Sec. 2967.05. (A) As used in this section: 8053

(1) "Imminent danger of death" means that the inmate has a 8054
medically diagnosable condition that will cause death to occur 8055
within a short period of time. 8056

As used in division (A) (1) of this section, "within a 8057
short period of time" means generally within six months. 8058

(2) (a) "Medically incapacitated" means any diagnosable 8059
medical condition, including mental dementia and severe, 8060
permanent medical or cognitive disability, that prevents the 8061
inmate from completing activities of daily living without 8062
significant assistance, that incapacitates the inmate to the 8063
extent that institutional confinement does not offer additional 8064
restrictions, that is likely to continue throughout the entire 8065
period of parole, and that is unlikely to improve noticeably. 8066

(b) "Medically incapacitated" does not include conditions 8067
related solely to mental illness unless the mental illness is 8068
accompanied by injury, disease, or organic defect. 8069

(3) (a) "Terminal illness" means a condition that satisfies 8070
all of the following criteria: 8071

(i) The condition is irreversible and incurable and is 8072
caused by disease, illness, or injury from which the inmate is 8073
unlikely to recover. 8074

(ii) In accordance with reasonable medical standards and a 8075
reasonable degree of medical certainty, the condition is likely 8076
to cause death to the inmate within twelve months. 8077

(iii) Institutional confinement of the inmate does not 8078
offer additional protections for public safety or against the 8079
inmate's risk to reoffend. 8080

(b) The department of rehabilitation and correction shall 8081
adopt rules pursuant to Chapter 119. of the Revised Code to 8082
implement the definition of "terminal illness" in division (A) 8083
(3) (a) of this section. 8084

(B) Upon the recommendation of the director of 8085
rehabilitation and correction, accompanied by a certificate of 8086
the attending physician that an inmate is terminally ill, 8087
medically incapacitated, or in imminent danger of death, the 8088
governor may order the inmate's release as if on parole, 8089
reserving the right to return the inmate to the institution 8090
pursuant to this section. If, subsequent to the inmate's 8091
release, the inmate's health improves so that the inmate is no 8092
longer terminally ill, medically incapacitated, or in imminent 8093
danger of death, the inmate shall be returned, by order of the 8094
governor, to the institution from which the inmate was released. 8095

If the inmate violates any rules or conditions applicable to the 8096
inmate, the inmate may be returned to an institution under the 8097
control of the department of rehabilitation and correction. The 8098
governor may direct the adult parole authority to investigate or 8099
cause to be investigated the inmate and make a recommendation. 8100
An inmate released under this section shall be subject to 8101
supervision by the adult parole authority in accordance with any 8102
recommendation of the adult parole authority that is approved by 8103
the governor. The adult parole authority shall adopt rules 8104
pursuant to section 119.03 of the Revised Code to establish the 8105
procedure for medical release of an inmate when an inmate is 8106
terminally ill, medically incapacitated, or in imminent danger 8107
of death. 8108

(C) No inmate is eligible for release under this section 8109
if the inmate is serving ~~a death sentence,~~ a sentence of life 8110
without parole, a sentence under Chapter 2971. of the Revised 8111
Code for a felony of the first or second degree, a sentence for 8112
aggravated murder or murder, or a mandatory prison term for an 8113
offense of violence or any specification described in Chapter 8114
2941. of the Revised Code. 8115

Sec. 2967.12. (A) Except as provided in division (G) of 8116
this section, at least sixty days before the adult parole 8117
authority recommends any pardon or commutation of sentence, or 8118
grants any parole, the authority shall provide a notice of the 8119
pendency of the pardon, commutation, or parole, setting forth 8120
the name of the person on whose behalf it is made, the offense 8121
of which the person was convicted or to which the person pleaded 8122
guilty, the time of conviction or the guilty plea, and the term 8123
of the person's sentence, to the prosecuting attorney and the 8124
judge of the court of common pleas of the county in which the 8125
indictment against the person was found. If there is more than 8126

one judge of that court of common pleas, the authority shall 8127
provide the notice to the presiding judge. Upon the request of 8128
the prosecuting attorney or of any law enforcement agency, the 8129
authority shall provide to the requesting prosecuting attorney 8130
and law enforcement agencies an institutional summary report 8131
that covers the subject person's participation while confined in 8132
a state correctional institution in training, work, and other 8133
rehabilitative activities and any disciplinary action taken 8134
against the person while so confined. The department of 8135
rehabilitation and correction may utilize electronic means to 8136
provide this notice. The department of rehabilitation and 8137
correction, at the same time that it provides the notice to the 8138
prosecuting attorney and judge under this division, also shall 8139
post on the database it maintains pursuant to section 5120.66 of 8140
the Revised Code the offender's name and all of the information 8141
specified in division (A) (1) (c) (iii) of that section. 8142

(B) If a request for notification has been made pursuant 8143
to section 2930.16 of the Revised Code or if division (H) of 8144
this section applies, the office of victim services or the adult 8145
parole authority also shall provide notice to the victim or the 8146
victim's representative at least sixty days prior to 8147
recommending any pardon or commutation of sentence for, or 8148
granting any parole to, the person. The notice shall include the 8149
information required by division (A) of this section and may be 8150
provided by telephone or through electronic means. The notice 8151
also shall inform the victim or the victim's representative that 8152
the victim or representative may send a written statement 8153
relative to the victimization and the pending action to the 8154
adult parole authority and that, if the authority receives any 8155
written statement prior to recommending a pardon or commutation 8156
or granting a parole for a person, the authority will consider 8157

the statement before it recommends a pardon or commutation or 8158
grants a parole. If the person is being considered for parole, 8159
the notice shall inform the victim or the victim's 8160
representative that a full board hearing of the parole board may 8161
be held and that the victim or victim's representative may 8162
contact the office of victims' services for further information. 8163
If the person being considered for parole was convicted of or 8164
pleaded guilty to a violation of section 2903.01 or 2903.02 of 8165
the Revised Code, an offense of violence that is a felony of the 8166
first, second, or third degree, or an offense punished by a 8167
sentence of life imprisonment, the notice shall inform the 8168
victim of that offense, the victim's representative, or a member 8169
of the victim's immediate family that the victim, the victim's 8170
representative, and the victim's immediate family have the right 8171
to give testimony at a full board hearing of the parole board 8172
and that the victim or victim's representative may contact the 8173
office of victims' services for further information. 8174

(C) When notice of the pendency of any pardon, commutation 8175
of sentence, or parole has been provided to a judge or 8176
prosecutor or posted on the database as required in division (A) 8177
of this section and a hearing on the pardon, commutation, or 8178
parole is continued to a date certain, the authority shall 8179
provide notice of the further consideration of the pardon, 8180
commutation, or parole at least sixty days before the further 8181
consideration. The notice of the further consideration shall be 8182
provided to the proper judge and prosecuting attorney at least 8183
sixty days before the further consideration, and may be provided 8184
using electronic means, and, if the initial notice was posted on 8185
the database as provided in division (A) of this section, the 8186
notice of the further consideration shall be posted on the 8187
database at least sixty days before the further consideration. 8188

If the prosecuting attorney or a law enforcement agency was 8189
provided a copy of the institutional summary report relative to 8190
the subject person under division (A) of this section, the 8191
authority shall include with the notice of the further 8192
consideration sent to the prosecuting attorney any new 8193
information with respect to the person that relates to 8194
activities and actions of the person that are of a type covered 8195
by the report and shall send to the law enforcement agency a 8196
report that provides notice of the further consideration and 8197
includes any such new information with respect to the person. 8198
When notice of the pendency of any pardon, commutation, or 8199
parole has been given as provided in division (B) of this 8200
section and the hearing on it is continued to a date certain, 8201
the authority shall give notice of the further consideration to 8202
the victim or the victim's representative in accordance with 8203
section 2930.03 of the Revised Code. 8204

~~(D) In case of an application for the pardon or 8205
commutation of sentence of a person sentenced to capital- 8206
punishment, the governor may modify the requirements of 8207
notification and publication if there is not sufficient time for 8208
compliance with the requirements before the date fixed for the 8209
execution of sentence. 8210~~

~~(E)~~ If an offender is serving a prison term imposed under 8211
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8212
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8213
Code and if the parole board terminates its control over the 8214
offender's service of that term pursuant to section 2971.04 of 8215
the Revised Code, the parole board immediately shall provide 8216
written notice of its termination of control or the transfer of 8217
control to the entities and persons specified in section 2971.04 8218
of the Revised Code. 8219

~~(F)~~(E) The failure of the adult parole authority to 8220
comply with the notice or posting provisions of division (A), 8221
(B), or (C) of this section or the failure of the parole board 8222
to comply with the notice provisions of division ~~(E)~~(D) of this 8223
section do not give any rights or any grounds for appeal or 8224
post-conviction relief to the person serving the sentence. 8225

~~(G)~~(F) Divisions (A), (B), and (C) of this section do not 8226
apply to any release of a person that is of the type described 8227
in division (B) (2) (b) of section 5120.031 of the Revised Code. 8228

~~(H)~~(G) If a defendant is incarcerated for the commission 8229
of aggravated murder, murder, or an offense of violence that is 8230
a felony of the first, second, or third degree or is under a 8231
sentence of life imprisonment, except as otherwise provided in 8232
this division, the notice described in division (B) of this 8233
section shall be given to the victim or victim's representative 8234
regardless of whether the victim or victim's representative has 8235
made a request for notification. The notice described in 8236
division (B) of this section shall not be given under this 8237
division to a victim or victim's representative if the victim or 8238
victim's representative has requested pursuant to division (B) 8239
(2) of section 2930.03 of the Revised Code that the victim or 8240
the victim's representative not be provided the notice. The 8241
notice described in division (B) of this section does not have 8242
to be given under this division to a victim or victim's 8243
representative if notice was given to the victim or victim's 8244
representative with respect to at least two prior considerations 8245
of pardon, commutation, or parole of a person and the victim or 8246
victim's representative did not provide any written statement 8247
relative to the victimization and the pending action, did not 8248
attend any hearing conducted relative to the pending action, and 8249
did not otherwise respond to the office with respect to the 8250

pending action. Regardless of whether the victim or victim's 8251
representative has requested that the notice described in 8252
division (B) of this section be provided or not be provided, the 8253
office of victim services or adult parole authority shall give 8254
similar notice to the law enforcement agency that arrested the 8255
defendant if any officer of that agency was a victim of the 8256
offense and to any member of the victim's immediate family who 8257
requests notification. If notice is to be given under this 8258
division, the office or authority may give the notice by any 8259
reasonable means, including regular mail, telephone, and 8260
electronic mail, in accordance with division (D) (1) of section 8261
2930.16 of the Revised Code. If the notice is based on an 8262
offense committed prior to ~~the effective date of this amendment~~ 8263
March 22, 2013, the notice to the victim or victim's 8264
representative also shall include the opt-out information 8265
described in division (D) (1) of section 2930.16 of the Revised 8266
Code. The office or authority, in accordance with division (D) 8267
(2) of section 2930.16 of the Revised Code, shall keep a record 8268
of all attempts to provide the notice, and of all notices 8269
provided, under this division. 8270

Division ~~(H)~~ (G) of this section, and the notice-related 8271
provisions of divisions (E) (2) and (K) of section 2929.20, 8272
division (D) (1) of section 2930.16, division (E) (1) (b) of 8273
section 2967.19, division (A) (3) (b) of section 2967.26, division 8274
(D) (1) of section 2967.28, and division (A) (2) of section 8275
5149.101 of the Revised Code enacted in the act in which 8276
division ~~(H)~~ (G) of this section was enacted, shall be known as 8277
"Roberta's Law." 8278

~~(I)~~ (H) In addition to and independent of the right of a 8279
victim to make a statement as described in division (A) of this 8280
section or pursuant to section 2930.17 of the Revised Code or to 8281

otherwise make a statement, the authority for a judge or 8282
prosecuting attorney to furnish statements and information, make 8283
recommendations, and give testimony as described in division (A) 8284
of this section, the right of a prosecuting attorney, judge, or 8285
victim to give testimony or submit a statement at a full parole 8286
board hearing pursuant to section 5149.101 of the Revised Code, 8287
and any other right or duty of a person to present information 8288
or make a statement, any person may send to the adult parole 8289
authority at any time prior to the authority's recommending a 8290
pardon or commutation or granting a parole for the offender a 8291
written statement relative to the offense and the pending 8292
action. 8293

~~(J)~~(I) As used in this section, "victim's immediate 8294
family" means the mother, father, spouse, sibling, or child of 8295
the victim, provided that in no case does "victim's immediate 8296
family" include the offender with respect to whom the notice in 8297
question applies. 8298

Sec. 2967.13. (A) Except as provided in division (G) of 8299
this section, a prisoner serving a sentence of imprisonment for 8300
life for an offense committed on or after July 1, 1996, is not 8301
entitled to any earned credit under section 2967.193 of the 8302
Revised Code and becomes eligible for parole as follows: 8303

(1) If a sentence of imprisonment for life was imposed for 8304
the offense of murder, at the expiration of the prisoner's 8305
minimum term; 8306

(2) If a sentence of imprisonment for life with parole 8307
eligibility after serving twenty years of imprisonment was 8308
imposed pursuant to section 2929.02 or former section 2929.022 8309
or 2929.03 of the Revised Code, after serving a term of twenty 8310
years; 8311

(3) If a sentence of imprisonment for life with parole 8312
eligibility after serving twenty-five full years of imprisonment 8313
was imposed pursuant to section 2929.02 or former section 8314
2929.022 or 2929.03 of the Revised Code, after serving a term of 8315
twenty-five full years; 8316

(4) If a sentence of imprisonment for life with parole 8317
eligibility after serving thirty full years of imprisonment was 8318
imposed pursuant to section 2929.02 or former section 2929.022 8319
or 2929.03 of the Revised Code, after serving a term of thirty 8320
full years; 8321

(5) If a sentence of imprisonment for life was imposed for 8322
rape, after serving a term of ten full years' imprisonment; 8323

(6) If a sentence of imprisonment for life with parole 8324
eligibility after serving fifteen years of imprisonment was 8325
imposed for a violation of section 2927.24 of the Revised Code, 8326
after serving a term of fifteen years. 8327

(B) Except as provided in division (G) of this section, a 8328
prisoner serving a sentence of imprisonment for life with parole 8329
eligibility after serving twenty years of imprisonment or a 8330
sentence of imprisonment for life with parole eligibility after 8331
serving twenty-five full years or thirty full years of 8332
imprisonment imposed pursuant to section 2929.02 or former 8333
section 2929.022 or 2929.03 of the Revised Code for an offense 8334
committed on or after July 1, 1996, consecutively to any other 8335
term of imprisonment, becomes eligible for parole after serving 8336
twenty years, twenty full years, or thirty full years, as 8337
applicable, as to each such sentence of life imprisonment, which 8338
shall not be reduced for earned credits under section 2967.193 8339
of the Revised Code, plus the term or terms of the other 8340
sentences consecutively imposed or, if one of the other 8341

sentences is another type of life sentence with parole 8342
eligibility, the number of years before parole eligibility for 8343
that sentence. 8344

(C) Except as provided in division (G) of this section, a 8345
prisoner serving consecutively two or more sentences in which an 8346
indefinite term of imprisonment is imposed becomes eligible for 8347
parole upon the expiration of the aggregate of the minimum terms 8348
of the sentences. 8349

(D) Except as provided in division (G) of this section, a 8350
prisoner serving a term of imprisonment who is described in 8351
division (A) of section 2967.021 of the Revised Code becomes 8352
eligible for parole as described in that division or, if the 8353
prisoner is serving a definite term of imprisonment, shall be 8354
released as described in that division. 8355

(E) A prisoner serving a sentence of life imprisonment 8356
without parole imposed pursuant to section 2907.02 or 2929.02 or 8357
former section 2929.03 or 2929.06 of the Revised Code is not 8358
eligible for parole and shall be imprisoned until death. 8359

(F) A prisoner serving a stated prison term shall be 8360
released in accordance with section 2967.28 of the Revised Code. 8361

(G) A prisoner serving a prison term or term of life 8362
imprisonment without parole imposed pursuant to section 2971.03 8363
of the Revised Code never becomes eligible for parole during 8364
that term of imprisonment. 8365

Sec. 2967.19. (A) As used in this section: 8366

(1) "Deadly weapon" and "dangerous ordnance" have the same 8367
meanings as in section 2923.11 of the Revised Code. 8368

(2) "Disqualifying prison term" means any of the 8369

following: 8370

(a) A prison term imposed for aggravated murder, murder, 8371
voluntary manslaughter, involuntary manslaughter, felonious 8372
assault, kidnapping, rape, aggravated arson, aggravated 8373
burglary, or aggravated robbery; 8374

(b) A prison term imposed for complicity in, an attempt to 8375
commit, or conspiracy to commit any offense listed in division 8376
(A) (2) (a) of this section; 8377

(c) A prison term of life imprisonment, including any term 8378
of life imprisonment that has parole eligibility; 8379

(d) A prison term imposed for any felony other than 8380
carrying a concealed weapon an essential element of which is any 8381
conduct or failure to act expressly involving any deadly weapon 8382
or dangerous ordnance; 8383

(e) A prison term imposed for any violation of section 8384
2925.03 of the Revised Code that is a felony of the first or 8385
second degree; 8386

(f) A prison term imposed for engaging in a pattern of 8387
corrupt activity in violation of section 2923.32 of the Revised 8388
Code; 8389

(g) A prison term imposed pursuant to section 2971.03 of 8390
the Revised Code; 8391

(h) A prison term imposed for any sexually oriented 8392
offense. 8393

(3) "Eligible prison term" means any prison term that is 8394
not a disqualifying prison term and is not a restricting prison 8395
term. 8396

(4) "Restricting prison term" means any of the following:	8397
(a) A mandatory prison term imposed under division (B) (1)	8398
(a), (B) (1) (c), (B) (1) (f), (B) (1) (g), (B) (2), or (B) (7) of	8399
section 2929.14 of the Revised Code for a specification of the	8400
type described in that division;	8401
(b) In the case of an offender who has been sentenced to a	8402
mandatory prison term for a specification of the type described	8403
in division (A) (4) (a) of this section, the prison term imposed	8404
for the felony offense for which the specification was stated at	8405
the end of the body of the indictment, count in the indictment,	8406
or information charging the offense;	8407
(c) A prison term imposed for trafficking in persons;	8408
(d) A prison term imposed for any offense that is	8409
described in division (A) (4) (d) (i) of this section if division	8410
(A) (4) (d) (ii) of this section applies to the offender:	8411
(i) The offense is a felony of the first or second degree	8412
that is an offense of violence and that is not described in	8413
division (A) (2) (a) or (b) of this section, an attempt to commit	8414
a felony of the first or second degree that is an offense of	8415
violence and that is not described in division (A) (2) (a) or (b)	8416
of this section if the attempt is a felony of the first or	8417
second degree, or an offense under an existing or former law of	8418
this state, another state, or the United States that is or was	8419
substantially equivalent to any other offense described in this	8420
division.	8421
(ii) The offender previously was convicted of or pleaded	8422
guilty to any offense listed in division (A) (2) or (A) (4) (d) (i)	8423
of this section.	8424
(5) "Sexually oriented offense" has the same meaning as in	8425

section 2950.01 of the Revised Code. 8426

(B) The director of the department of rehabilitation and 8427
correction may recommend in writing to the sentencing court that 8428
the court consider releasing from prison any offender who, on or 8429
after September 30, 2011, is confined in a state correctional 8430
institution, who is serving a stated prison term of one year or 8431
more, and who is eligible under division (C) of this section for 8432
a release under this section. If the director wishes to 8433
recommend that the sentencing court consider releasing an 8434
offender under this section, the director shall notify the 8435
sentencing court in writing of the offender's eligibility not 8436
earlier than ninety days prior to the date on which the offender 8437
becomes eligible as described in division (C) of this section. 8438
The director's submission of the written notice constitutes a 8439
recommendation by the director that the court strongly consider 8440
release of the offender consistent with the purposes and 8441
principles of sentencing set forth in sections 2929.11 and 8442
2929.13 of the Revised Code. Only an offender recommended by the 8443
director under division (B) of this section may be considered 8444
for early release under this section. 8445

(C) (1) An offender serving a stated prison term of one 8446
year or more and who has commenced service of that stated prison 8447
term becomes eligible for release from prison under this section 8448
only as described in this division. An offender serving a stated 8449
prison term that includes a disqualifying prison term is not 8450
eligible for release from prison under this section. An offender 8451
serving a stated prison term that consists solely of one or more 8452
restricting prison terms is not eligible for release under this 8453
section. An offender serving a stated prison term of one year or 8454
more that includes one or more restricting prison terms and one 8455
or more eligible prison terms becomes eligible for release under 8456

this section after having fully served all restricting prison 8457
terms and having served eighty per cent of the stated prison 8458
term that remains to be served after all restricting prison 8459
terms have been fully served. An offender serving a stated 8460
prison term that consists solely of one or more eligible prison 8461
terms becomes eligible for release under this section after 8462
having served eighty per cent of that stated prison term. For 8463
purposes of determining an offender's eligibility for release 8464
under this section, if the offender's stated prison term 8465
includes consecutive prison terms, any restricting prison terms 8466
shall be deemed served prior to any eligible prison terms that 8467
run consecutively to the restricting prison terms, and the 8468
eligible prison terms are deemed to commence after all of the 8469
restricting prison terms have been fully served. 8470

An offender serving a stated prison term of one year or 8471
more that includes a mandatory prison term that is not a 8472
disqualifying prison term and is not a restricting prison term 8473
is not automatically ineligible as a result of the offender's 8474
service of that mandatory term for release from prison under 8475
this section, and the offender's eligibility for release from 8476
prison under this section is determined in accordance with this 8477
division. 8478

(2) If an offender confined in a state correctional 8479
institution under a stated prison term is eligible for release 8480
under this section as described in division (C)(1) of this 8481
section, the director of the department of rehabilitation and 8482
correction may recommend in writing that the sentencing court 8483
consider releasing the offender from prison under this section 8484
by submitting to the sentencing court the written notice 8485
described in division (B) of this section. 8486

(D) The director shall include with any notice submitted 8487
to the sentencing court under division (B) of this section an 8488
institutional summary report that covers the offender's 8489
participation while confined in a state correctional institution 8490
in school, training, work, treatment, and other rehabilitative 8491
activities and any disciplinary action taken against the 8492
offender while so confined. The director shall include with the 8493
notice any other documentation requested by the court, if 8494
available. 8495

(E) (1) When the director submits a written notice to a 8496
sentencing court that an offender is eligible to be considered 8497
for early release under this section, the department promptly 8498
shall provide to the prosecuting attorney of the county in which 8499
the offender was indicted a copy of the written notice, a copy 8500
of the institutional summary report, and any other information 8501
provided to the court and shall provide a copy of the 8502
institutional summary report to any law enforcement agency that 8503
requests the report. The department also promptly shall do 8504
whichever of the following is applicable: 8505

(a) Subject to division (E) (1) (b) of this section, give 8506
written notice of the submission to any victim of the offender 8507
or victim's representative of any victim of the offender who is 8508
registered with the office of victim's services. 8509

(b) If the offense was aggravated murder, murder, an 8510
offense of violence that is a felony of the first, second, or 8511
third degree, or an offense punished by a sentence of life 8512
imprisonment, except as otherwise provided in this division, 8513
notify the victim or the victim's representative of the filing 8514
of the petition regardless of whether the victim or victim's 8515
representative has registered with the office of victim's 8516

services. The notice of the filing of the petition shall not be 8517
given under this division to a victim or victim's representative 8518
if the victim or victim's representative has requested pursuant 8519
to division (B) (2) of section 2930.03 of the Revised Code that 8520
the victim or the victim's representative not be provided the 8521
notice. If notice is to be provided to a victim or victim's 8522
representative under this division, the department may give the 8523
notice by any reasonable means, including regular mail, 8524
telephone, and electronic mail, in accordance with division (D) 8525
(1) of section 2930.16 of the Revised Code. If the notice is 8526
based on an offense committed prior to ~~the effective date of~~ 8527
~~this amendment~~ March 22, 2013, the notice also shall include the 8528
opt-out information described in division (D) (1) of section 8529
2930.16 of the Revised Code. The department, in accordance with 8530
division (D) (2) of section 2930.16 of the Revised Code, shall 8531
keep a record of all attempts to provide the notice, and of all 8532
notices provided, under this division. 8533

Division (E) (1) (b) of this section, and the notice-related 8534
provisions of divisions (E) (2) and (K) of section 2929.20, 8535
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 8536
2967.12, division (A) (3) (b) of section 2967.26, division (D) (1) 8537
of section 2967.28, and division (A) (2) of section 5149.101 of 8538
the Revised Code enacted in the act in which division (E) (2) of 8539
this section was enacted, shall be known as "Roberta's Law." 8540

(2) When the director submits a petition under this 8541
section, the department also promptly shall post a copy of the 8542
written notice on the database it maintains under section 8543
5120.66 of the Revised Code and include information on where a 8544
person may send comments regarding the recommendation of early 8545
release. 8546

The information provided to the court, the prosecutor, and the victim or victim's representative under divisions (D) and (E) of this section shall include the name and contact information of a specific department of rehabilitation and correction employee who is available to answer questions about the offender who is the subject of the written notice submitted by the director, including, but not limited to, the offender's institutional conduct and rehabilitative activities while incarcerated.

(F) Upon receipt of a written notice submitted by the director under division (B) of this section, the court either shall, on its own motion, schedule a hearing to consider releasing the offender who is the subject of the notice or shall inform the department that it will not be conducting a hearing relative to the offender. The court shall not grant an early release to an offender without holding a hearing. If a court declines to hold a hearing relative to an offender with respect to a written notice submitted by the director, the court may later consider release of that offender under this section on its own motion by scheduling a hearing for that purpose. Within thirty days after the written notice is submitted, the court shall inform the department whether or not the court is scheduling a hearing on the offender who is the subject of the notice.

(G) If the court schedules a hearing upon receiving a written notice submitted under division (B) of this section or upon its own motion under division (F) of this section, the court shall notify the head of the state correctional institution in which the offender is confined of the hearing prior to the hearing. If the court makes a journal entry ordering the offender to be conveyed to the hearing, except as

otherwise provided in this division, the head of the 8578
correctional institution shall deliver the offender to the 8579
sheriff of the county in which the hearing is to be held, and 8580
the sheriff shall convey the offender to and from the hearing. 8581
Upon the court's own motion or the motion of the offender or the 8582
prosecuting attorney of the county in which the offender was 8583
indicted, the court may permit the offender to appear at the 8584
hearing by video conferencing equipment if equipment of that 8585
nature is available and compatible. 8586

Upon receipt of notice from a court of a hearing on the 8587
release of an offender under this division, the head of the 8588
state correctional institution in which the offender is confined 8589
immediately shall notify the appropriate person at the 8590
department of rehabilitation and correction of the hearing, and 8591
the department within twenty-four hours after receipt of the 8592
notice shall post on the database it maintains pursuant to 8593
section 5120.66 of the Revised Code the offender's name and all 8594
of the information specified in division (A)(1)(c)(i) of that 8595
section. If the court schedules a hearing under this section, 8596
the court promptly shall give notice of the hearing to the 8597
prosecuting attorney of the county in which the offender was 8598
indicted. Upon receipt of the notice from the court, the 8599
prosecuting attorney shall notify pursuant to section 2930.16 of 8600
the Revised Code any victim of the offender or the victim's 8601
representative of the hearing. 8602

(H) If the court schedules a hearing under this section, 8603
at the hearing, the court shall afford the offender and the 8604
offender's attorney an opportunity to present written 8605
information and, if present, oral information relevant to the 8606
offender's early release. The court shall afford a similar 8607
opportunity to the prosecuting attorney, victim or victim's 8608

representative, as defined in section 2930.01 of the Revised Code, and any other person the court determines is likely to present additional relevant information. If the court pursuant to division (G) of this section permits the offender to appear at the hearing by video conferencing equipment, the offender's opportunity to present oral information shall be as a part of the video conferencing. The court shall consider any statement of a victim made under section 2930.14 or 2930.17 of the Revised Code, any victim impact statement prepared under section 2947.051 of the Revised Code, and any report and other documentation submitted by the director under division (D) of this section. After ruling on whether to grant the offender early release, the court shall notify the victim in accordance with sections 2930.03 and 2930.16 of the Revised Code.

(I) If the court grants an offender early release under this section, it shall order the release of the offender, shall place the offender under one or more appropriate community control sanctions, under appropriate conditions, and under the supervision of the department of probation that serves the court, and shall reserve the right to reimpose the sentence that it reduced and from which the offender was released if the offender violates the sanction. The court shall not make a release under this section effective prior to the date on which the offender becomes eligible as described in division (C) of this section. If the sentence under which the offender is confined in a state correctional institution and from which the offender is being released was imposed for a felony of the first or second degree, the court shall consider ordering that the offender be monitored by means of a global positioning device. If the court reimposes the sentence that it reduced and from which the offender was released and if the violation of the

sanction is a new offense, the court may order that the 8640
reimposed sentence be served either concurrently with, or 8641
consecutive to, any new sentence imposed upon the offender as a 8642
result of the violation that is a new offense. The period of all 8643
community control sanctions imposed under this division shall 8644
not exceed five years. The court, in its discretion, may reduce 8645
the period of community control sanctions by the amount of time 8646
the offender spent in jail or prison for the offense. 8647

If the court grants an offender early release under this 8648
section, it shall notify the appropriate person at the 8649
department of rehabilitation and correction of the release, and 8650
the department shall post notice of the release on the database 8651
it maintains pursuant to section 5120.66 of the Revised Code. 8652

(J) The department shall adopt under Chapter 119. of the 8653
Revised Code any rules necessary to implement this section. 8654

Sec. 2967.193. (A) (1) Except as provided in division (C) 8655
of this section and subject to the maximum aggregate total 8656
specified in division (A) (2) of this section, a person confined 8657
in a state correctional institution or placed in the substance 8658
use disorder treatment program may provisionally earn one day or 8659
five days of credit, based on the category set forth in division 8660
(D) (1), (2), (3), (4), or (5) of this section in which the 8661
person is included, toward satisfaction of the person's stated 8662
prison term for each completed month during which the person, if 8663
confined in a state correctional institution, productively 8664
participates in an education program, vocational training, 8665
employment in prison industries, treatment for substance abuse, 8666
or any other constructive program developed by the department 8667
with specific standards for performance by prisoners or during 8668
which the person, if placed in the substance use disorder 8669

treatment program, productively participates in the program. 8670
Except as provided in division (C) of this section and subject 8671
to the maximum aggregate total specified in division (A) (2) of 8672
this section, a person so confined in a state correctional 8673
institution who successfully completes two programs or 8674
activities of that type may, in addition, provisionally earn up 8675
to five days of credit toward satisfaction of the person's 8676
stated prison term for the successful completion of the second 8677
program or activity. The person shall not be awarded any 8678
provisional days of credit for the successful completion of the 8679
first program or activity or for the successful completion of 8680
any program or activity that is completed after the second 8681
program or activity. At the end of each calendar month in which 8682
a person productively participates in a program or activity 8683
listed in this division or successfully completes a program or 8684
activity listed in this division, the department of 8685
rehabilitation and correction shall determine and record the 8686
total number of days credit that the person provisionally earned 8687
in that calendar month. If the person in a state correctional 8688
institution violates prison rules or the person in the substance 8689
use disorder treatment program violates program or department 8690
rules, the department may deny the person a credit that 8691
otherwise could have been provisionally awarded to the person or 8692
may withdraw one or more credits previously provisionally earned 8693
by the person. Days of credit provisionally earned by a person 8694
shall be finalized and awarded by the department subject to 8695
administrative review by the department of the person's conduct. 8696

(2) The aggregate days of credit provisionally earned by a 8697
person for program or activity participation and program and 8698
activity completion under this section and the aggregate days of 8699
credit finally credited to a person under this section shall not 8700

exceed eight per cent of the total number of days in the 8701
person's stated prison term. 8702

(B) The department of rehabilitation and correction shall 8703
adopt rules that specify the programs or activities for which 8704
credit may be earned under this section, the criteria for 8705
determining productive participation in, or completion of, the 8706
programs or activities and the criteria for awarding credit, 8707
including criteria for awarding additional credit for successful 8708
program or activity completion, and the criteria for denying or 8709
withdrawing previously provisionally earned credit as a result 8710
of a violation of prison rules, or program or department rules, 8711
whichever is applicable. 8712

(C) No person confined in a state correctional institution 8713
or placed in a substance use disorder treatment program to whom 8714
any of the following applies shall be awarded any days of credit 8715
under division (A) of this section: 8716

(1) The person is serving a prison term that section 8717
2929.13 or section 2929.14 of the Revised Code specifies cannot 8718
be reduced pursuant to this section or this chapter or is 8719
serving a sentence for which section 2967.13 or division (B) of 8720
section 2929.143 of the Revised Code specifies that the person 8721
is not entitled to any earned credit under this section. 8722

(2) The person is ~~sentenced to death or is~~ serving a 8723
prison term or a term of life imprisonment for aggravated 8724
murder, murder, or a conspiracy or attempt to commit, or 8725
complicity in committing, aggravated murder or murder. 8726

(3) The person is serving a sentence of life imprisonment 8727
without parole imposed pursuant to section 2929.02 or former 8728
section 2929.03 or 2929.06 of the Revised Code, a prison term or 8729

a term of life imprisonment without parole imposed pursuant to 8730
section 2971.03 of the Revised Code, or a sentence for a 8731
sexually oriented offense that was committed on or after 8732
September 30, 2011. 8733

(D) This division does not apply to a determination of 8734
whether a person confined in a state correctional institution or 8735
placed in a substance use disorder treatment program may earn 8736
any days of credit under division (A) of this section for 8737
successful completion of a second program or activity. The 8738
determination of whether a person confined in a state 8739
correctional institution may earn one day of credit or five days 8740
of credit under division (A) of this section for each completed 8741
month during which the person productively participates in a 8742
program or activity specified under that division shall be made 8743
in accordance with the following: 8744

(1) The offender may earn one day of credit under division 8745
(A) of this section, except as provided in division (C) of this 8746
section, if the most serious offense for which the offender is 8747
confined is any of the following that is a felony of the first 8748
or second degree: 8749

(a) A violation of division (A) of section 2903.04 or of 8750
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 8751
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 8752
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.151, 2919.22, 8753
2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, or 8754
2927.24 of the Revised Code; 8755

(b) A conspiracy or attempt to commit, or complicity in 8756
committing, any other offense for which the maximum penalty is 8757
imprisonment for life or any offense listed in division (D)(1) 8758
(a) of this section. 8759

(2) The offender may earn one day of credit under division 8760
(A) of this section, except as provided in division (C) of this 8761
section, if the offender is serving a stated prison term that 8762
includes a prison term imposed for a sexually oriented offense 8763
that the offender committed prior to September 30, 2011. 8764

(3) The offender may earn one day of credit under division 8765
(A) of this section, except as provided in division (C) of this 8766
section, if the offender is serving a stated prison term that 8767
includes a prison term imposed for a felony other than carrying 8768
a concealed weapon an essential element of which is any conduct 8769
or failure to act expressly involving any deadly weapon or 8770
dangerous ordnance. 8771

(4) Except as provided in division (C) of this section, if 8772
the most serious offense for which the offender is confined is a 8773
felony of the first or second degree and divisions (D) (1), (2), 8774
and (3) of this section do not apply to the offender, the 8775
offender may earn one day of credit under division (A) of this 8776
section if the offender committed that offense prior to 8777
September 30, 2011, and the offender may earn five days of 8778
credit under division (A) of this section if the offender 8779
committed that offense on or after September 30, 2011. 8780

(5) Except as provided in division (C) of this section, if 8781
the most serious offense for which the offender is confined is a 8782
felony of the third, fourth, or fifth degree or an unclassified 8783
felony and neither division (D) (2) nor (3) of this section 8784
applies to the offender, the offender may earn one day of credit 8785
under division (A) of this section if the offender committed 8786
that offense prior to September 30, 2011, and the offender may 8787
earn five days of credit under division (A) of this section if 8788
the offender committed that offense on or after September 30, 8789

2011. 8790

(E) The department annually shall seek and consider the 8791
written feedback of the Ohio prosecuting attorneys association, 8792
the Ohio judicial conference, the Ohio public defender, the Ohio 8793
association of criminal defense lawyers, and other organizations 8794
and associations that have an interest in the operation of the 8795
corrections system and the earned credits program under this 8796
section as part of its evaluation of the program and in 8797
determining whether to modify the program. 8798

(F) As used in this section: 8799

(1) "Sexually oriented offense" has the same meaning as in 8800
section 2950.01 of the Revised Code. 8801

(2) "Substance use disorder treatment program" means the 8802
substance use disorder treatment program established by the 8803
department of rehabilitation and correction under section 8804
5120.035 of the Revised Code. 8805

Sec. 2967.26. (A) (1) The department of rehabilitation and 8806
correction, by rule, may establish a transitional control 8807
program for the purpose of closely monitoring a prisoner's 8808
adjustment to community supervision during the final one hundred 8809
eighty days of the prisoner's confinement. If the department 8810
establishes a transitional control program under this division, 8811
the division of parole and community services of the department 8812
of rehabilitation and correction may transfer eligible prisoners 8813
to transitional control status under the program during the 8814
final one hundred eighty days of their confinement and under the 8815
terms and conditions established by the department, shall 8816
provide for the confinement as provided in this division of each 8817
eligible prisoner so transferred, and shall supervise each 8818

eligible prisoner so transferred in one or more community 8819
control sanctions. Each eligible prisoner who is transferred to 8820
transitional control status under the program shall be confined 8821
in a suitable facility that is licensed pursuant to division (C) 8822
of section 2967.14 of the Revised Code, or shall be confined in 8823
a residence the department has approved for this purpose and be 8824
monitored pursuant to an electronic monitoring device, as 8825
defined in section 2929.01 of the Revised Code. If the 8826
department establishes a transitional control program under this 8827
division, the rules establishing the program shall include 8828
criteria that define which prisoners are eligible for the 8829
program, criteria that must be satisfied to be approved as a 8830
residence that may be used for confinement under the program of 8831
a prisoner that is transferred to it and procedures for the 8832
department to approve residences that satisfy those criteria, 8833
and provisions of the type described in division (C) of this 8834
section. At a minimum, the criteria that define which prisoners 8835
are eligible for the program shall provide all of the following: 8836

(a) That a prisoner is eligible for the program if the 8837
prisoner is serving a prison term or term of imprisonment for an 8838
offense committed prior to March 17, 1998, and if, at the time 8839
at which eligibility is being determined, the prisoner would 8840
have been eligible for a furlough under this section as it 8841
existed immediately prior to March 17, 1998, or would have been 8842
eligible for conditional release under former section 2967.23 of 8843
the Revised Code as that section existed immediately prior to 8844
March 17, 1998; 8845

(b) That no prisoner who is serving a mandatory prison 8846
term is eligible for the program until after expiration of the 8847
mandatory term; 8848

(c) That no prisoner who is serving a prison term or term 8849
of life imprisonment without parole imposed pursuant to section 8850
2971.03 of the Revised Code is eligible for the program. 8851

(2) At least sixty days prior to transferring to 8852
transitional control under this section a prisoner who is 8853
serving a term of imprisonment or prison term of two years or 8854
less for an offense committed on or after July 1, 1996, the 8855
division of parole and community services of the department of 8856
rehabilitation and correction shall give notice of the pendency 8857
of the transfer to transitional control to the court of common 8858
pleas of the county in which the indictment against the prisoner 8859
was found and of the fact that the court may disapprove the 8860
transfer of the prisoner to transitional control and shall 8861
include the institutional summary report prepared by the head of 8862
the state correctional institution in which the prisoner is 8863
confined. The head of the state correctional institution in 8864
which the prisoner is confined, upon the request of the division 8865
of parole and community services, shall provide to the division 8866
for inclusion in the notice sent to the court under this 8867
division an institutional summary report on the prisoner's 8868
conduct in the institution and in any institution from which the 8869
prisoner may have been transferred. The institutional summary 8870
report shall cover the prisoner's participation in school, 8871
vocational training, work, treatment, and other rehabilitative 8872
activities and any disciplinary action taken against the 8873
prisoner. If the court disapproves of the transfer of the 8874
prisoner to transitional control, the court shall notify the 8875
division of the disapproval within thirty days after receipt of 8876
the notice. If the court timely disapproves the transfer of the 8877
prisoner to transitional control, the division shall not proceed 8878
with the transfer. If the court does not timely disapprove the 8879

transfer of the prisoner to transitional control, the division 8880
may transfer the prisoner to transitional control. 8881

(3) (a) If the victim of an offense for which a prisoner 8882
was sentenced to a prison term or term of imprisonment has 8883
requested notification under section 2930.16 of the Revised Code 8884
and has provided the department of rehabilitation and correction 8885
with the victim's name and address or if division (A) (3) (b) of 8886
this section applies, the division of parole and community 8887
services, at least sixty days prior to transferring the prisoner 8888
to transitional control pursuant to this section, shall notify 8889
the victim of the pendency of the transfer and of the victim's 8890
right to submit a statement to the division regarding the impact 8891
of the transfer of the prisoner to transitional control. If the 8892
victim subsequently submits a statement of that nature to the 8893
division, the division shall consider the statement in deciding 8894
whether to transfer the prisoner to transitional control. 8895

(b) If a prisoner is incarcerated for the commission of 8896
aggravated murder, murder, or an offense of violence that is a 8897
felony of the first, second, or third degree or under a sentence 8898
of life imprisonment, except as otherwise provided in this 8899
division, the notice described in division (A) (3) (a) of this 8900
section shall be given regardless of whether the victim has 8901
requested the notification. The notice described in division (A) 8902
(3) (a) of this section shall not be given under this division to 8903
a victim if the victim has requested pursuant to division (B) (2) 8904
of section 2930.03 of the Revised Code that the victim not be 8905
provided the notice. If notice is to be provided to a victim 8906
under this division, the authority may give the notice by any 8907
reasonable means, including regular mail, telephone, and 8908
electronic mail, in accordance with division (D) (1) of section 8909
2930.16 of the Revised Code. If the notice is based on an 8910

offense committed prior to March 22, 2013, the notice also shall 8911
include the opt-out information described in division (D) (1) of 8912
section 2930.16 of the Revised Code. The authority, in 8913
accordance with division (D) (2) of section 2930.16 of the 8914
Revised Code, shall keep a record of all attempts to provide the 8915
notice, and of all notices provided, under this division. 8916

Division (A) (3) (b) of this section, and the notice-related 8917
provisions of divisions (E) (2) and (K) of section 2929.20, 8918
division (D) (1) of section 2930.16, division ~~(H)~~(G) of section 8919
2967.12, division (E) (1) (b) of section 2967.19, division (D) (1) 8920
of section 2967.28, and division (A) (2) of section 5149.101 of 8921
the Revised Code enacted in the act in which division (A) (3) (b) 8922
of this section was enacted, shall be known as "Roberta's Law." 8923

(4) The department of rehabilitation and correction, at 8924
least sixty days prior to transferring a prisoner to 8925
transitional control pursuant to this section, shall post on the 8926
database it maintains pursuant to section 5120.66 of the Revised 8927
Code the prisoner's name and all of the information specified in 8928
division (A) (1) (c) (iv) of that section. In addition to and 8929
independent of the right of a victim to submit a statement as 8930
described in division (A) (3) of this section or to otherwise 8931
make a statement and in addition to and independent of any other 8932
right or duty of a person to present information or make a 8933
statement, any person may send to the division of parole and 8934
community services at any time prior to the division's transfer 8935
of the prisoner to transitional control a written statement 8936
regarding the transfer of the prisoner to transitional control. 8937
In addition to the information, reports, and statements it 8938
considers under divisions (A) (2) and (3) of this section or that 8939
it otherwise considers, the division shall consider each 8940
statement submitted in accordance with this division in deciding 8941

whether to transfer the prisoner to transitional control. 8942

(B) Each prisoner transferred to transitional control 8943
under this section shall be confined in the manner described in 8944
division (A) of this section during any period of time that the 8945
prisoner is not actually working at the prisoner's approved 8946
employment, engaged in a vocational training or another 8947
educational program, engaged in another program designated by 8948
the director, or engaged in other activities approved by the 8949
department. 8950

(C) The department of rehabilitation and correction shall 8951
adopt rules for transferring eligible prisoners to transitional 8952
control, supervising and confining prisoners so transferred, 8953
administering the transitional control program in accordance 8954
with this section, and using the moneys deposited into the 8955
transitional control fund established under division (E) of this 8956
section. 8957

(D) The department of rehabilitation and correction may 8958
adopt rules for the issuance of passes for the limited purposes 8959
described in this division to prisoners who are transferred to 8960
transitional control under this section. If the department 8961
adopts rules of that nature, the rules shall govern the granting 8962
of the passes and shall provide for the supervision of prisoners 8963
who are temporarily released pursuant to one of those passes. 8964
Upon the adoption of rules under this division, the department 8965
may issue passes to prisoners who are transferred to 8966
transitional control status under this section in accordance 8967
with the rules and the provisions of this division. All passes 8968
issued under this division shall be for a maximum of forty-eight 8969
hours and may be issued only for the following purposes: 8970

(1) To visit a relative in imminent danger of death; 8971

(2) To have a private viewing of the body of a deceased relative; 8972
8973

(3) To visit with family; 8974

(4) To otherwise aid in the rehabilitation of the prisoner. 8975
8976

(E) The division of parole and community services may 8977
require a prisoner who is transferred to transitional control to 8978
pay to the division the reasonable expenses incurred by the 8979
division in supervising or confining the prisoner while under 8980
transitional control. Inability to pay those reasonable expenses 8981
shall not be grounds for refusing to transfer an otherwise 8982
eligible prisoner to transitional control. Amounts received by 8983
the division of parole and community services under this 8984
division shall be deposited into the transitional control fund, 8985
which is hereby created in the state treasury and which hereby 8986
replaces and succeeds the furlough services fund that formerly 8987
existed in the state treasury. All moneys that remain in the 8988
furlough services fund on March 17, 1998, shall be transferred 8989
on that date to the transitional control fund. The transitional 8990
control fund shall be used solely to pay costs related to the 8991
operation of the transitional control program established under 8992
this section. The director of rehabilitation and correction 8993
shall adopt rules in accordance with section 111.15 of the 8994
Revised Code for the use of the fund. 8995

(F) A prisoner who violates any rule established by the 8996
department of rehabilitation and correction under division (A), 8997
(C), or (D) of this section may be transferred to a state 8998
correctional institution pursuant to rules adopted under 8999
division (A), (C), or (D) of this section, but the prisoner 9000
shall receive credit towards completing the prisoner's sentence 9001

for the time spent under transitional control. 9002

If a prisoner is transferred to transitional control under 9003
this section, upon successful completion of the period of 9004
transitional control, the prisoner may be released on parole or 9005
under post-release control pursuant to section 2967.13 or 9006
2967.28 of the Revised Code and rules adopted by the department 9007
of rehabilitation and correction. If the prisoner is released 9008
under post-release control, the duration of the post-release 9009
control, the type of post-release control sanctions that may be 9010
imposed, the enforcement of the sanctions, and the treatment of 9011
prisoners who violate any sanction applicable to the prisoner 9012
are governed by section 2967.28 of the Revised Code. 9013

Sec. 2967.28. (A) As used in this section: 9014

(1) "Monitored time" means the monitored time sanction 9015
specified in section 2929.17 of the Revised Code. 9016

(2) "Deadly weapon" and "dangerous ordnance" have the same 9017
meanings as in section 2923.11 of the Revised Code. 9018

(3) "Felony sex offense" means a violation of a section 9019
contained in Chapter 2907. of the Revised Code that is a felony. 9020

(4) "Risk reduction sentence" means a prison term imposed 9021
by a court, when the court recommends pursuant to section 9022
2929.143 of the Revised Code that the offender serve the 9023
sentence under section 5120.036 of the Revised Code, and the 9024
offender may potentially be released from imprisonment prior to 9025
the expiration of the prison term if the offender successfully 9026
completes all assessment and treatment or programming required 9027
by the department of rehabilitation and correction under section 9028
5120.036 of the Revised Code. 9029

(5) "Victim's immediate family" has the same meaning as in 9030

section 2967.12 of the Revised Code. 9031

(6) "Minor drug possession offense" has the same meaning 9032
as in section 2925.11 of the Revised Code. 9033

(B) Each sentence to a prison term for a felony of the 9034
first degree, for a felony of the second degree, for a felony 9035
sex offense, or for a felony of the third degree that is an 9036
offense of violence and is not a felony sex offense shall 9037
include a requirement that the offender be subject to a period 9038
of post-release control imposed by the parole board after the 9039
offender's release from imprisonment. This division applies with 9040
respect to all prison terms of a type described in this 9041
division, including a term of any such type that is a risk 9042
reduction sentence. If a court imposes a sentence including a 9043
prison term of a type described in this division on or after 9044
July 11, 2006, the failure of a sentencing court to notify the 9045
offender pursuant to division (B) (2) (c) of section 2929.19 of 9046
the Revised Code of this requirement or to include in the 9047
judgment of conviction entered on the journal a statement that 9048
the offender's sentence includes this requirement does not 9049
negate, limit, or otherwise affect the mandatory period of 9050
supervision that is required for the offender under this 9051
division. Section 2929.191 of the Revised Code applies if, prior 9052
to July 11, 2006, a court imposed a sentence including a prison 9053
term of a type described in this division and failed to notify 9054
the offender pursuant to division (B) (2) (c) of section 2929.19 9055
of the Revised Code regarding post-release control or to include 9056
in the judgment of conviction entered on the journal or in the 9057
sentence pursuant to division (D) (1) of section 2929.14 of the 9058
Revised Code a statement regarding post-release control. Unless 9059
reduced by the parole board pursuant to division (D) of this 9060
section when authorized under that division, a period of post- 9061

release control required by this division for an offender shall 9062
be of one of the following periods: 9063

(1) For a felony of the first degree or for a felony sex 9064
offense, five years; 9065

(2) For a felony of the second degree that is not a felony 9066
sex offense, three years; 9067

(3) For a felony of the third degree that is an offense of 9068
violence and is not a felony sex offense, three years. 9069

(C) Any sentence to a prison term for a felony of the 9070
third, fourth, or fifth degree that is not subject to division 9071
(B)(1) or (3) of this section shall include a requirement that 9072
the offender be subject to a period of post-release control of 9073
up to three years after the offender's release from 9074
imprisonment, if the parole board, in accordance with division 9075
(D) of this section, determines that a period of post-release 9076
control is necessary for that offender. This division applies 9077
with respect to all prison terms of a type described in this 9078
division, including a term of any such type that is a risk 9079
reduction sentence. Section 2929.191 of the Revised Code applies 9080
if, prior to July 11, 2006, a court imposed a sentence including 9081
a prison term of a type described in this division and failed to 9082
notify the offender pursuant to division (B)(2)(d) of section 9083
2929.19 of the Revised Code regarding post-release control or to 9084
include in the judgment of conviction entered on the journal or 9085
in the sentence pursuant to division (D)(2) of section 2929.14 9086
of the Revised Code a statement regarding post-release control. 9087
Pursuant to an agreement entered into under section 2967.29 of 9088
the Revised Code, a court of common pleas or parole board may 9089
impose sanctions or conditions on an offender who is placed on 9090
post-release control under this division. 9091

(D) (1) Before the prisoner is released from imprisonment, 9092
the parole board or, pursuant to an agreement under section 9093
2967.29 of the Revised Code, the court shall impose upon a 9094
prisoner described in division (B) of this section, shall impose 9095
upon a prisoner described in division (C) of this section who is 9096
to be released before the expiration of the prisoner's stated 9097
prison term under a risk reduction sentence, may impose upon a 9098
prisoner described in division (C) of this section who is not to 9099
be released before the expiration of the prisoner's stated 9100
prison term under a risk reduction sentence, and shall impose 9101
upon a prisoner described in division (B) (2) (b) of section 9102
5120.031 or in division (B) (1) of section 5120.032 of the 9103
Revised Code, one or more post-release control sanctions to 9104
apply during the prisoner's period of post-release control. 9105
Whenever the board or court imposes one or more post-release 9106
control sanctions upon a prisoner, the board or court, in 9107
addition to imposing the sanctions, also shall include as a 9108
condition of the post-release control that the offender not 9109
leave the state without permission of the court or the 9110
offender's parole or probation officer and that the offender 9111
abide by the law. The board or court may impose any other 9112
conditions of release under a post-release control sanction that 9113
the board or court considers appropriate, and the conditions of 9114
release may include any community residential sanction, 9115
community nonresidential sanction, or financial sanction that 9116
the sentencing court was authorized to impose pursuant to 9117
sections 2929.16, 2929.17, and 2929.18 of the Revised Code. 9118
Prior to the release of a prisoner for whom it will impose one 9119
or more post-release control sanctions under this division, the 9120
parole board or court shall review the prisoner's criminal 9121
history, results from the single validated risk assessment tool 9122
selected by the department of rehabilitation and correction 9123

under section 5120.114 of the Revised Code, all juvenile court 9124
adjudications finding the prisoner, while a juvenile, to be a 9125
delinquent child, and the record of the prisoner's conduct while 9126
imprisoned. The parole board or court shall consider any 9127
recommendation regarding post-release control sanctions for the 9128
prisoner made by the office of victims' services. After 9129
considering those materials, the board or court shall determine, 9130
for a prisoner described in division (B) of this section, 9131
division (B) (2) (b) of section 5120.031, or division (B) (1) of 9132
section 5120.032 of the Revised Code and for a prisoner 9133
described in division (C) of this section who is to be released 9134
before the expiration of the prisoner's stated prison term under 9135
a risk reduction sentence, which post-release control sanction 9136
or combination of post-release control sanctions is reasonable 9137
under the circumstances or, for a prisoner described in division 9138
(C) of this section who is not to be released before the 9139
expiration of the prisoner's stated prison term under a risk 9140
reduction sentence, whether a post-release control sanction is 9141
necessary and, if so, which post-release control sanction or 9142
combination of post-release control sanctions is reasonable 9143
under the circumstances. In the case of a prisoner convicted of 9144
a felony of the fourth or fifth degree other than a felony sex 9145
offense, the board or court shall presume that monitored time is 9146
the appropriate post-release control sanction unless the board 9147
or court determines that a more restrictive sanction is 9148
warranted. A post-release control sanction imposed under this 9149
division takes effect upon the prisoner's release from 9150
imprisonment. 9151

Regardless of whether the prisoner was sentenced to the 9152
prison term prior to, on, or after July 11, 2006, prior to the 9153
release of a prisoner for whom it will impose one or more post- 9154

release control sanctions under this division, the parole board 9155
shall notify the prisoner that, if the prisoner violates any 9156
sanction so imposed or any condition of post-release control 9157
described in division (B) of section 2967.131 of the Revised 9158
Code that is imposed on the prisoner, the parole board may 9159
impose a prison term of up to one-half of the stated prison term 9160
originally imposed upon the prisoner. 9161

At least thirty days before the prisoner is released from 9162
imprisonment, except as otherwise provided in this paragraph, 9163
the department of rehabilitation and correction shall notify the 9164
victim and the victim's immediate family of the date on which 9165
the prisoner will be released, the period for which the prisoner 9166
will be under post-release control supervision, and the terms 9167
and conditions of the prisoner's post-release control regardless 9168
of whether the victim or victim's immediate family has requested 9169
the notification. The notice described in this paragraph shall 9170
not be given to a victim or victim's immediate family if the 9171
victim or the victim's immediate family has requested pursuant 9172
to division (B) (2) of section 2930.03 of the Revised Code that 9173
the notice not be provided to the victim or the victim's 9174
immediate family. At least thirty days before the prisoner is 9175
released from imprisonment and regardless of whether the victim 9176
or victim's immediate family has requested that the notice 9177
described in this paragraph be provided or not be provided to 9178
the victim or the victim's immediate family, the department also 9179
shall provide notice of that nature to the prosecuting attorney 9180
in the case and the law enforcement agency that arrested the 9181
prisoner if any officer of that agency was a victim of the 9182
offense. 9183

If the notice given under the preceding paragraph to the 9184
victim or the victim's immediate family is based on an offense 9185

committed prior to March 22, 2013, and if the department of 9186
rehabilitation and correction has not previously successfully 9187
provided any notice to the victim or the victim's immediate 9188
family under division (B), (C), or (D) of section 2930.16 of the 9189
Revised Code with respect to that offense and the offender who 9190
committed it, the notice also shall inform the victim or the 9191
victim's immediate family that the victim or the victim's 9192
immediate family may request that the victim or the victim's 9193
immediate family not be provided any further notices with 9194
respect to that offense and the offender who committed it and 9195
shall describe the procedure for making that request. The 9196
department may give the notices to which the preceding paragraph 9197
applies by any reasonable means, including regular mail, 9198
telephone, and electronic mail. If the department attempts to 9199
provide notice to any specified person under the preceding 9200
paragraph but the attempt is unsuccessful because the department 9201
is unable to locate the specified person, is unable to provide 9202
the notice by its chosen method because it cannot determine the 9203
mailing address, electronic mail address, or telephone number at 9204
which to provide the notice, or, if the notice is sent by mail, 9205
the notice is returned, the department shall make another 9206
attempt to provide the notice to the specified person. If the 9207
second attempt is unsuccessful, the department shall make at 9208
least one more attempt to provide the notice. If the notice is 9209
based on an offense committed prior to March 22, 2013, in each 9210
attempt to provide the notice to the victim or victim's 9211
immediate family, the notice shall include the opt-out 9212
information described in this paragraph. The department, in the 9213
manner described in division (D) (2) of section 2930.16 of the 9214
Revised Code, shall keep a record of all attempts to provide the 9215
notice, and of all notices provided, under this paragraph and 9216
the preceding paragraph. The record shall be considered as if it 9217

was kept under division (D) (2) of section 2930.16 of the Revised Code. This paragraph, the preceding paragraph, 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 (E) (1) (b) of section 2967.19, division (A) (3) (b) of section 2967.26, and division (A) (2) of section 5149.101 of the Revised Code enacted in the act in which this paragraph and the preceding paragraph were enacted, shall be known as "Roberta's Law."

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

(3) At any time after a prisoner is released from imprisonment and during the period of post-release control applicable to the releasee, the adult parole authority or, pursuant to an agreement under section 2967.29 of the Revised Code, the court may review the releasee's behavior under the post-release control sanctions imposed upon the releasee under this section. The authority or court may determine, based upon the review and in accordance with the standards established under division (E) of this section, that a more restrictive or a less restrictive sanction is appropriate and may impose a different sanction. The authority also may recommend that the parole board or court increase or reduce the duration of the

period of post-release control imposed by the court. If the 9249
authority recommends that the board or court increase the 9250
duration of post-release control, the board or court shall 9251
review the releasee's behavior and may increase the duration of 9252
the period of post-release control imposed by the court up to 9253
eight years. If the authority recommends that the board or court 9254
reduce the duration of control for an offense described in 9255
division (B) or (C) of this section, the board or court shall 9256
review the releasee's behavior and may reduce the duration of 9257
the period of control imposed by the court. In no case shall the 9258
board or court reduce the duration of the period of control 9259
imposed for an offense described in division (B)(1) of this 9260
section to a period less than the length of the stated prison 9261
term originally imposed, and in no case shall the board or court 9262
permit the releasee to leave the state without permission of the 9263
court or the releasee's parole or probation officer. 9264

(E) The department of rehabilitation and correction, in 9265
accordance with Chapter 119. of the Revised Code, shall adopt 9266
rules that do all of the following: 9267

(1) Establish standards for the imposition by the parole 9268
board of post-release control sanctions under this section that 9269
are consistent with the overriding purposes and sentencing 9270
principles set forth in section 2929.11 of the Revised Code and 9271
that are appropriate to the needs of releasees; 9272

(2) Establish standards that provide for a period of post- 9273
release control of up to three years for all prisoners described 9274
in division (C) of this section who are to be released before 9275
the expiration of their stated prison term under a risk 9276
reduction sentence and standards by which the parole board can 9277
determine which prisoners described in division (C) of this 9278

section who are not to be released before the expiration of 9279
their stated prison term under a risk reduction sentence should 9280
be placed under a period of post-release control; 9281

(3) Establish standards to be used by the parole board in 9282
reducing the duration of the period of post-release control 9283
imposed by the court when authorized under division (D) of this 9284
section, in imposing a more restrictive post-release control 9285
sanction than monitored time upon a prisoner convicted of a 9286
felony of the fourth or fifth degree other than a felony sex 9287
offense, or in imposing a less restrictive control sanction upon 9288
a releasee based on the releasee's activities including, but not 9289
limited to, remaining free from criminal activity and from the 9290
abuse of alcohol or other drugs, successfully participating in 9291
approved rehabilitation programs, maintaining employment, and 9292
paying restitution to the victim or meeting the terms of other 9293
financial sanctions; 9294

(4) Establish standards to be used by the adult parole 9295
authority in modifying a releasee's post-release control 9296
sanctions pursuant to division (D)(2) of this section; 9297

(5) Establish standards to be used by the adult parole 9298
authority or parole board in imposing further sanctions under 9299
division (F) of this section on releasees who violate post- 9300
release control sanctions, including standards that do the 9301
following: 9302

(a) Classify violations according to the degree of 9303
seriousness; 9304

(b) Define the circumstances under which formal action by 9305
the parole board is warranted; 9306

(c) Govern the use of evidence at violation hearings; 9307

- (d) Ensure procedural due process to an alleged violator; 9308
- (e) Prescribe nonresidential community control sanctions 9309
for most misdemeanor and technical violations; 9310
- (f) Provide procedures for the return of a releasee to 9311
imprisonment for violations of post-release control. 9312
- (F) (1) Whenever the parole board imposes one or more post- 9313
release control sanctions upon an offender under this section, 9314
the offender upon release from imprisonment shall be under the 9315
general jurisdiction of the adult parole authority and generally 9316
shall be supervised by the field services section through its 9317
staff of parole and field officers as described in section 9318
5149.04 of the Revised Code, as if the offender had been placed 9319
on parole. If the offender upon release from imprisonment 9320
violates the post-release control sanction or any conditions 9321
described in division (A) of section 2967.131 of the Revised 9322
Code that are imposed on the offender, the public or private 9323
person or entity that operates or administers the sanction or 9324
the program or activity that comprises the sanction shall report 9325
the violation directly to the adult parole authority or to the 9326
officer of the authority who supervises the offender. The 9327
authority's officers may treat the offender as if the offender 9328
were on parole and in violation of the parole, and otherwise 9329
shall comply with this section. 9330
- (2) If the adult parole authority or, pursuant to an 9331
agreement under section 2967.29 of the Revised Code, the court 9332
determines that a releasee has violated a post-release control 9333
sanction or any conditions described in division (A) of section 9334
2967.131 of the Revised Code imposed upon the releasee and that 9335
a more restrictive sanction is appropriate, the authority or 9336
court may impose a more restrictive sanction upon the releasee, 9337

in accordance with the standards established under division (E) 9338
of this section or in accordance with the agreement made under 9339
section 2967.29 of the Revised Code, or may report the violation 9340
to the parole board for a hearing pursuant to division (F) (3) of 9341
this section. The authority or court may not, pursuant to this 9342
division, increase the duration of the releasee's post-release 9343
control or impose as a post-release control sanction a 9344
residential sanction that includes a prison term, but the 9345
authority or court may impose on the releasee any other 9346
residential sanction, nonresidential sanction, or financial 9347
sanction that the sentencing court was authorized to impose 9348
pursuant to sections 2929.16, 2929.17, and 2929.18 of the 9349
Revised Code. 9350

(3) The parole board or, pursuant to an agreement under 9351
section 2967.29 of the Revised Code, the court may hold a 9352
hearing on any alleged violation by a releasee of a post-release 9353
control sanction or any conditions described in division (A) of 9354
section 2967.131 of the Revised Code that are imposed upon the 9355
releasee. If after the hearing the board or court finds that the 9356
releasee violated the sanction or condition, the board or court 9357
may increase the duration of the releasee's post-release control 9358
up to the maximum duration authorized by division (B) or (C) of 9359
this section or impose a more restrictive post-release control 9360
sanction. If a releasee was acting pursuant to division (B) (2) 9361
(b) of section 2925.11 of the Revised Code and in so doing 9362
violated the conditions of a post-release control sanction based 9363
on a minor drug possession offense as defined in that section, 9364
the board or the court may consider the releasee's conduct in 9365
seeking or obtaining medical assistance for another in good 9366
faith or for self or may consider the releasee being the subject 9367
of another person seeking or obtaining medical assistance in 9368

accordance with that division as a mitigating factor before 9369
imposing any of the penalties described in this division. When 9370
appropriate, the board or court may impose as a post-release 9371
control sanction a residential sanction that includes a prison 9372
term. The board or court shall consider a prison term as a post- 9373
release control sanction imposed for a violation of post-release 9374
control when the violation involves a deadly weapon or dangerous 9375
ordnance, physical harm or attempted serious physical harm to a 9376
person, or sexual misconduct, or when the releasee committed 9377
repeated violations of post-release control sanctions. Unless a 9378
releasee's stated prison term was reduced pursuant to section 9379
5120.032 of the Revised Code, the period of a prison term that 9380
is imposed as a post-release control sanction under this 9381
division shall not exceed nine months, and the maximum 9382
cumulative prison term for all violations under this division 9383
shall not exceed one-half of the stated prison term originally 9384
imposed upon the offender as part of this sentence. If a 9385
releasee's stated prison term was reduced pursuant to section 9386
5120.032 of the Revised Code, the period of a prison term that 9387
is imposed as a post-release control sanction under this 9388
division and the maximum cumulative prison term for all 9389
violations under this division shall not exceed the period of 9390
time not served in prison under the sentence imposed by the 9391
court. The period of a prison term that is imposed as a post- 9392
release control sanction under this division shall not count as, 9393
or be credited toward, the remaining period of post-release 9394
control. 9395

If an offender is imprisoned for a felony committed while 9396
under post-release control supervision and is again released on 9397
post-release control for a period of time determined by division 9398
(F) (4) (d) of this section, the maximum cumulative prison term 9399

for all violations under this division shall not exceed one-half 9400
of the total stated prison terms of the earlier felony, reduced 9401
by any prison term administratively imposed by the parole board 9402
or court, plus one-half of the total stated prison term of the 9403
new felony. 9404

(4) Any period of post-release control shall commence upon 9405
an offender's actual release from prison. If an offender is 9406
serving an indefinite prison term or a life sentence in addition 9407
to a stated prison term, the offender shall serve the period of 9408
post-release control in the following manner: 9409

(a) If a period of post-release control is imposed upon 9410
the offender and if the offender also is subject to a period of 9411
parole under a life sentence or an indefinite sentence, and if 9412
the period of post-release control ends prior to the period of 9413
parole, the offender shall be supervised on parole. The offender 9414
shall receive credit for post-release control supervision during 9415
the period of parole. The offender is not eligible for final 9416
release under section 2967.16 of the Revised Code until the 9417
post-release control period otherwise would have ended. 9418

(b) If a period of post-release control is imposed upon 9419
the offender and if the offender also is subject to a period of 9420
parole under an indefinite sentence, and if the period of parole 9421
ends prior to the period of post-release control, the offender 9422
shall be supervised on post-release control. The requirements of 9423
parole supervision shall be satisfied during the post-release 9424
control period. 9425

(c) If an offender is subject to more than one period of 9426
post-release control, the period of post-release control for all 9427
of the sentences shall be the period of post-release control 9428
that expires last, as determined by the parole board or court. 9429

Periods of post-release control shall be served concurrently and 9430
shall not be imposed consecutively to each other. 9431

(d) The period of post-release control for a releasee who 9432
commits a felony while under post-release control for an earlier 9433
felony shall be the longer of the period of post-release control 9434
specified for the new felony under division (B) or (C) of this 9435
section or the time remaining under the period of post-release 9436
control imposed for the earlier felony as determined by the 9437
parole board or court. 9438

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 9439
section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or 9440
another section of the Revised Code, other than divisions (B) 9441
and (C) of section 2929.14 of the Revised Code, that authorizes 9442
or requires a specified prison term or a mandatory prison term 9443
for a person who is convicted of or pleads guilty to a felony or 9444
that specifies the manner and place of service of a prison term 9445
or term of imprisonment, the court shall impose a sentence upon 9446
a person who is convicted of or pleads guilty to a violent sex 9447
offense and who also is convicted of or pleads guilty to a 9448
sexually violent predator specification that was included in the 9449
indictment, count in the indictment, or information charging 9450
that offense, and upon a person who is convicted of or pleads 9451
guilty to a designated homicide, assault, or kidnapping offense 9452
and also is convicted of or pleads guilty to both a sexual 9453
motivation specification and a sexually violent predator 9454
specification that were included in the indictment, count in the 9455
indictment, or information charging that offense, as follows: 9456

(1) If the offense for which the sentence is being imposed 9457
is aggravated murder ~~and if the court does not impose upon the~~ 9458
~~offender a sentence of death,~~ it shall impose upon the offender 9459

a term of life imprisonment without parole. ~~If the court~~ 9460
~~sentences the offender to death and the sentence of death is~~ 9461
~~vacated, overturned, or otherwise set aside, the court shall~~ 9462
~~impose upon the offender a term of life imprisonment without~~ 9463
~~parole.~~ 9464

(2) If the offense for which the sentence is being imposed 9465
is murder; or if the offense is rape committed in violation of 9466
division (A) (1) (b) of section 2907.02 of the Revised Code when 9467
the offender purposely compelled the victim to submit by force 9468
or threat of force, when the victim was less than ten years of 9469
age, when the offender previously has been convicted of or 9470
pleaded guilty to either rape committed in violation of that 9471
division or a violation of an existing or former law of this 9472
state, another state, or the United States that is substantially 9473
similar to division (A) (1) (b) of section 2907.02 of the Revised 9474
Code, or when the offender during or immediately after the 9475
commission of the rape caused serious physical harm to the 9476
victim; or if the offense is an offense other than aggravated 9477
murder or murder for which a term of life imprisonment may be 9478
imposed, it shall impose upon the offender a term of life 9479
imprisonment without parole. 9480

(3) (a) Except as otherwise provided in division (A) (3) (b), 9481
(c), (d), or (e) or (A) (4) of this section, if the offense for 9482
which the sentence is being imposed is an offense other than 9483
aggravated murder, murder, or rape and other than an offense for 9484
which a term of life imprisonment may be imposed, it shall 9485
impose an indefinite prison term consisting of a minimum term 9486
fixed by the court from among the range of terms available as a 9487
definite term for the offense, but not less than two years, and 9488
a maximum term of life imprisonment. 9489

(b) Except as otherwise provided in division (A) (4) of 9490
this section, if the offense for which the sentence is being 9491
imposed is kidnapping that is a felony of the first degree, it 9492
shall impose an indefinite prison term as follows: 9493

(i) If the kidnapping is committed on or after January 1, 9494
2008, and the victim of the offense is less than thirteen years 9495
of age, except as otherwise provided in this division, it shall 9496
impose an indefinite prison term consisting of a minimum term of 9497
fifteen years and a maximum term of life imprisonment. If the 9498
kidnapping is committed on or after January 1, 2008, the victim 9499
of the offense is less than thirteen years of age, and the 9500
offender released the victim in a safe place unharmed, it shall 9501
impose an indefinite prison term consisting of a minimum term of 9502
ten years and a maximum term of life imprisonment. 9503

(ii) If the kidnapping is committed prior to January 1, 9504
2008, or division (A) (3) (b) (i) of this section does not apply, 9505
it shall impose an indefinite term consisting of a minimum term 9506
fixed by the court that is not less than ten years and a maximum 9507
term of life imprisonment. 9508

(c) Except as otherwise provided in division (A) (4) of 9509
this section, if the offense for which the sentence is being 9510
imposed is kidnapping that is a felony of the second degree, it 9511
shall impose an indefinite prison term consisting of a minimum 9512
term fixed by the court that is not less than eight years, and a 9513
maximum term of life imprisonment. 9514

(d) Except as otherwise provided in division (A) (4) of 9515
this section, if the offense for which the sentence is being 9516
imposed is rape for which a term of life imprisonment is not 9517
imposed under division (A) (2) of this section or division (B) of 9518
section 2907.02 of the Revised Code, it shall impose an 9519

indefinite prison term as follows: 9520

(i) If the rape is committed on or after January 2, 2007, 9521
in violation of division (A) (1) (b) of section 2907.02 of the 9522
Revised Code, it shall impose an indefinite prison term 9523
consisting of a minimum term of twenty-five years and a maximum 9524
term of life imprisonment. 9525

(ii) If the rape is committed prior to January 2, 2007, or 9526
the rape is committed on or after January 2, 2007, other than in 9527
violation of division (A) (1) (b) of section 2907.02 of the 9528
Revised Code, it shall impose an indefinite prison term 9529
consisting of a minimum term fixed by the court that is not less 9530
than ten years, and a maximum term of life imprisonment. 9531

(e) Except as otherwise provided in division (A) (4) of 9532
this section, if the offense for which sentence is being imposed 9533
is attempted rape, it shall impose an indefinite prison term as 9534
follows: 9535

(i) Except as otherwise provided in division (A) (3) (e) 9536
(ii), (iii), or (iv) of this section, it shall impose an 9537
indefinite prison term pursuant to division (A) (3) (a) of this 9538
section. 9539

(ii) If the attempted rape for which sentence is being 9540
imposed was committed on or after January 2, 2007, and if the 9541
offender also is convicted of or pleads guilty to a 9542
specification of the type described in section 2941.1418 of the 9543
Revised Code, it shall impose an indefinite prison term 9544
consisting of a minimum term of five years and a maximum term of 9545
twenty-five years. 9546

(iii) If the attempted rape for which sentence is being 9547
imposed was committed on or after January 2, 2007, and if the 9548

offender also is convicted of or pleads guilty to a 9549
specification of the type described in section 2941.1419 of the 9550
Revised Code, it shall impose an indefinite prison term 9551
consisting of a minimum term of ten years and a maximum of life 9552
imprisonment. 9553

(iv) If the attempted rape for which sentence is being 9554
imposed was committed on or after January 2, 2007, and if the 9555
offender also is convicted of or pleads guilty to a 9556
specification of the type described in section 2941.1420 of the 9557
Revised Code, it shall impose an indefinite prison term 9558
consisting of a minimum term of fifteen years and a maximum of 9559
life imprisonment. 9560

(4) For any offense for which the sentence is being 9561
imposed, if the offender previously has been convicted of or 9562
pleaded guilty to a violent sex offense and also to a sexually 9563
violent predator specification that was included in the 9564
indictment, count in the indictment, or information charging 9565
that offense, or previously has been convicted of or pleaded 9566
guilty to a designated homicide, assault, or kidnapping offense 9567
and also to both a sexual motivation specification and a 9568
sexually violent predator specification that were included in 9569
the indictment, count in the indictment, or information charging 9570
that offense, it shall impose upon the offender a term of life 9571
imprisonment without parole. 9572

(B) (1) Notwithstanding section 2929.13, division (A) or 9573
(D) of section 2929.14, or another section of the Revised Code 9574
other than division (B) of section 2907.02 or divisions (B) and 9575
(C) of section 2929.14 of the Revised Code that authorizes or 9576
requires a specified prison term or a mandatory prison term for 9577
a person who is convicted of or pleads guilty to a felony or 9578

that specifies the manner and place of service of a prison term 9579
or term of imprisonment, if a person is convicted of or pleads 9580
guilty to a violation of division (A) (1) (b) of section 2907.02 9581
of the Revised Code committed on or after January 2, 2007, if 9582
division (A) of this section does not apply regarding the 9583
person, and if the court does not impose a sentence of life 9584
without parole when authorized pursuant to division (B) of 9585
section 2907.02 of the Revised Code, the court shall impose upon 9586
the person an indefinite prison term consisting of one of the 9587
following: 9588

(a) Except as otherwise required in division (B) (1) (b) or 9589
(c) of this section, a minimum term of ten years and a maximum 9590
term of life imprisonment. 9591

(b) If the victim was less than ten years of age, a 9592
minimum term of fifteen years and a maximum of life 9593
imprisonment. 9594

(c) If the offender purposely compels the victim to submit 9595
by force or threat of force, or if the offender previously has 9596
been convicted of or pleaded guilty to violating division (A) (1) 9597
(b) of section 2907.02 of the Revised Code or to violating an 9598
existing or former law of this state, another state, or the 9599
United States that is substantially similar to division (A) (1) 9600
(b) of that section, or if the offender during or immediately 9601
after the commission of the offense caused serious physical harm 9602
to the victim, a minimum term of twenty-five years and a maximum 9603
of life imprisonment. 9604

(2) Notwithstanding section 2929.13, division (A) or (D) 9605
of section 2929.14, or another section of the Revised Code other 9606
than divisions (B) and (C) of section 2929.14 of the Revised 9607
Code that authorizes or requires a specified prison term or a 9608

mandatory prison term for a person who is convicted of or pleads 9609
guilty to a felony or that specifies the manner and place of 9610
service of a prison term or term of imprisonment and except as 9611
otherwise provided in division (B) of section 2907.02 of the 9612
Revised Code, if a person is convicted of or pleads guilty to 9613
attempted rape committed on or after January 2, 2007, and if 9614
division (A) of this section does not apply regarding the 9615
person, the court shall impose upon the person an indefinite 9616
prison term consisting of one of the following: 9617

(a) If the person also is convicted of or pleads guilty to 9618
a specification of the type described in section 2941.1418 of 9619
the Revised Code, the court shall impose upon the person an 9620
indefinite prison term consisting of a minimum term of five 9621
years and a maximum term of twenty-five years. 9622

(b) If the person also is convicted of or pleads guilty to 9623
a specification of the type described in section 2941.1419 of 9624
the Revised Code, the court shall impose upon the person an 9625
indefinite prison term consisting of a minimum term of ten years 9626
and a maximum term of life imprisonment. 9627

(c) If the person also is convicted of or pleads guilty to 9628
a specification of the type described in section 2941.1420 of 9629
the Revised Code, the court shall impose upon the person an 9630
indefinite prison term consisting of a minimum term of fifteen 9631
years and a maximum term of life imprisonment. 9632

(3) Notwithstanding section 2929.13, division (A) or (D) 9633
of section 2929.14, or another section of the Revised Code other 9634
than divisions (B) and (C) of section 2929.14 of the Revised 9635
Code that authorizes or requires a specified prison term or a 9636
mandatory prison term for a person who is convicted of or pleads 9637
guilty to a felony or that specifies the manner and place of 9638

service of a prison term or term of imprisonment, if a person is 9639
convicted of or pleads guilty to an offense described in 9640
division (B) (3) (a), (b), (c), or (d) of this section committed 9641
on or after January 1, 2008, if the person also is convicted of 9642
or pleads guilty to a sexual motivation specification that was 9643
included in the indictment, count in the indictment, or 9644
information charging that offense, and if division (A) of this 9645
section does not apply regarding the person, the court shall 9646
impose upon the person an indefinite prison term consisting of 9647
one of the following: 9648

(a) An indefinite prison term consisting of a minimum of 9649
ten years and a maximum term of life imprisonment if the offense 9650
for which the sentence is being imposed is kidnapping, the 9651
victim of the offense is less than thirteen years of age, and 9652
the offender released the victim in a safe place unharmed; 9653

(b) An indefinite prison term consisting of a minimum of 9654
fifteen years and a maximum term of life imprisonment if the 9655
offense for which the sentence is being imposed is kidnapping 9656
when the victim of the offense is less than thirteen years of 9657
age and division (B) (3) (a) of this section does not apply; 9658

(c) An indefinite term consisting of a minimum of thirty 9659
years and a maximum term of life imprisonment if the offense for 9660
which the sentence is being imposed is aggravated murder, when 9661
the victim of the offense is less than thirteen years of age, a 9662
sentence of ~~death or life imprisonment without parole~~ is not 9663
imposed for the offense, and division ~~(A) (2) (b) (ii) of section~~ 9664
~~2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D)~~ 9665
~~(2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or~~ 9666
~~division (A) or (B) (C) of section 2929.06-2929.02~~ of the 9667
Revised Code requires that the sentence for the offense be 9668

imposed pursuant to this division; 9669

(d) An indefinite prison term consisting of a minimum of 9670
thirty years and a maximum term of life imprisonment if the 9671
offense for which the sentence is being imposed is murder when 9672
the victim of the offense is less than thirteen years of age. 9673

(C) (1) If the offender is sentenced to a prison term 9674
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 9675
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 9676
parole board shall have control over the offender's service of 9677
the term during the entire term unless the parole board 9678
terminates its control in accordance with section 2971.04 of the 9679
Revised Code. 9680

(2) Except as provided in division (C) (3) of this section, 9681
an offender sentenced to a prison term or term of life 9682
imprisonment without parole pursuant to division (A) of this 9683
section shall serve the entire prison term or term of life 9684
imprisonment in a state correctional institution. The offender 9685
is not eligible for judicial release under section 2929.20 of 9686
the Revised Code. 9687

(3) For a prison term imposed pursuant to division (A) (3), 9688
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 9689
(b), (c), or (d) of this section, the court, in accordance with 9690
section 2971.05 of the Revised Code, may terminate the prison 9691
term or modify the requirement that the offender serve the 9692
entire term in a state correctional institution if all of the 9693
following apply: 9694

(a) The offender has served at least the minimum term 9695
imposed as part of that prison term. 9696

(b) The parole board, pursuant to section 2971.04 of the 9697

Revised Code, has terminated its control over the offender's 9698
service of that prison term. 9699

(c) The court has held a hearing and found, by clear and 9700
convincing evidence, one of the following: 9701

(i) In the case of termination of the prison term, that 9702
the offender is unlikely to commit a sexually violent offense in 9703
the future; 9704

(ii) In the case of modification of the requirement, that 9705
the offender does not represent a substantial risk of physical 9706
harm to others. 9707

(4) An offender who has been sentenced to a term of life 9708
imprisonment without parole pursuant to division (A)(1), (2), or 9709
(4) of this section shall not be released from the term of life 9710
imprisonment or be permitted to serve a portion of it in a place 9711
other than a state correctional institution. 9712

(D) If a court sentences an offender to a prison term or 9713
term of life imprisonment without parole pursuant to division 9714
(A) of this section and the court also imposes on the offender 9715
one or more additional prison terms pursuant to division (B) of 9716
section 2929.14 of the Revised Code, all of the additional 9717
prison terms shall be served consecutively with, and prior to, 9718
the prison term or term of life imprisonment without parole 9719
imposed upon the offender pursuant to division (A) of this 9720
section. 9721

(E) If the offender is convicted of or pleads guilty to 9722
two or more offenses for which a prison term or term of life 9723
imprisonment without parole is required to be imposed pursuant 9724
to division (A) of this section, divisions (A) to (D) of this 9725
section shall be applied for each offense. All minimum terms 9726

imposed upon the offender pursuant to division (A) (3) or (B) of 9727
this section for those offenses shall be aggregated and served 9728
consecutively, as if they were a single minimum term imposed 9729
under that division. 9730

(F) (1) If an offender is convicted of or pleads guilty to 9731
a violent sex offense and also is convicted of or pleads guilty 9732
to a sexually violent predator specification that was included 9733
in the indictment, count in the indictment, or information 9734
charging that offense, or is convicted of or pleads guilty to a 9735
designated homicide, assault, or kidnapping offense and also is 9736
convicted of or pleads guilty to both a sexual motivation 9737
specification and a sexually violent predator specification that 9738
were included in the indictment, count in the indictment, or 9739
information charging that offense, the conviction of or plea of 9740
guilty to the offense and the sexually violent predator 9741
specification automatically classifies the offender as a tier 9742
III sex offender/child-victim offender for purposes of Chapter 9743
2950. of the Revised Code. 9744

(2) If an offender is convicted of or pleads guilty to 9745
committing on or after January 2, 2007, a violation of division 9746
(A) (1) (b) of section 2907.02 of the Revised Code and either the 9747
offender is sentenced under section 2971.03 of the Revised Code 9748
or a sentence of life without parole is imposed under division 9749
(B) of section 2907.02 of the Revised Code, the conviction of or 9750
plea of guilty to the offense automatically classifies the 9751
offender as a tier III sex offender/child-victim offender for 9752
purposes of Chapter 2950. of the Revised Code. 9753

(3) If a person is convicted of or pleads guilty to 9754
committing on or after January 2, 2007, attempted rape and also 9755
is convicted of or pleads guilty to a specification of the type 9756

described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code, the conviction of or plea of guilty to the offense and the specification automatically classify the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

(4) If a person is convicted of or pleads guilty to one of the offenses described in division (B) (3) (a), (b), (c), or (d) of this section and a sexual motivation specification related to the offense and the victim of the offense is less than thirteen years of age, the conviction of or plea of guilty to the offense automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

Sec. 2971.07. (A) This chapter does not apply to any offender unless the offender is one of the following:

(1) The 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.

(2) The offender 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.

(3) The offender is convicted of or pleads guilty to a violation of division (A) (1) (b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and the

court does not sentence the offender to a term of life without 9786
parole pursuant to division (B) of section 2907.02 of the 9787
Revised Code or division (B) of that section prohibits the court 9788
from sentencing the offender pursuant to section 2971.03 of the 9789
Revised Code. 9790

(4) The offender is convicted of or pleads guilty to 9791
attempted rape committed on or after January 2, 2007, and also 9792
is convicted of or pleads guilty to a specification of the type 9793
described in section 2941.1418, 2941.1419, or 2941.1420 of the 9794
Revised Code. 9795

(5) The offender is convicted of or pleads guilty to a 9796
violation of section 2905.01 of the Revised Code and also is 9797
convicted of or pleads guilty to a sexual motivation 9798
specification that was included in the indictment, count in the 9799
indictment, or information charging that offense, and that 9800
section requires a court to sentence the offender pursuant to 9801
section 2971.03 of the Revised Code. 9802

(6) The offender is convicted of or pleads guilty to 9803
aggravated murder and also is convicted of or pleads guilty to a 9804
sexual motivation specification that was included in the 9805
indictment, count in the indictment, or information charging 9806
that offense, and ~~division (A) (2) (b) (ii) of section 2929.022,~~ 9807
~~division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D)~~ 9808
~~(3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or~~ 9809
~~(B) (C) of section 2929.06-2929.02~~ of the Revised Code requires 9810
a court to sentence the offender pursuant to division (B) (3) of 9811
section 2971.03 of the Revised Code. 9812

(7) The offender is convicted of or pleads guilty to 9813
murder and also is convicted of or pleads guilty to a sexual 9814
motivation specification that was included in the indictment, 9815

count in the indictment, or information charging that offense, 9816
and division ~~(B)(2)~~ (C) of section 2929.02 of the Revised Code 9817
requires a court to sentence the offender pursuant to section 9818
2971.03 of the Revised Code. 9819

(B) This chapter does not limit or affect a court in 9820
imposing upon an offender described in divisions (A)(1) to (9) 9821
of this section any financial sanction under section 2929.18 or 9822
any other section of the Revised Code, or, except as 9823
specifically provided in this chapter, any other sanction that 9824
is authorized or required for the offense or violation by any 9825
other provision of law. 9826

(C) If an offender is sentenced to a prison term under 9827
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 9828
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 9829
Code and if, pursuant to section 2971.05 of the Revised Code, 9830
the court modifies the requirement that the offender serve the 9831
entire prison term in a state correctional institution or places 9832
the offender on conditional release that involves the placement 9833
of the offender under the supervision of the adult parole 9834
authority, authorized field officers of the authority who are 9835
engaged within the scope of their supervisory duties or 9836
responsibilities may search, with or without a warrant, the 9837
person of the offender, the place of residence of the offender, 9838
and a motor vehicle, another item of tangible or intangible 9839
personal property, or any other real property in which the 9840
offender has the express or implied permission of a person with 9841
a right, title, or interest to use, occupy, or possess if the 9842
field officer has reasonable grounds to believe that the 9843
offender is not abiding by the law or otherwise is not complying 9844
with the terms and conditions of the offender's modification or 9845
release. The authority shall provide each offender with a 9846

written notice that informs the offender that authorized field 9847
officers of the authority who are engaged within the scope of 9848
their supervisory duties or responsibilities may conduct those 9849
types of searches during the period of the modification or 9850
release if they have reasonable grounds to believe that the 9851
offender is not abiding by the law or otherwise is not complying 9852
with the terms and conditions of the offender's modification or 9853
release. 9854

Sec. 5120.113. (A) For each inmate committed to the 9855
department of rehabilitation and correction, except as provided 9856
in division (B) of this section, the department shall prepare a 9857
written reentry plan for the inmate to help guide the inmate's 9858
rehabilitation program during imprisonment, to assist in the 9859
inmate's reentry into the community, and to assess the inmate's 9860
needs upon release. 9861

(B) Division (A) of this section does not apply to an 9862
inmate who has been sentenced to life imprisonment without 9863
parole or ~~who has been sentenced to death~~ before the effective 9864
date of this amendment. Division (A) of this section does not 9865
apply to any inmate who is expected to be imprisoned for thirty 9866
days or less, but the department may prepare a written reentry 9867
plan of the type described in that division if the department 9868
determines that the plan is needed. 9869

(C) The department may collect, if available, any social 9870
and other information that will aid in the preparation of 9871
reentry plans under this section. 9872

(D) In the event the department does not prepare a written 9873
reentry plan as specified in division (A) of this section, or 9874
makes a decision to not prepare a written reentry plan under 9875
division (B) of this section or to not collect information under 9876

division (C) of this section, that fact does not give rise to a 9877
claim for damages against the state, the department, the 9878
director of the department, or any employee of the department. 9879

Sec. 5120.53. (A) If a treaty between the United States 9880
and a foreign country provides for the transfer or exchange, 9881
from one of the signatory countries to the other signatory 9882
country, of convicted offenders who are citizens or nationals of 9883
the other signatory country, the governor, subject to and in 9884
accordance with the terms of the treaty, may authorize the 9885
director of rehabilitation and correction to allow the transfer 9886
or exchange of convicted offenders and to take any action 9887
necessary to initiate participation in the treaty. If the 9888
governor grants the director the authority described in this 9889
division, the director may take the necessary action to initiate 9890
participation in the treaty and, subject to and in accordance 9891
with division (B) of this section and the terms of the treaty, 9892
may allow the transfer or exchange to a foreign country that has 9893
signed the treaty of any convicted offender who is a citizen or 9894
national of that signatory country. 9895

(B) (1) No convicted offender who is serving a term of 9896
imprisonment in this state for aggravated murder, murder, or a 9897
felony of the first or second degree, who is serving a mandatory 9898
prison term imposed under section 2925.03 or 2925.11 of the 9899
Revised Code in circumstances in which the court was required to 9900
impose as the mandatory prison term the maximum prison term 9901
authorized for the degree of offense committed, or who is 9902
serving a term of imprisonment in this state imposed for an 9903
offense committed prior to ~~the effective date of this amendment~~ 9904
July 1, 1996, that was an aggravated felony of the first or 9905
second degree or that was aggravated trafficking in violation of 9906
division (A) (9) or (10) of section 2925.03 of the Revised Code, 9907

~~or who has been sentenced to death in this state~~ shall be 9908
transferred or exchanged to another country pursuant to a treaty 9909
of the type described in division (A) of this section. 9910

(2) If a convicted offender is serving a term of 9911
imprisonment in this state and the offender is a citizen or 9912
national of a foreign country that has signed a treaty of the 9913
type described in division (A) of this section, if the governor 9914
has granted the director of rehabilitation and correction the 9915
authority described in that division, and if the transfer or 9916
exchange of the offender is not barred by division (B) (1) of 9917
this section, the director or the director's designee may 9918
approve the offender for transfer or exchange pursuant to the 9919
treaty if the director or the designee, after consideration of 9920
the factors set forth in the rules adopted by the department 9921
under division (D) of this section and all other relevant 9922
factors, determines that the transfer or exchange of the 9923
offender is appropriate. 9924

(C) Notwithstanding any provision of the Revised Code 9925
regarding the parole eligibility of, or the duration or 9926
calculation of a sentence of imprisonment imposed upon, an 9927
offender, if a convicted offender is serving a term of 9928
imprisonment in this state and the offender is a citizen or 9929
national of a foreign country that has signed a treaty of the 9930
type described in division (A) of this section, if the offender 9931
is serving an indefinite term of imprisonment, if the offender 9932
is barred from being transferred or exchanged pursuant to the 9933
treaty due to the indefinite nature of the offender's term of 9934
imprisonment, and if in accordance with division (B) (2) of this 9935
section the director of rehabilitation and correction or the 9936
director's designee approves the offender for transfer or 9937
exchange pursuant to the treaty, the parole board, pursuant to 9938

rules adopted by the director, shall set a date certain for the 9939
release of the offender. To the extent possible, the date 9940
certain that is set shall be reasonably proportionate to the 9941
indefinite term of imprisonment that the offender is serving. 9942
The date certain that is set for the release of the offender 9943
shall be considered only for purposes of facilitating the 9944
international transfer or exchange of the offender, shall not be 9945
viable or actionable for any other purpose, and shall not create 9946
any expectation or guarantee of release. If an offender for whom 9947
a date certain for release is set under this division is not 9948
transferred to or exchanged with the foreign country pursuant to 9949
the treaty, the date certain is null and void, and the 9950
offender's release shall be determined pursuant to the laws and 9951
rules of this state pertaining to parole eligibility and the 9952
duration and calculation of an indefinite sentence of 9953
imprisonment. 9954

(D) If the governor, pursuant to division (A) of this 9955
section, authorizes the director of rehabilitation and 9956
correction to allow any transfer or exchange of convicted 9957
offenders as described in that division, the director shall 9958
adopt rules under Chapter 119. of the Revised Code to implement 9959
the provisions of this section. The rules shall include a rule 9960
that requires the director or the director's designee, in 9961
determining whether to approve a convicted offender who is 9962
serving a term of imprisonment in this state for transfer or 9963
exchange pursuant to a treaty of the type described in division 9964
(A) of this section, to consider all of the following factors: 9965

(1) The nature of the offense for which the offender is 9966
serving the term of imprisonment in this state; 9967

(2) The likelihood that, if the offender is transferred or 9968

exchanged to a foreign country pursuant to the treaty, the 9969
offender will serve a shorter period of time in imprisonment in 9970
the foreign country than the offender would serve if the 9971
offender is not transferred or exchanged to the foreign country 9972
pursuant to the treaty; 9973

(3) The likelihood that, if the offender is transferred or 9974
exchanged to a foreign country pursuant to the treaty, the 9975
offender will return or attempt to return to this state after 9976
the offender has been released from imprisonment in the foreign 9977
country; 9978

(4) The degree of any shock to the conscience of justice 9979
and society that will be experienced in this state if the 9980
offender is transferred or exchanged to a foreign country 9981
pursuant to the treaty; 9982

(5) All other factors that the department determines are 9983
relevant to the determination. 9984

Sec. 5120.61. (A) (1) Not later than ninety days after 9985
January 1, 1997, the department of rehabilitation and correction 9986
shall adopt standards that it will use under this section to 9987
assess the following criminal offenders and may periodically 9988
revise the standards: 9989

(a) A criminal offender who is convicted of or pleads 9990
guilty to a violent sex offense or designated homicide, assault, 9991
or kidnapping offense and is adjudicated a sexually violent 9992
predator in relation to that offense; 9993

(b) A criminal offender who is convicted of or pleads 9994
guilty to a violation of division (A) (1) (b) of section 2907.02 9995
of the Revised Code committed on or after January 2, 2007, and 9996
either who is sentenced under section 2971.03 of the Revised 9997

Code or upon whom a sentence of life without parole is imposed 9998
under division (B) of section 2907.02 of the Revised Code; 9999

(c) A criminal offender who is convicted of or pleads 10000
guilty to attempted rape committed on or after January 2, 2007, 10001
and a specification of the type described in section 2941.1418, 10002
2941.1419, or 2941.1420 of the Revised Code; 10003

(d) A criminal offender who is convicted of or pleads 10004
guilty to a violation of section 2905.01 of the Revised Code and 10005
also is convicted of or pleads guilty to a sexual motivation 10006
specification that was included in the indictment, count in the 10007
indictment, or information charging that offense, and who is 10008
sentenced pursuant to section 2971.03 of the Revised Code; 10009

(e) A criminal offender who is convicted of or pleads 10010
guilty to aggravated murder and also is convicted of or pleads 10011
guilty to a sexual motivation specification that was included in 10012
the indictment, count in the indictment, or information charging 10013
that offense, and who pursuant to division ~~(A) (2) (b) (ii) of~~ 10014
~~section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a)~~ 10015
~~(ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03,~~ 10016
~~or division (A) or (B) (C) of section 2929.06-2929.02~~ of the 10017
Revised Code is sentenced pursuant to division (B) (3) of section 10018
2971.03 of the Revised Code; 10019

(f) A criminal offender who is convicted of or pleads 10020
guilty to murder and also is convicted of or pleads guilty to a 10021
sexual motivation specification that was included in the 10022
indictment, count in the indictment, or information charging 10023
that offense, and who pursuant to division ~~(B) (2) (C) (1)~~ of 10024
section 2929.02 of the Revised Code is sentenced pursuant to 10025
section 2971.03 of the Revised Code. 10026

(2) When the department is requested by the parole board 10027
or the court to provide a risk assessment report of the offender 10028
under section 2971.04 or 2971.05 of the Revised Code, it shall 10029
assess the offender and complete the assessment as soon as 10030
possible after the offender has commenced serving the prison 10031
term or term of life imprisonment without parole imposed under 10032
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 10033
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10034
Code. Thereafter, the department shall update a risk assessment 10035
report pertaining to an offender as follows: 10036

(a) Periodically, in the discretion of the department, 10037
provided that each report shall be updated no later than two 10038
years after its initial preparation or most recent update; 10039

(b) Upon the request of the parole board for use in 10040
determining pursuant to section 2971.04 of the Revised Code 10041
whether it should terminate its control over an offender's 10042
service of a prison term imposed upon the offender under 10043
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 10044
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10045
Code; 10046

(c) Upon the request of the court. 10047

(3) After the department of rehabilitation and correction 10048
assesses an offender pursuant to division (A) (2) of this 10049
section, it shall prepare a report that contains its risk 10050
assessment for the offender or, if a risk assessment report 10051
previously has been prepared, it shall update the risk 10052
assessment report. 10053

(4) The department of rehabilitation and correction shall 10054
provide each risk assessment report that it prepares or updates 10055

pursuant to this section regarding an offender to all of the following: 10056
10057

(a) The parole board for its use in determining pursuant to section 2971.04 of the Revised Code whether it should terminate its control over an offender's service of a prison term imposed upon the offender 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, if the parole board has not terminated its control over the offender; 10058
10059
10060
10061
10062
10063
10064

(b) The court for use in determining, pursuant to section 2971.05 of the Revised Code, whether to modify the requirement that the offender serve the entire prison term imposed upon the offender 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 in a state correctional institution, whether to revise any modification previously made, or whether to terminate the prison term; 10065
10066
10067
10068
10069
10070
10071
10072

(c) The prosecuting attorney who prosecuted the case, or the successor in office to that prosecuting attorney; 10073
10074

(d) The offender. 10075

(B) When the department of rehabilitation and correction provides a risk assessment report regarding an offender to the parole board or court pursuant to division (A) (4) (a) or (b) of this section, the department, prior to the parole board's or court's hearing, also shall provide to the offender or to the offender's attorney of record a copy of the report and a copy of any other relevant documents the department possesses regarding the offender that the department does not consider to be confidential. 10076
10077
10078
10079
10080
10081
10082
10083
10084

(C) As used in this section:	10085
(1) "Adjudicated a sexually violent predator" has the same meaning as in section 2929.01 of the Revised Code, and a person is "adjudicated a sexually violent predator" in the same manner and the same circumstances as are described in that section.	10086 10087 10088 10089
(2) "Designated homicide, assault, or kidnapping offense" and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code.	10090 10091 10092
Sec. 5139.04. The department of youth services shall do all of the following:	10093 10094
(A) Support service districts through a central administrative office that shall have as its administrative head a deputy director who shall be appointed by the director of the department. When a vacancy occurs in the office of that deputy director, an assistant deputy director shall act as that deputy director until the vacancy is filled. The position of deputy director and assistant deputy director described in this division shall be in the unclassified civil service of the state.	10095 10096 10097 10098 10099 10100 10101 10102 10103
(B) Receive custody of all children committed to it under Chapter 2152. of the Revised Code, cause a study to be made of those children, and issue any orders, as it considers best suited to the needs of any of those children and the interest of the public, for the treatment of each of those children;	10104 10105 10106 10107 10108
(C) Obtain personnel necessary for the performance of its duties;	10109 10110
(D) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to 5139.43 of the Revised Code, and that pertain to the	10111 10112 10113

administration of other sections of this chapter; 10114

(E) Submit reports of its operations to the governor and 10115
the general assembly by the thirty-first day of January of each 10116
odd-numbered year; 10117

(F) Conduct a program of research in diagnosis, training, 10118
and treatment of delinquent children to evaluate the 10119
effectiveness of the department's services and to develop more 10120
adequate methods; 10121

(G) Develop a standard form for the disposition 10122
investigation report that a juvenile court is required pursuant 10123
to section 2152.18 of the Revised Code to complete and provide 10124
to the department when the court commits a child to the legal 10125
custody of the department; 10126

(H) Provide the state public defender the reasonable 10127
access authorized under division ~~(I)~~(H) of section 120.06 of 10128
the Revised Code in order to fulfill the department's 10129
constitutional obligation to provide juveniles who have been 10130
committed to the department's care access to the courts. 10131

(I) Do all other acts necessary or desirable to carry out 10132
this chapter. 10133

Sec. 5149.101. (A) (1) A board hearing officer, a board 10134
member, or the office of victims' services may petition the 10135
board for a full board hearing that relates to the proposed 10136
parole or re-parole of a prisoner. At a meeting of the board at 10137
which a majority of board members are present, the majority of 10138
those present shall determine whether a full board hearing shall 10139
be held. 10140

(2) A victim of a violation of section 2903.01 or 2903.02 10141
of the Revised Code, an offense of violence that is a felony of 10142

the first, second, or third degree, or an offense punished by a 10143
sentence of life imprisonment, the victim's representative, or 10144
any person described in division (B)(5) of this section may 10145
request the board to hold a full board hearing that relates to 10146
the proposed parole or re-parole of the person that committed 10147
the violation. If a victim, victim's representative, or other 10148
person requests a full board hearing pursuant to this division, 10149
the board shall hold a full board hearing. 10150

At least thirty days before the full hearing, except as 10151
otherwise provided in this division, the board shall give notice 10152
of the date, time, and place of the hearing to the victim 10153
regardless of whether the victim has requested the notification. 10154
The notice of the date, time, and place of the hearing shall not 10155
be given under this division to a victim if the victim has 10156
requested pursuant to division (B)(2) of section 2930.03 of the 10157
Revised Code that the notice not be provided to the victim. At 10158
least thirty days before the full board hearing and regardless 10159
of whether the victim has requested that the notice be provided 10160
or not be provided under this division to the victim, the board 10161
shall give similar notice to the prosecuting attorney in the 10162
case, the law enforcement agency that arrested the prisoner if 10163
any officer of that agency was a victim of the offense, and, if 10164
different than the victim, the person who requested the full 10165
hearing. If the prosecuting attorney has not previously been 10166
sent an institutional summary report with respect to the 10167
prisoner, upon the request of the prosecuting attorney, the 10168
board shall include with the notice sent to the prosecuting 10169
attorney an institutional summary report that covers the 10170
offender's participation while confined in a state correctional 10171
institution in training, work, and other rehabilitative 10172
activities and any disciplinary action taken against the 10173

offender while so confined. Upon the request of a law 10174
enforcement agency that has not previously been sent an 10175
institutional summary report with respect to the prisoner, the 10176
board also shall send a copy of the institutional summary report 10177
to the law enforcement agency. If notice is to be provided as 10178
described in this division, the board may give the notice by any 10179
reasonable means, including regular mail, telephone, and 10180
electronic mail, in accordance with division (D) (1) of section 10181
2930.16 of the Revised Code. If the notice is based on an 10182
offense committed prior to ~~the effective date of this amendment~~ 10183
March 22, 2013, the notice also shall include the opt-out 10184
information described in division (D) (1) of section 2930.16 of 10185
the Revised Code. The board, in accordance with division (D) (2) 10186
of section 2930.16 of the Revised Code, shall keep a record of 10187
all attempts to provide the notice, and of all notices provided, 10188
under this division. 10189

The preceding paragraph, and the notice-related provisions 10190
of divisions (E) (2) and (K) of section 2929.20, division (D) (1) 10191
of section 2930.16, division ~~(H)~~ (G) of section 2967.12, 10192
division (E) (1) (b) of section 2967.19, division (A) (3) (b) of 10193
section 2967.26, and division (D) (1) of section 2967.28 of the 10194
Revised Code enacted in the act in which this paragraph was 10195
enacted, shall be known as "Roberta's Law." 10196

(B) At a full board hearing that relates to the proposed 10197
parole or re-parole of a prisoner and that has been petitioned 10198
for or requested in accordance with division (A) of this 10199
section, the parole board shall permit the following persons to 10200
appear and to give testimony or to submit written statements: 10201

(1) The prosecuting attorney of the county in which the 10202
original indictment against the prisoner was found and members 10203

of any law enforcement agency that assisted in the prosecution 10204
of the original offense; 10205

(2) The judge of the court of common pleas who imposed the 10206
original sentence of incarceration upon the prisoner, or the 10207
judge's successor; 10208

(3) The victim of the original offense for which the 10209
prisoner is serving the sentence or the victim's representative 10210
designated pursuant to section 2930.02 of the Revised Code; 10211

(4) The victim of any behavior that resulted in parole 10212
being revoked; 10213

(5) With respect to a full board hearing held pursuant to 10214
division (A)(2) of this section, all of the following: 10215

(a) The spouse of the victim of the original offense; 10216

(b) The parent or parents of the victim of the original 10217
offense; 10218

(c) The sibling of the victim of the original offense; 10219

(d) The child or children of the victim of the original 10220
offense. 10221

(6) Counsel or some other person designated by the 10222
prisoner as a representative, as described in division (C) of 10223
this section. 10224

(C) Except as otherwise provided in this division, a full 10225
board hearing of the parole board is not subject to section 10226
121.22 of the Revised Code. The persons who may attend a full 10227
board hearing are the persons described in divisions (B)(1) to 10228
(6) of this section, and representatives of the press, radio and 10229
television stations, and broadcasting networks who are members 10230

of a generally recognized professional media organization. 10231

At the request of a person described in division (B)(3) of 10232
this section, representatives of the news media described in 10233
this division shall be excluded from the hearing while that 10234
person is giving testimony at the hearing. The prisoner being 10235
considered for parole has no right to be present at the hearing, 10236
but may be represented by counsel or some other person 10237
designated by the prisoner. 10238

If there is an objection at a full board hearing to a 10239
recommendation for the parole of a prisoner, the board may 10240
approve or disapprove the recommendation or defer its decision 10241
until a subsequent full board hearing. The board may permit 10242
interested persons other than those listed in this division and 10243
division (B) of this section to attend full board hearings 10244
pursuant to rules adopted by the adult parole authority. 10245

(D) If the victim of the original offense died as a result 10246
of the offense and the offense was aggravated murder, murder, an 10247
offense of violence that is a felony of the first, second, or 10248
third degree, or an offense punished by a sentence of life 10249
imprisonment, the family of the victim may show at a full board 10250
hearing a video recording not exceeding five minutes in length 10251
memorializing the victim. 10252

(E) The adult parole authority shall adopt rules for the 10253
implementation of this section. The rules shall specify 10254
reasonable restrictions on the number of media representatives 10255
that may attend a hearing, based on considerations of space, and 10256
other procedures designed to accomplish an effective, orderly 10257
process for full board hearings. 10258

Sec. 5919.16. (A) Commissioned and warrant officers in the 10259

Ohio national guard shall be discharged by the adjutant general	10260
upon either of the following:	10261
(1) The officer's resignation;	10262
(2) Approval of a board's recommendation for withdrawal of	10263
federal recognition by the chief of the national guard bureau.	10264
(B) An officer also may be discharged under any of the	10265
following circumstances:	10266
(1) Pursuant to other federal regulations;	10267
(2) If absent without leave for three months, upon	10268
recommendation of an efficiency board;	10269
(3) Pursuant to sentence by court-martial;	10270
(4) If the officer has been convicted of a crime	10271
classified as a felony as described in division <u>(C) or (D)</u> or	10272
(E) of section 2901.02 of the Revised Code.	10273
Section 2. That existing sections 9.07, 120.03, 120.06,	10274
120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34,	10275
149.43, 1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2317.02,	10276
2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 2929.14,	10277
2929.20, 2929.61, 2930.03, 2930.06, 2930.16, 2930.19, 2937.222,	10278
2941.021, 2941.14, 2941.148, 2941.401, 2941.43, 2941.51,	10279
2945.06, 2945.10, 2945.13, 2945.21, 2945.25, 2945.33, 2945.38,	10280
2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 2953.09, 2953.10,	10281
2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 2953.81, 2967.03,	10282
2967.05, 2967.12, 2967.13, 2967.19, 2967.193, 2967.26, 2967.28,	10283
2971.03, 2971.07, 5120.113, 5120.53, 5120.61, 5139.04, 5149.101,	10284
and 5919.16 and sections 109.97, 120.35, 2725.19, 2929.021,	10285
2929.022, 2929.023, 2929.024, 2929.03, 2929.04, 2929.05,	10286
2929.06, 2945.20, 2947.08, 2949.21, 2949.22, 2949.221, 2949.222,	10287

2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 2949.31, 10288
and 2967.08 of the Revised Code are hereby repealed. 10289

Section 3. (A) An offender whose sentence of death has 10290
been set aside, nullified, or vacated pursuant to section 10291
2929.06 of the Revised Code as it existed immediately before the 10292
effective date of this act but who has not been resentenced 10293
under that section as of the effective date of this act shall be 10294
resentenced in accordance with that section as it existed 10295
immediately before the effective date of this act. 10296

(B) Nothing in this act is intended to nullify or mitigate 10297
the sentence of an offender who was sentenced to death before 10298
the effective date of this act. An offender who was sentenced to 10299
death before the effective date of this act shall have the same 10300
rights to appeal and to postconviction remedies as the offender 10301
had under the provisions of Chapter 2953. of the Revised Code as 10302
those provisions existed immediately before the effective date 10303
of this act or as those provisions may hereafter be amended, and 10304
courts shall have the same powers and duties with respect to 10305
those offenders under those provisions as courts had before the 10306
effective date of this act. 10307

(C) All reports and payments relating to capital cases 10308
that were required to be made under any provision of Chapter 10309
120. or section 109.97 of the Revised Code as those provisions 10310
existed immediately before the effective date of this act shall 10311
be made for the current calendar or fiscal year, as applicable, 10312
in accordance with those provisions as they existed immediately 10313
before the effective date of this act until each case in which a 10314
defendant was sentenced to death before the effective date of 10315
this act is finally resolved. 10316

(D) In an action in which an offender was sentenced to 10317

death before the effective date of this act, a court of common 10318
pleas shall preserve the records of the action as required by 10319
section 2301.20 of the Revised Code as it existed immediately 10320
before the effective date of this act. 10321

Section 4. Attorneys appointed to represent indigent 10322
defendants in postconviction relief proceedings in cases in 10323
which the defendant was sentenced to death before the effective 10324
date of this act shall be certified under Rule 20 of the Rules 10325
of Superintendence for the Courts of Ohio as required by 10326
sections 120.06, 120.14, 120.26, and 120.33 of the Revised Code 10327
as those sections existed immediately before the effective date 10328
of this act. 10329

Section 5. The General Assembly, applying the principle 10330
stated in division (B) of section 1.52 of the Revised Code that 10331
amendments are to be harmonized if reasonably capable of 10332
simultaneous operation, finds that the following sections, 10333
presented in this act as composites of the sections as amended 10334
by the acts indicated, are the resulting versions of the 10335
sections in effect prior to the effective date of the sections 10336
as presented in this act: 10337

Section 2929.14 of the Revised Code is presented in this 10338
act as a composite of the section as amended by both Sub. H.B. 10339
470 and Sub. S.B. 319 of the 131st General Assembly. 10340

Section 2929.20 of the Revised Code is presented in this 10341
act as a composite of the section as amended by both Am. Sub. 10342
H.B. 64 and Am. Sub. S.B. 97 of the 131st General Assembly. 10343

Section 2953.07 of the Revised Code is presented in this 10344
act as a composite of the section as amended by both Am. Sub. 10345
S.B. 2 and Am. Sub. S.B. 4 of the 121st General Assembly. 10346

Section 2953.08 of the Revised Code is presented in this 10347
act as a composite of the section as amended by Sub. H.B. 247, 10348
Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the 129th 10349
General Assembly. 10350

Section 2967.03 of the Revised Code is presented in this 10351
act as a composite of the section as amended by Am. Sub. H.B. 10352
487, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the 129th 10353
General Assembly. 10354