

**As Passed by the Senate**

**133rd General Assembly**

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**Am. Sub. H. B. No. 136**

**Representative Hillyer**

**Cosponsors: Representatives Seitz, Weinstein, Crawley, Plummer, Leland, Crossman, Galonski, Rogers, West, Antani, Blessing, Brent, Callender, Denson, Ghanbari, Lepore-Hagan, Lightbody, Liston, Patton, Perales, Sheehy, Smith, K., Sobecki, Sykes, Upchurch**

**Senators Eklund, Manning, Antonio, Blessing, Burke, Craig, Dolan, Fedor, Hackett, Huffman, S., Maharath, Sykes, Thomas, Yuko**

**A BILL**

To amend sections 2929.02, 2929.022, 2929.024, 1  
2929.03, 2929.04, 2929.06, 2929.14, 2941.148, 2  
2953.21, 2953.23, 2971.03, 2971.07, and 5120.61 3  
and to enact section 2929.025 of the Revised 4  
Code to prohibit imposing the death penalty for 5  
aggravated murder when the offender had a 6  
serious mental illness at the time of the 7  
offense. 8

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

**Section 1.** That sections 2929.02, 2929.022, 2929.024, 9  
2929.03, 2929.04, 2929.06, 2929.14, 2941.148, 2953.21, 2953.23, 10  
2971.03, 2971.07, and 5120.61 be amended and section 2929.025 of 11  
the Revised Code be enacted to read as follows: 12

**Sec. 2929.02.** (A) Whoever is convicted of or pleads guilty 13  
to aggravated murder in violation of section 2903.01 of the 14  
Revised Code shall suffer death or be imprisoned for life, as 15

determined pursuant to sections 2929.022, 2929.03, and 2929.04 16  
of the Revised Code, except that no person who raises the matter 17  
of age pursuant to section 2929.023 of the Revised Code and who 18  
is not found to have been eighteen years of age or older at the 19  
time of the commission of the offense and no person who raises 20  
the matter of the person's serious mental illness at the time of 21  
the alleged commission of the offense pursuant to section 22  
2929.025 of the Revised Code and is found under that section to 23  
be ineligible for a sentence of death due to serious mental 24  
illness shall suffer death. In addition, the offender may be 25  
fined an amount fixed by the court, but not more than twenty- 26  
five thousand dollars. 27

(B) (1) Except as otherwise provided in division (B) (2) or 28  
(3) of this section, whoever is convicted of or pleads guilty to 29  
murder in violation of section 2903.02 of the Revised Code shall 30  
be imprisoned for an indefinite term of fifteen years to life. 31

(2) Except as otherwise provided in division (B) (3) of 32  
this section, if a person is convicted of or pleads guilty to 33  
murder in violation of section 2903.02 of the Revised Code, the 34  
victim of the offense was less than thirteen years of age, and 35  
the offender also is convicted of or pleads guilty to a sexual 36  
motivation specification that was included in the indictment, 37  
count in the indictment, or information charging the offense, 38  
the court shall impose an indefinite prison term of thirty years 39  
to life pursuant to division (B) (3) of section 2971.03 of the 40  
Revised Code. 41

(3) If a person is convicted of or pleads guilty to murder 42  
in violation of section 2903.02 of the Revised Code and also is 43  
convicted of or pleads guilty to a sexual motivation 44  
specification and a sexually violent predator specification that 45

were included in the indictment, count in the indictment, or 46  
information that charged the murder, the court shall impose upon 47  
the offender a term of life imprisonment without parole that 48  
shall be served pursuant to section 2971.03 of the Revised Code. 49

(4) In addition, the offender may be fined an amount fixed 50  
by the court, but not more than fifteen thousand dollars. 51

(C) The court shall not impose a fine or fines for 52  
aggravated murder or murder which, in the aggregate and to the 53  
extent not suspended by the court, exceeds the amount which the 54  
offender is or will be able to pay by the method and within the 55  
time allowed without undue hardship to the offender or to the 56  
dependents of the offender, or will prevent the offender from 57  
making reparation for the victim's wrongful death. 58

(D) (1) In addition to any other sanctions imposed for a 59  
violation of section 2903.01 or 2903.02 of the Revised Code, if 60  
the offender used a motor vehicle as the means to commit the 61  
violation, the court shall impose upon the offender a class two 62  
suspension of the offender's driver's license, commercial 63  
driver's license, temporary instruction permit, probationary 64  
license, or nonresident operating privilege as specified in 65  
division (A) (2) of section 4510.02 of the Revised Code. 66

(2) As used in division (D) of this section, "motor 67  
vehicle" has the same meaning as in section 4501.01 of the 68  
Revised Code. 69

**Sec. 2929.022.** (A) If an indictment or count in an 70  
indictment charging a defendant with aggravated murder contains 71  
a specification of the aggravating circumstance of a prior 72  
conviction listed in division (A) (5) of section 2929.04 of the 73  
Revised Code, the defendant may elect to have the panel of three 74

judges, if the defendant waives trial by jury, or the trial 75  
judge, if the defendant is tried by jury, determine the 76  
existence of that aggravating circumstance at the sentencing 77  
hearing held pursuant to divisions (C) and (D) of section 78  
2929.03 of the Revised Code. 79

(1) If the defendant does not elect to have the existence 80  
of the aggravating circumstance determined at the sentencing 81  
hearing, the defendant shall be tried on the charge of 82  
aggravated murder, on the specification of the aggravating 83  
circumstance of a prior conviction listed in division (A) (5) of 84  
section 2929.04 of the Revised Code, and on any other 85  
specifications of an aggravating circumstance listed in division 86  
(A) of section 2929.04 of the Revised Code in a single trial as 87  
in any other criminal case in which a person is charged with 88  
aggravated murder and specifications. 89

(2) If the defendant does elect to have the existence of 90  
the aggravating circumstance of a prior conviction listed in 91  
division (A) (5) of section 2929.04 of the Revised Code 92  
determined at the sentencing hearing, then, following a verdict 93  
of guilty of the charge of aggravated murder, the panel of three 94  
judges or the trial judge shall: 95

(a) Hold a sentencing hearing pursuant to division (B) of 96  
this section, unless required to do otherwise under division (A) 97  
(2) (b) of this section; 98

(b) If the offender raises the matter of age at trial 99  
pursuant to section 2929.023 of the Revised Code and is not 100  
found at trial to have been eighteen years of age or older at 101  
the time of the commission of the offense or raises the matter 102  
of the offender's serious mental illness at the time of the 103  
alleged commission of the offense pursuant to section 2929.025 104

of the Revised Code and is found under that section to be 105  
ineligible for a sentence of death due to serious mental 106  
illness, conduct a hearing to determine if the specification of 107  
the aggravating circumstance of a prior conviction listed in 108  
division (A) (5) of section 2929.04 of the Revised Code is proven 109  
beyond a reasonable doubt. After conducting the hearing, the 110  
panel or judge shall proceed as follows: 111

(i) If that aggravating circumstance is proven beyond a 112  
reasonable doubt or if the defendant at trial was convicted of 113  
any other specification of an aggravating circumstance, the 114  
panel or judge shall impose sentence according to division (E) 115  
of section 2929.03 of the Revised Code. 116

(ii) If that aggravating circumstance is not proven beyond 117  
a reasonable doubt and the defendant at trial was not convicted 118  
of any other specification of an aggravating circumstance, 119  
except as otherwise provided in this division, the panel or 120  
judge shall impose sentence of life imprisonment with parole 121  
eligibility after serving twenty years of imprisonment on the 122  
offender. If that aggravating circumstance is not proven beyond 123  
a reasonable doubt, the defendant at trial was not convicted of 124  
any other specification of an aggravating circumstance, the 125  
victim of the aggravated murder was less than thirteen years of 126  
age, and the offender also is convicted of or pleads guilty to a 127  
sexual motivation specification that was included in the 128  
indictment, count in the indictment, or information charging the 129  
offense, the panel or judge shall sentence the offender pursuant 130  
to division (B) (3) of section 2971.03 of the Revised Code to an 131  
indefinite term consisting of a minimum term of thirty years and 132  
a maximum term of life imprisonment. 133

(B) At the sentencing hearing, the panel of judges, if the 134

defendant was tried by a panel of three judges, or the trial 135  
judge, if the defendant was tried by jury, shall, when required 136  
pursuant to division (A) (2) of this section, first determine if 137  
the specification of the aggravating circumstance of a prior 138  
conviction listed in division (A) (5) of section 2929.04 of the 139  
Revised Code is proven beyond a reasonable doubt. If the panel 140  
of judges or the trial judge determines that the specification 141  
of the aggravating circumstance of a prior conviction listed in 142  
division (A) (5) of section 2929.04 of the Revised Code is proven 143  
beyond a reasonable doubt or if they do not determine that the 144  
specification is proven beyond a reasonable doubt but the 145  
defendant at trial was convicted of a specification of any other 146  
aggravating circumstance listed in division (A) of section 147  
2929.04 of the Revised Code, the panel of judges or the trial 148  
judge and trial jury shall impose sentence on the offender 149  
pursuant to division (D) of section 2929.03 and section 2929.04 150  
of the Revised Code. If the panel of judges or the trial judge 151  
does not determine that the specification of the aggravating 152  
circumstance of a prior conviction listed in division (A) (5) of 153  
section 2929.04 of the Revised Code is proven beyond a 154  
reasonable doubt and the defendant at trial was not convicted of 155  
any other specification of an aggravating circumstance listed in 156  
division (A) of section 2929.04 of the Revised Code, the panel 157  
of judges or the trial judge shall terminate the sentencing 158  
hearing and impose sentence on the offender as follows: 159

(1) Subject to division (B) (2) of this section, the panel 160  
or judge shall impose a sentence of life imprisonment with 161  
parole eligibility after serving twenty years of imprisonment on 162  
the offender. 163

(2) If the victim of the aggravated murder was less than 164  
thirteen years of age and the offender also is convicted of or 165

pleads guilty to a sexual motivation specification that was 166  
included in the indictment, count in the indictment, or 167  
information charging the offense, the panel or judge shall 168  
sentence the offender pursuant to division (B)(3) of section 169  
2971.03 of the Revised Code to an indefinite term consisting of 170  
a minimum term of thirty years and a maximum term of life 171  
imprisonment. 172

**Sec. 2929.024.** ~~If (A)~~ In a case described in division (B) 173  
of this section, if the court determines that ~~the defendant is~~ 174  
~~indigent and that~~ investigation services, experts, or other 175  
services are reasonably necessary for the proper representation 176  
of a defendant charged with aggravated murder at trial or at the 177  
sentencing hearing, the court shall authorize the defendant's 178  
counsel to obtain the necessary services for the defendant, and 179  
shall order that payment of the fees and expenses for the 180  
necessary services be made in the same manner that payment for 181  
appointed counsel is made pursuant to Chapter 120. of the 182  
Revised Code. If the court determines that the necessary 183  
services had to be obtained prior to court authorization for 184  
payment of the fees and expenses for the necessary services, the 185  
court may, after the services have been obtained, authorize the 186  
defendant's counsel to obtain the necessary services and order 187  
that payment of the fees and expenses for the necessary services 188  
be made as provided in this section. 189

(B) Division (A) of this section applies in a case in 190  
which either of the following apply: 191

(1) The court determines that the defendant is indigent. 192

(2) The defendant is described in division (C) of section 193  
2929.025 of the Revised Code and raises the matter of the 194  
defendant's serious mental illness at the time of the alleged 195

<u>commission of the aggravated murder as described in that</u>	196
<u>division.</u>	197
<b><u>Sec. 2929.025.</u></b> (A) As used in this section:	198
<u>(1) A person has a "serious mental illness" if both of the</u>	199
<u>following apply with respect to the person, subject to division</u>	200
<u>(A) (2) of this section:</u>	201
<u>(a) The person has been diagnosed as described in division</u>	202
<u>(B) of this section with one or more of the following</u>	203
<u>conditions:</u>	204
<u>(i) Schizophrenia;</u>	205
<u>(ii) Schizoaffective disorder;</u>	206
<u>(iii) Bipolar disorder;</u>	207
<u>(iv) Delusional disorder.</u>	208
<u>(b) At the time of the alleged aggravated murder with</u>	209
<u>which the person is charged, the condition or conditions</u>	210
<u>described in division (A) (1) (a) of this section with which the</u>	211
<u>person has been diagnosed, while not meeting the standard to be</u>	212
<u>found not guilty by reason of insanity as defined in section</u>	213
<u>2901.01 of the Revised Code or the standard to be found</u>	214
<u>incompetent to stand trial as described in division (G) of</u>	215
<u>section 2945.37 of the Revised Code, nevertheless significantly</u>	216
<u>impaired the person's capacity to exercise rational judgment in</u>	217
<u>relation to the person's conduct with respect to either of the</u>	218
<u>following:</u>	219
<u>(i) Conforming the person's conduct to the requirements of</u>	220
<u>law;</u>	221
<u>(ii) Appreciating the nature, consequences, or</u>	222



<u>wrongfulness of the person's conduct.</u>	223
<u>(2) A disorder manifested primarily by repeated criminal</u>	224
<u>conduct or attributable primarily to the acute effects of any</u>	225
<u>use of alcohol or any other drug of abuse does not, standing</u>	226
<u>alone, constitute a "serious mental illness" for purposes of</u>	227
<u>division (A) (1) of this section.</u>	228
<u>(3) "Examiner" means a person who makes an evaluation</u>	229
<u>ordered under division (F) (1) of this section.</u>	230
<u>(4) "Prosecutor" means a prosecuting attorney who has</u>	231
<u>authority to prosecute a charge of aggravated murder that is</u>	232
<u>before the court.</u>	233
<u>(B) The diagnosis of a person with a condition or</u>	234
<u>conditions described in division (A) (1) (a) of this section may</u>	235
<u>be made at any time prior to, on, or after the day of the</u>	236
<u>alleged aggravated murder with which the person is charged or</u>	237
<u>the day on which the person pursuant to division (C) of this</u>	238
<u>section raises the matter of the person's serious mental illness</u>	239
<u>at the time of the alleged commission of that aggravated murder.</u>	240
<u>Diagnosis of the condition or conditions after the date of the</u>	241
<u>alleged aggravated murder with which the person is charged does</u>	242
<u>not preclude the person from presenting evidence that the person</u>	243
<u>had a serious mental illness at the time of the alleged</u>	244
<u>commission of that offense.</u>	245
<u>(C) A person charged with aggravated murder and one or</u>	246
<u>more specifications of an aggravating circumstance listed in</u>	247
<u>division (A) of section 2929.04 of the Revised Code may, before</u>	248
<u>trial, raise the matter of the person's serious mental illness</u>	249
<u>at the time of the alleged commission of the offense. If a</u>	250
<u>person raises the matter of the person's serious mental illness</u>	251

at the time of the alleged commission of the offense, the court 252  
shall order an evaluation of the person in accordance with 253  
division (F) of this section and shall hold a pretrial hearing 254  
on the matter. The person who raises the matter may present 255  
evidence, subject to division (D) (2) of this section, that the 256  
person had a serious mental illness at the time of the alleged 257  
commission of the offense, and the person has the burden of 258  
raising that matter and of going forward with the evidence 259  
relating to the diagnosis described in division (A) (1) (a) of 260  
this section and the impairment described in division (A) (1) (b) 261  
of this section. 262

(D) (1) If a person described in division (C) of this 263  
section raises the matter of the person's serious mental illness 264  
at the time of the alleged commission of the aggravated murder 265  
and submits evidence that the person has been diagnosed with one 266  
or more of the conditions set forth in division (A) (1) (a) of 267  
this section and that the condition or conditions diagnosed 268  
significantly impaired the person's capacity at the time of the 269  
alleged offense in a manner described in division (A) (1) (b) of 270  
this section, the prosecution shall have an opportunity to 271  
present evidence to contest the diagnosis. The defendant has the 272  
burden of proving, by a preponderance of the evidence, that the 273  
person has been diagnosed with one or more of the conditions set 274  
forth in division (A) (1) (a) of this section and that the 275  
condition or conditions diagnosed significantly impaired the 276  
person's capacity at the time of the alleged offense in a manner 277  
described in division (A) (1) (b) of this section. 278

(2) If a person described in division (C) of this section 279  
raises the matter of the person's serious mental illness at the 280  
time of the alleged commission of the aggravated murder and, 281  
prior to, on, or after the effective date of this section, the 282

person has or has had an evaluation performed other than 283  
pursuant to a court order issued under division (F) of this 284  
section, the person shall provide the results of the evaluation 285  
to the prosecution at least thirty days prior to the pretrial 286  
hearing. If the person does not provide the results of the 287  
evaluation to the prosecution at least thirty days prior to the 288  
pretrial hearing, the results of the evaluation are inadmissible 289  
at the hearing. 290

(E) (1) Unless the court at the pretrial hearing finds that 291  
the defendant has proved, by a preponderance of the evidence, 292  
that the person has been diagnosed with one or more of the 293  
conditions set forth in division (A) (1) (a) of this section and 294  
that the condition or conditions diagnosed significantly 295  
impaired the person's capacity at the time of the alleged 296  
offense in a manner described in division (A) (1) (b) of this 297  
section, the court shall issue a finding that the person is not 298  
ineligible for a sentence of death due to serious mental 299  
illness. 300

(2) If the court at the pretrial hearing finds that the 301  
defendant has proved, by a preponderance of the evidence, that 302  
the person has been diagnosed with one or more of the conditions 303  
set forth in division (A) (1) (a) of this section and that the 304  
condition or conditions diagnosed significantly impaired the 305  
person's capacity at the time of the alleged offense in a manner 306  
described in division (A) (1) (b) of this section, the court shall 307  
issue a finding that the person is ineligible for a sentence of 308  
death due to serious mental illness. 309

(F) (1) If a person described in division (C) of this 310  
section raises the matter of the person's serious mental illness 311  
at the time of the alleged commission of the aggravated murder 312

as described in that division, the court shall order an 313  
evaluation of the person. Section 2929.024 of the Revised Code 314  
applies with respect to an evaluation ordered under this 315  
division. If the person refuses to submit to an evaluation 316  
ordered under this division, the court shall issue a finding 317  
that the person is not ineligible for a sentence of death due to 318  
serious mental illness. 319

(2) No statement that a person makes in an evaluation 320  
ordered under division (F)(1) of this section or in a pretrial 321  
hearing under divisions (C) to (E) of this section relating to 322  
the person's serious mental illness at the time of the alleged 323  
commission of the aggravated murder with which the person is 324  
charged shall be used against the person on the issue of guilt 325  
in any criminal action or proceeding, but, in a criminal action 326  
or proceeding, the prosecutor or defense counsel may call as a 327  
witness any examiner who evaluated the person or prepared a 328  
report pursuant to a referral under this section. Neither the 329  
appointment nor the testimony of an examiner in an evaluation 330  
ordered under division (F)(1) of this section precludes the 331  
prosecutor or defense counsel from calling other witnesses or 332  
presenting other evidence on the issue of the person's serious 333  
mental illness at the time of the alleged commission of the 334  
aggravated murder or on competency or insanity issues. 335

(G) A person's pleading of not guilty by reason of 336  
insanity or incompetence to stand trial, or a finding after such 337  
a plea that the person is not insane or that the person is 338  
competent to stand trial, does not preclude the person from 339  
raising the matter of the person's serious mental illness at the 340  
time of the alleged commission of the offense pursuant to 341  
division (C) of this section and, if a person so raises that 342  
matter, does not limit or affect any of the procedures described 343

in this section or the authority of a court to make any finding 344  
described in this section. 345

**Sec. 2929.03.** (A) If the indictment or count in the 346  
indictment charging aggravated murder does not contain one or 347  
more specifications of aggravating circumstances listed in 348  
division (A) of section 2929.04 of the Revised Code, then, 349  
following a verdict of guilty of the charge of aggravated 350  
murder, the trial court shall impose sentence on the offender as 351  
follows: 352

(1) Except as provided in division (A) (2) of this section, 353  
the trial court shall impose one of the following sentences on 354  
the offender: 355

(a) Life imprisonment without parole; 356

(b) Subject to division (A) (1) (e) of this section, life 357  
imprisonment with parole eligibility after serving twenty years 358  
of imprisonment; 359

(c) Subject to division (A) (1) (e) of this section, life 360  
imprisonment with parole eligibility after serving twenty-five 361  
full years of imprisonment; 362

(d) Subject to division (A) (1) (e) of this section, life 363  
imprisonment with parole eligibility after serving thirty full 364  
years of imprisonment; 365

(e) If the victim of the aggravated murder was less than 366  
thirteen years of age, the offender also is convicted of or 367  
pleads guilty to a sexual motivation specification that was 368  
included in the indictment, count in the indictment, or 369  
information charging the offense, and the trial court does not 370  
impose a sentence of life imprisonment without parole on the 371  
offender pursuant to division (A) (1) (a) of this section, the 372

trial court shall sentence the offender pursuant to division (B) 373  
(3) of section 2971.03 of the Revised Code to an indefinite term 374  
consisting of a minimum term of thirty years and a maximum term 375  
of life imprisonment that shall be served pursuant to that 376  
section. 377

(2) If the offender also is convicted of or pleads guilty 378  
to a sexual motivation specification and a sexually violent 379  
predator specification that are included in the indictment, 380  
count in the indictment, or information that charged the 381  
aggravated murder, the trial court shall impose upon the 382  
offender a sentence of life imprisonment without parole that 383  
shall be served pursuant to section 2971.03 of the Revised Code. 384

(B) If the indictment or count in the indictment charging 385  
aggravated murder contains one or more specifications of 386  
aggravating circumstances listed in division (A) of section 387  
2929.04 of the Revised Code, the verdict shall separately state 388  
whether the accused is found guilty or not guilty of the 389  
principal charge and, if guilty of the principal charge, whether 390  
the offender was eighteen years of age or older at the time of 391  
the commission of the offense, if the matter of age was raised 392  
by the offender pursuant to section 2929.023 of the Revised 393  
Code, and whether the offender is guilty or not guilty of each 394  
specification. The jury shall be instructed on its duties in 395  
this regard. The instruction to the jury shall include an 396  
instruction that a specification shall be proved beyond a 397  
reasonable doubt in order to support a guilty verdict on the 398  
specification, but the instruction shall not mention the penalty 399  
that may be the consequence of a guilty or not guilty verdict on 400  
any charge or specification. 401

(C) (1) If the indictment or count in the indictment 402

charging aggravated murder contains one or more specifications 403  
of aggravating circumstances listed in division (A) of section 404  
2929.04 of the Revised Code, then, following a verdict of guilty 405  
of the charge but not guilty of each of the specifications, and 406  
regardless of whether the offender raised the matter of age 407  
pursuant to section 2929.023 of the Revised Code or the matter 408  
of serious mental illness at the time of the commission of the 409  
offense pursuant to section 2929.025 of the Revised Code, the 410  
trial court shall impose sentence on the offender as follows: 411

(a) Except as provided in division (C) (1) (b) of this 412  
section, the trial court shall impose one of the following 413  
sentences on the offender: 414

(i) Life imprisonment without parole; 415

(ii) Subject to division (C) (1) (a) (v) of this section, 416  
life imprisonment with parole eligibility after serving twenty 417  
years of imprisonment; 418

(iii) Subject to division (C) (1) (a) (v) of this section, 419  
life imprisonment with parole eligibility after serving twenty- 420  
five full years of imprisonment; 421

(iv) Subject to division (C) (1) (a) (v) of this section, 422  
life imprisonment with parole eligibility after serving thirty 423  
full years of imprisonment; 424

(v) If the victim of the aggravated murder was less than 425  
thirteen years of age, the offender also is convicted of or 426  
pleads guilty to a sexual motivation specification that was 427  
included in the indictment, count in the indictment, or 428  
information charging the offense, and the trial court does not 429  
impose a sentence of life imprisonment without parole on the 430  
offender pursuant to division (C) (1) (a) (i) of this section, the 431

trial court shall sentence the offender pursuant to division (B) 432  
(3) of section 2971.03 of the Revised Code to an indefinite term 433  
consisting of a minimum term of thirty years and a maximum term 434  
of life imprisonment. 435

(b) If the offender also is convicted of or pleads guilty 436  
to a sexual motivation specification and a sexually violent 437  
predator specification that are included in the indictment, 438  
count in the indictment, or information that charged the 439  
aggravated murder, the trial court shall impose upon the 440  
offender a sentence of life imprisonment without parole that 441  
shall be served pursuant to section 2971.03 of the Revised Code. 442

(2) (a) If the indictment or count in the indictment 443  
contains one or more specifications of aggravating circumstances 444  
listed in division (A) of section 2929.04 of the Revised Code 445  
and if the offender is found guilty of both the charge and one 446  
or more of the specifications, the penalty to be imposed on the 447  
offender shall be one of the following: 448

(i) Except as provided in division (C) (2) (a) (ii) or (iii), and subject to divisions (D) (1) and (E) of this section, the 449  
penalty to be imposed on the offender shall be death, life 450  
imprisonment without parole, life imprisonment with parole 451  
eligibility after serving twenty-five full years of 452  
imprisonment, or life imprisonment with parole eligibility after 453  
serving thirty full years of imprisonment. 454  
455

(ii) Except as provided in division (C) (2) (a) (iii) of this 456  
section, if the victim of the aggravated murder was less than 457  
thirteen years of age, the offender also is convicted of or 458  
pleads guilty to a sexual motivation specification that was 459  
included in the indictment, count in the indictment, or 460  
information charging the offense, and the trial court does not 461



impose a sentence of death or life imprisonment without parole 462  
on the offender pursuant to division (C) (2) (a) (i) of this 463  
section, the penalty to be imposed on the offender shall be an 464  
indefinite term consisting of a minimum term of thirty years and 465  
a maximum term of life imprisonment that shall be imposed 466  
pursuant to division (B) (3) of section 2971.03 of the Revised 467  
Code and served pursuant to that section. 468

(iii) If the offender also is convicted of or pleads 469  
guilty to a sexual motivation specification and a sexually 470  
violent predator specification that are included in the 471  
indictment, count in the indictment, or information that charged 472  
the aggravated murder, the penalty to be imposed on the offender 473  
shall be death or life imprisonment without parole that shall be 474  
served pursuant to section 2971.03 of the Revised Code. 475

(b) A penalty imposed pursuant to division (C) (2) (a) (i), 476  
(ii), or (iii) of this section shall be determined pursuant to 477  
divisions (D) and (E) of this section and shall be determined by 478  
one of the following: 479

(i) By the panel of three judges that tried the offender 480  
upon the offender's waiver of the right to trial by jury; 481

(ii) By the trial jury and the trial judge, if the 482  
offender was tried by jury. 483

(D) (1) Death may not be imposed as a penalty for 484  
aggravated murder if the offender raised the matter of age at 485  
trial pursuant to section 2929.023 of the Revised Code and was 486  
not found at trial to have been eighteen years of age or older 487  
at the time of the commission of the offense or raised the 488  
matter of the offender's serious mental illness at the time of 489  
the commission of the offense pursuant to section 2929.025 of 490

the Revised Code and was found under that section to be 491  
ineligible for a sentence of death due to serious mental illness 492  
. When death may be imposed as a penalty for aggravated murder, 493  
the court shall proceed under this division. When death may be 494  
imposed as a penalty, the court, upon the request of the 495  
defendant, shall require a pre-sentence investigation to be made 496  
and, upon the request of the defendant, shall require a mental 497  
examination to be made, and shall require reports of the 498  
investigation and of any mental examination submitted to the 499  
court, pursuant to section 2947.06 of the Revised Code. No 500  
statement made or information provided by a defendant in a 501  
mental examination or proceeding conducted pursuant to this 502  
division shall be disclosed to any person, except as provided in 503  
this division, or be used in evidence against the defendant on 504  
the issue of guilt in any retrial. A pre-sentence investigation 505  
or mental examination shall not be made except upon request of 506  
the defendant. Copies of any reports prepared under this 507  
division shall be furnished to the court, to the trial jury if 508  
the offender was tried by a jury, to the prosecutor, and to the 509  
offender or the offender's counsel for use under this division. 510  
The court, and the trial jury if the offender was tried by a 511  
jury, shall consider any report prepared pursuant to this 512  
division and furnished to it and any evidence raised at trial 513  
that is relevant to the aggravating circumstances the offender 514  
was found guilty of committing or to any factors in mitigation 515  
of the imposition of the sentence of death, shall hear testimony 516  
and other evidence that is relevant to the nature and 517  
circumstances of the aggravating circumstances the offender was 518  
found guilty of committing, the mitigating factors set forth in 519  
division (B) of section 2929.04 of the Revised Code, and any 520  
other factors in mitigation of the imposition of the sentence of 521  
death, and shall hear the statement, if any, of the offender, 522

and the arguments, if any, of counsel for the defense and 523  
prosecution, that are relevant to the penalty that should be 524  
imposed on the offender. The defendant shall be given great 525  
latitude in the presentation of evidence of the mitigating 526  
factors set forth in division (B) of section 2929.04 of the 527  
Revised Code and of any other factors in mitigation of the 528  
imposition of the sentence of death. If the offender chooses to 529  
make a statement, the offender is subject to cross-examination 530  
only if the offender consents to make the statement under oath 531  
or affirmation. 532

The defendant shall have the burden of going forward with 533  
the evidence of any factors in mitigation of the imposition of 534  
the sentence of death. The prosecution shall have the burden of 535  
proving, by proof beyond a reasonable doubt, that the 536  
aggravating circumstances the defendant was found guilty of 537  
committing are sufficient to outweigh the factors in mitigation 538  
of the imposition of the sentence of death. 539

(2) Upon consideration of the relevant evidence raised at 540  
trial, the testimony, other evidence, statement of the offender, 541  
arguments of counsel, and, if applicable, the reports submitted 542  
pursuant to division (D)(1) of this section, the trial jury, if 543  
the offender was tried by a jury, shall determine whether the 544  
aggravating circumstances the offender was found guilty of 545  
committing are sufficient to outweigh the mitigating factors 546  
present in the case. If the trial jury unanimously finds, by 547  
proof beyond a reasonable doubt, that the aggravating 548  
circumstances the offender was found guilty of committing 549  
outweigh the mitigating factors, the trial jury shall recommend 550  
to the court that the sentence of death be imposed on the 551  
offender. Absent such a finding, the jury shall recommend that 552  
the offender be sentenced to one of the following: 553

(a) Except as provided in division (D) (2) (b) or (c) of 554  
this section, to life imprisonment without parole, life 555  
imprisonment with parole eligibility after serving twenty-five 556  
full years of imprisonment, or life imprisonment with parole 557  
eligibility after serving thirty full years of imprisonment; 558

(b) Except as provided in division (D) (2) (c) of this 559  
section, if the victim of the aggravated murder was less than 560  
thirteen years of age, the offender also is convicted of or 561  
pleads guilty to a sexual motivation specification that was 562  
included in the indictment, count in the indictment, or 563  
information charging the offense, and the jury does not 564  
recommend a sentence of life imprisonment without parole 565  
pursuant to division (D) (2) (a) of this section, to an indefinite 566  
term consisting of a minimum term of thirty years and a maximum 567  
term of life imprisonment to be imposed pursuant to division (B) 568  
(3) of section 2971.03 of the Revised Code and served pursuant 569  
to that section. 570

(c) If the offender also is convicted of or pleads guilty 571  
to a sexual motivation specification and a sexually violent 572  
predator specification that are included in the indictment, 573  
count in the indictment, or information that charged the 574  
aggravated murder, to life imprisonment without parole. 575

If the trial jury recommends that the offender be 576  
sentenced to life imprisonment without parole, life imprisonment 577  
with parole eligibility after serving twenty-five full years of 578  
imprisonment, life imprisonment with parole eligibility after 579  
serving thirty full years of imprisonment, or an indefinite term 580  
consisting of a minimum term of thirty years and a maximum term 581  
of life imprisonment to be imposed pursuant to division (B) (3) 582  
of section 2971.03 of the Revised Code, the court shall impose 583

the sentence recommended by the jury upon the offender. If the sentence is an indefinite term consisting of a minimum term of thirty years and a maximum term of life imprisonment imposed as described in division (D) (2) (b) of this section or a sentence of life imprisonment without parole imposed under division (D) (2) (c) of this section, the sentence shall be served pursuant to section 2971.03 of the Revised Code. If the trial jury recommends that the sentence of death be imposed upon the offender, the court shall proceed to impose sentence pursuant to division (D) (3) of this section.

(3) Upon consideration of the relevant evidence raised at trial, the testimony, other evidence, statement of the offender, arguments of counsel, and, if applicable, the reports submitted to the court pursuant to division (D) (1) of this section, if, after receiving pursuant to division (D) (2) of this section the trial jury's recommendation that the sentence of death be imposed, the court finds, by proof beyond a reasonable doubt, or if the panel of three judges unanimously finds, by proof beyond a reasonable doubt, that the aggravating circumstances the offender was found guilty of committing outweigh the mitigating factors, it shall impose sentence of death on the offender. Absent such a finding by the court or panel, the court or the panel shall impose one of the following sentences on the offender:

(a) Except as provided in division (D) (3) (b) of this section, one of the following:

(i) Life imprisonment without parole;

(ii) Subject to division (D) (3) (a) (iv) of this section, life imprisonment with parole eligibility after serving twenty-five full years of imprisonment;

(iii) Subject to division (D) (3) (a) (iv) of this section, 614  
life imprisonment with parole eligibility after serving thirty 615  
full years of imprisonment; 616

(iv) If the victim of the aggravated murder was less than 617  
thirteen years of age, the offender also is convicted of or 618  
pleads guilty to a sexual motivation specification that was 619  
included in the indictment, count in the indictment, or 620  
information charging the offense, and the trial court does not 621  
impose a sentence of life imprisonment without parole on the 622  
offender pursuant to division (D) (3) (a) (i) of this section, the 623  
court or panel shall sentence the offender pursuant to division 624  
(B) (3) of section 2971.03 of the Revised Code to an indefinite 625  
term consisting of a minimum term of thirty years and a maximum 626  
term of life imprisonment. 627

(b) If the offender also is convicted of or pleads guilty 628  
to a sexual motivation specification and a sexually violent 629  
predator specification that are included in the indictment, 630  
count in the indictment, or information that charged the 631  
aggravated murder, life imprisonment without parole that shall 632  
be served pursuant to section 2971.03 of the Revised Code. 633

(E) (1) If the offender raised the matter of age at trial 634  
pursuant to section 2929.023 of the Revised Code, was convicted 635  
of aggravated murder and one or more specifications of an 636  
aggravating circumstance listed in division (A) of section 637  
2929.04 of the Revised Code, and was not found at trial to have 638  
been eighteen years of age or older at the time of the 639  
commission of the offense, the court or the panel of three 640  
judges shall not impose a sentence of death on the offender. 641  
Instead, the court or panel shall impose one of the following 642  
sentences on the offender: 643

~~(1)~~ ~~(a)~~ Except as provided in division (E) ~~(2)~~ ~~(1)~~ ~~(b)~~ of 644  
this section, one of the following: 645

~~(a)~~ ~~(i)~~ Life imprisonment without parole; 646

~~(b)~~ ~~(ii)~~ Subject to division (E) ~~(2)~~ ~~(d)~~ ~~(1)~~ ~~(a)~~ ~~(iv)~~ of this 647  
section, life imprisonment with parole eligibility after serving 648  
twenty-five full years of imprisonment; 649

~~(e)~~ ~~(iii)~~ Subject to division (E) ~~(2)~~ ~~(d)~~ ~~(1)~~ ~~(a)~~ ~~(iv)~~ of this 650  
section, life imprisonment with parole eligibility after serving 651  
thirty full years of imprisonment; 652

~~(d)~~ ~~(iv)~~ If the victim of the aggravated murder was less 653  
than thirteen years of age, the offender also is convicted of or 654  
pleads guilty to a sexual motivation specification that was 655  
included in the indictment, count in the indictment, or 656  
information charging the offense, and the trial court does not 657  
impose a sentence of life imprisonment without parole on the 658  
offender pursuant to division (E) ~~(2)~~ ~~(1)~~ ~~(a)~~ ~~(i)~~ of this section, 659  
the court or panel shall sentence the offender pursuant to 660  
division (B) (3) of section 2971.03 of the Revised Code to an 661  
indefinite term consisting of a minimum term of thirty years and 662  
a maximum term of life imprisonment. 663

~~(2)~~ ~~(b)~~ If the offender also is convicted of or pleads 664  
guilty to a sexual motivation specification and a sexually 665  
violent predator specification that are included in the 666  
indictment, count in the indictment, or information that charged 667  
the aggravated murder, life imprisonment without parole that 668  
shall be served pursuant to section 2971.03 of the Revised Code. 669

(2) If the offender raised the matter of the offender's 670  
serious mental illness at the time of the commission of the 671  
offense pursuant to section 2929.025 of the Revised Code, was 672

found under that section to be ineligible for a sentence of 673  
death due to serious mental illness, and was convicted of 674  
aggravated murder and one or more specifications of an 675  
aggravating circumstance listed in division (A) of section 676  
2929.04 of the Revised Code, the court or panel of three judges 677  
shall not impose a sentence of death on the offender. Instead, 678  
the court or panel shall sentence the offender to life 679  
imprisonment without parole. 680

(F) The court or the panel of three judges, when it 681  
imposes sentence of death, shall state in a separate opinion its 682  
specific findings as to the existence of any of the mitigating 683  
factors set forth in division (B) of section 2929.04 of the 684  
Revised Code, the existence of any other mitigating factors, the 685  
aggravating circumstances the offender was found guilty of 686  
committing, and the reasons why the aggravating circumstances 687  
the offender was found guilty of committing were sufficient to 688  
outweigh the mitigating factors. The court or panel, when it 689  
imposes life imprisonment or an indefinite term consisting of a 690  
minimum term of thirty years and a maximum term of life 691  
imprisonment under division (D) of this section, shall state in 692  
a separate opinion its specific findings of which of the 693  
mitigating factors set forth in division (B) of section 2929.04 694  
of the Revised Code it found to exist, what other mitigating 695  
factors it found to exist, what aggravating circumstances the 696  
offender was found guilty of committing, and why it could not 697  
find that these aggravating circumstances were sufficient to 698  
outweigh the mitigating factors. For cases in which a sentence 699  
of death is imposed for an offense committed before January 1, 700  
1995, the court or panel shall file the opinion required to be 701  
prepared by this division with the clerk of the appropriate 702  
court of appeals and with the clerk of the supreme court within 703



fifteen days after the court or panel imposes sentence. For 704  
cases in which a sentence of death is imposed for an offense 705  
committed on or after January 1, 1995, the court or panel shall 706  
file the opinion required to be prepared by this division with 707  
the clerk of the supreme court within fifteen days after the 708  
court or panel imposes sentence. The judgment in a case in which 709  
a sentencing hearing is held pursuant to this section is not 710  
final until the opinion is filed. 711

(G) (1) Whenever the court or a panel of three judges 712  
imposes a sentence of death for an offense committed before 713  
January 1, 1995, the clerk of the court in which the judgment is 714  
rendered shall make and retain a copy of the entire record in 715  
the case, and shall deliver the original of the entire record in 716  
the case to the appellate court. 717

(2) Whenever the court or a panel of three judges imposes 718  
a sentence of death for an offense committed on or after January 719  
1, 1995, the clerk of the court in which the judgment is 720  
rendered shall make and retain a copy of the entire record in 721  
the case, and shall deliver the original of the entire record in 722  
the case to the supreme court. 723

**Sec. 2929.04.** (A) Imposition of the death penalty for 724  
aggravated murder is precluded unless one or more of the 725  
following is specified in the indictment or count in the 726  
indictment pursuant to section 2941.14 of the Revised Code and 727  
proved beyond a reasonable doubt: 728

(1) The offense was the assassination of the president of 729  
the United States or a person in line of succession to the 730  
presidency, the governor or lieutenant governor of this state, 731  
the president-elect or vice president-elect of the United 732  
States, the governor-elect or lieutenant governor-elect of this 733

state, or a candidate for any of the offices described in this 734  
division. For purposes of this division, a person is a candidate 735  
if the person has been nominated for election according to law, 736  
if the person has filed a petition or petitions according to law 737  
to have the person's name placed on the ballot in a primary or 738  
general election, or if the person campaigns as a write-in 739  
candidate in a primary or general election. 740

(2) The offense was committed for hire. 741

(3) The offense was committed for the purpose of escaping 742  
detection, apprehension, trial, or punishment for another 743  
offense committed by the offender. 744

(4) The offense was committed while the offender was under 745  
detention or while the offender was at large after having broken 746  
detention. As used in division (A)(4) of this section, 747  
"detention" has the same meaning as in section 2921.01 of the 748  
Revised Code, except that detention does not include 749  
hospitalization, institutionalization, or confinement in a 750  
mental health facility or intellectual disabilities facility 751  
unless at the time of the commission of the offense either of 752  
the following circumstances apply: 753

(a) The offender was in the facility as a result of being 754  
charged with a violation of a section of the Revised Code. 755

(b) The offender was under detention as a result of being 756  
convicted of or pleading guilty to a violation of a section of 757  
the Revised Code. 758

(5) Prior to the offense at bar, the offender was 759  
convicted of an offense an essential element of which was the 760  
purposeful killing of or attempt to kill another, or the offense 761  
at bar was part of a course of conduct involving the purposeful 762

killing of or attempt to kill two or more persons by the 763  
offender. 764

(6) The victim of the offense was a law enforcement 765  
officer, as defined in section 2911.01 of the Revised Code, whom 766  
the offender had reasonable cause to know or knew to be a law 767  
enforcement officer as so defined, and either the victim, at the 768  
time of the commission of the offense, was engaged in the 769  
victim's duties, or it was the offender's specific purpose to 770  
kill a law enforcement officer as so defined. 771

(7) The offense was committed while the offender was 772  
committing, attempting to commit, or fleeing immediately after 773  
committing or attempting to commit kidnapping, rape, aggravated 774  
arson, aggravated robbery, or aggravated burglary, and either 775  
the offender was the principal offender in the commission of the 776  
aggravated murder or, if not the principal offender, committed 777  
the aggravated murder with prior calculation and design. 778

(8) The victim of the aggravated murder was a witness to 779  
an offense who was purposely killed to prevent the victim's 780  
testimony in any criminal proceeding and the aggravated murder 781  
was not committed during the commission, attempted commission, 782  
or flight immediately after the commission or attempted 783  
commission of the offense to which the victim was a witness, or 784  
the victim of the aggravated murder was a witness to an offense 785  
and was purposely killed in retaliation for the victim's 786  
testimony in any criminal proceeding. 787

(9) The offender, in the commission of the offense, 788  
purposefully caused the death of another who was under thirteen 789  
years of age at the time of the commission of the offense, and 790  
either the offender was the principal offender in the commission 791  
of the offense or, if not the principal offender, committed the 792

offense with prior calculation and design. 793

(10) The offense was committed while the offender was 794  
committing, attempting to commit, or fleeing immediately after 795  
committing or attempting to commit terrorism. 796

(B) If one or more of the aggravating circumstances listed 797  
in division (A) of this section is specified in the indictment 798  
or count in the indictment and proved beyond a reasonable doubt, 799  
~~and~~ if the offender did not raise the matter of age pursuant to 800  
section 2929.023 of the Revised Code or ~~if~~ the offender, after 801  
raising ~~the that matter of age,~~ was found at trial to have been 802  
eighteen years of age or older at the time of the commission of 803  
the offense, and if the offender did not raise the matter of the 804  
offender's serious mental illness at the time of the commission 805  
of the offense pursuant to section 2929.025 of the Revised Code 806  
or the offender after raising that matter was found by the court 807  
to not be ineligible for a sentence of death, the court, trial 808  
jury, or panel of three judges shall consider, and weigh against 809  
the aggravating circumstances proved beyond a reasonable doubt, 810  
the nature and circumstances of the offense, the history, 811  
character, and background of the offender, and all of the 812  
following factors: 813

(1) Whether the victim of the offense induced or 814  
facilitated it; 815

(2) Whether it is unlikely that the offense would have 816  
been committed, but for the fact that the offender was under 817  
duress, coercion, or strong provocation; 818

(3) Whether, at the time of committing the offense, the 819  
offender, because of a mental disease or defect, lacked 820  
substantial capacity to appreciate the criminality of the 821

offender's conduct or to conform the offender's conduct to the requirements of the law;

(4) The youth of the offender;

(5) The offender's lack of a significant history of prior criminal convictions and delinquency adjudications;

(6) If the offender was a participant in the offense but not the principal offender, the degree of the offender's participation in the offense and the degree of the offender's participation in the acts that led to the death of the victim;

(7) Any other factors that are relevant to the issue of whether the offender should be sentenced to death.

(C) The defendant shall be given great latitude in the presentation of evidence of the factors listed in division (B) of this section and of any other factors in mitigation of the imposition of the sentence of death.

The existence of any of the mitigating factors listed in division (B) of this section does not preclude the imposition of a sentence of death on the offender but shall be weighed pursuant to divisions (D) (2) and (3) of section 2929.03 of the Revised Code by the trial court, trial jury, or the panel of three judges against the aggravating circumstances the offender was found guilty of committing.

**Sec. 2929.06.** (A) (1) If a sentence of death imposed upon an offender is set aside, nullified, or vacated because the, or voided for any of the following reasons, the trial court that sentenced the offender shall conduct a hearing to resentence the offender in accordance with division (A) (2) of this section:

(a) The court of appeals, in a case in which a sentence of

death was imposed for an offense committed before January 1, 850  
1995, or the supreme court, in ~~cases~~ a case in which the supreme 851  
court reviews the sentence upon appeal, could not affirm the 852  
sentence of death under the standards imposed by section 2929.05 853  
of the Revised Code, ~~is set aside, nullified, or vacated for~~ 854  
~~the.~~ 855

(b) The sole reason that the statutory procedure for 856  
imposing the sentence of death that is set forth in sections 857  
2929.03 and 2929.04 of the Revised Code is unconstitutional~~7.~~ 858

(c) The sentence of death is set aside, nullified, or 859  
vacated pursuant to division (C) of section 2929.05 of the 860  
Revised Code, ~~or is set aside, nullified, or vacated because a.~~ 861

(d) A court has determined that the offender is a person 862  
with an intellectual disability under standards set forth in 863  
decisions of the supreme court of this state or the United 864  
States supreme court, ~~the trial court that sentenced the~~ 865  
~~offender shall conduct a hearing to resentence the offender.~~ 866

(e) The sentence of death is voided by a court pursuant to 867  
division (H) of section 2953.21 of the Revised Code. 868

(2) At the a resentencing hearing conducted under division 869  
(A) (1) of this section, the court shall impose upon the offender 870  
a sentence of life imprisonment or an indefinite term consisting 871  
of a minimum term of thirty years and a maximum term of life 872  
imprisonment that is determined as specified in this division. 873  
If the sentence of death was voided by a court pursuant to 874  
division (H) of section 2953.21 of the Revised Code, the 875  
offender has waived any right to be sentenced to any sentence 876  
other than life imprisonment without parole as described in 877  
division (A) (3) (b) of that section and the court shall impose a 878

sentence of life imprisonment without parole. If the immediately 879  
preceding sentence does not apply and if division (D) of section 880  
2929.03 of the Revised Code, at the time the offender committed 881  
the aggravated murder for which the sentence of death was 882  
imposed, required the imposition when a sentence of death was 883  
not imposed of a sentence of life imprisonment without parole or 884  
a sentence of an indefinite term consisting of a minimum term of 885  
thirty years and a maximum term of life imprisonment to be 886  
imposed pursuant to division (A) or (B) (3) of section 2971.03 of 887  
the Revised Code and served pursuant to that section, the court 888  
shall impose the sentence so required. In all other cases, the 889  
sentences of life imprisonment that are available at the 890  
hearing, and from which the court shall impose sentence, shall 891  
be the same sentences of life imprisonment that were available 892  
under division (D) of section 2929.03 or under section 2909.24 893  
of the Revised Code at the time the offender committed the 894  
offense for which the sentence of death was imposed. Nothing in 895  
this division regarding the resentencing of an offender shall 896  
affect the operation of section 2971.03 of the Revised Code. 897

(B) Whenever any court of this state or any federal court 898  
sets aside, nullifies, or vacates a sentence of death imposed 899  
upon an offender because of error that occurred in the 900  
sentencing phase of the trial and if division (A) of this 901  
section does not apply, the trial court that sentenced the 902  
offender shall conduct a new hearing to resentence the offender. 903  
If the offender was tried by a jury, the trial court shall 904  
impanel a new jury for the hearing. If the offender was tried by 905  
a panel of three judges, that panel or, if necessary, a new 906  
panel of three judges shall conduct the hearing. At the hearing, 907  
the court or panel shall follow the procedure set forth in 908  
division (D) of section 2929.03 of the Revised Code in 909

determining whether to impose upon the offender a sentence of 910  
death, a sentence of life imprisonment, or an indefinite term 911  
consisting of a minimum term of thirty years and a maximum term 912  
of life imprisonment. If, pursuant to that procedure, the court 913  
or panel determines that it will impose a sentence other than a 914  
sentence of death, the court or panel shall impose upon the 915  
offender one of the sentences of life imprisonment that could 916  
have been imposed at the time the offender committed the offense 917  
for which the sentence of death was imposed, determined as 918  
specified in this division, or an indefinite term consisting of 919  
a minimum term of thirty years and a maximum term of life 920  
imprisonment that is determined as specified in this division. 921  
If division (D) of section 2929.03 of the Revised Code, at the 922  
time the offender committed the aggravated murder for which the 923  
sentence of death was imposed, required the imposition when a 924  
sentence of death was not imposed of a sentence of life 925  
imprisonment without parole or a sentence of an indefinite term 926  
consisting of a minimum term of thirty years and a maximum term 927  
of life imprisonment to be imposed pursuant to division (A) or 928  
(B) (3) of section 2971.03 of the Revised Code and served 929  
pursuant to that section, the court or panel shall impose the 930  
sentence so required. In all other cases, the sentences of life 931  
imprisonment that are available at the hearing, and from which 932  
the court or panel shall impose sentence, shall be the same 933  
sentences of life imprisonment that were available under 934  
division (D) of section 2929.03 or under section 2909.24 of the 935  
Revised Code at the time the offender committed the offense for 936  
which the sentence of death was imposed. 937

(C) If a sentence of life imprisonment without parole 938  
imposed upon an offender pursuant to section 2929.021 or 2929.03 939  
of the Revised Code is set aside, nullified, or vacated for the 940



sole reason that the statutory procedure for imposing the 941  
sentence of life imprisonment without parole that is set forth 942  
in sections 2929.03 and 2929.04 of the Revised Code is 943  
unconstitutional, the trial court that sentenced the offender 944  
shall conduct a hearing to resentence the offender to life 945  
imprisonment with parole eligibility after serving twenty-five 946  
full years of imprisonment or to life imprisonment with parole 947  
eligibility after serving thirty full years of imprisonment. 948

(D) Nothing in this section limits or restricts the rights 949  
of the state to appeal any order setting aside, nullifying, or 950  
vacating a conviction or sentence of death, when an appeal of 951  
that nature otherwise would be available. 952

(E) This section, as amended by H.B. 184 of the 125th 953  
general assembly, shall apply to all offenders who have been 954  
sentenced to death for an aggravated murder that was committed 955  
on or after October 19, 1981, or for terrorism that was 956  
committed on or after May 15, 2002. This section, as amended by 957  
H.B. 184 of the 125th general assembly, shall apply equally to 958  
all such offenders sentenced to death prior to, on, or after 959  
March 23, 2005, including offenders who, on March 23, 2005, are 960  
challenging their sentence of death and offenders whose sentence 961  
of death has been set aside, nullified, or vacated by any court 962  
of this state or any federal court but who, as of March 23, 963  
2005, have not yet been resentenced. 964

**Sec. 2929.14.** (A) Except as provided in division (B) (1), 965  
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (B) (9), 966  
(B) (10), (B) (11), (E), (G), (H), (J), or (K) of this section or 967  
in division (D) (6) of section 2919.25 of the Revised Code and 968  
except in relation to an offense for which a sentence of death 969  
or life imprisonment is to be imposed, if the court imposing a 970

sentence upon an offender for a felony elects or is required to 971  
impose a prison term on the offender pursuant to this chapter, 972  
the court shall impose a prison term that shall be one of the 973  
following: 974

(1) (a) For a felony of the first degree committed on or 975  
after the effective date of this amendment, the prison term 976  
shall be an indefinite prison term with a stated minimum term 977  
selected by the court of three, four, five, six, seven, eight, 978  
nine, ten, or eleven years and a maximum term that is determined 979  
pursuant to section 2929.144 of the Revised Code, except that if 980  
the section that criminalizes the conduct constituting the 981  
felony specifies a different minimum term or penalty for the 982  
offense, the specific language of that section shall control in 983  
determining the minimum term or otherwise sentencing the 984  
offender but the minimum term or sentence imposed under that 985  
specific language shall be considered for purposes of the 986  
Revised Code as if it had been imposed under this division. 987

(b) For a felony of the first degree committed prior to 988  
the effective date of this amendment, the prison term shall be a 989  
definite prison term of three, four, five, six, seven, eight, 990  
nine, ten, or eleven years. 991

(2) (a) For a felony of the second degree committed on or 992  
after the effective date of this amendment, the prison term 993  
shall be an indefinite prison term with a stated minimum term 994  
selected by the court of two, three, four, five, six, seven, or 995  
eight years and a maximum term that is determined pursuant to 996  
section 2929.144 of the Revised Code, except that if the section 997  
that criminalizes the conduct constituting the felony specifies 998  
a different minimum term or penalty for the offense, the 999  
specific language of that section shall control in determining 1000

the minimum term or otherwise sentencing the offender but the 1001  
minimum term or sentence imposed under that specific language 1002  
shall be considered for purposes of the Revised Code as if it 1003  
had been imposed under this division. 1004

(b) For a felony of the second degree committed prior to 1005  
the effective date of this amendment, the prison term shall be a 1006  
definite term of two, three, four, five, six, seven, or eight 1007  
years. 1008

(3) (a) For a felony of the third degree that is a 1009  
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 1010  
2907.05, 2907.321, 2907.322, 2907.323, or 3795.04 of the Revised 1011  
Code or that is a violation of section 2911.02 or 2911.12 of the 1012  
Revised Code if the offender previously has been convicted of or 1013  
pleaded guilty in two or more separate proceedings to two or 1014  
more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 1015  
of the Revised Code, the prison term shall be a definite term of 1016  
twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, 1017  
forty-eight, fifty-four, or sixty months. 1018

(b) For a felony of the third degree that is not an 1019  
offense for which division (A) (3) (a) of this section applies, 1020  
the prison term shall be a definite term of nine, twelve, 1021  
eighteen, twenty-four, thirty, or thirty-six months. 1022

(4) For a felony of the fourth degree, the prison term 1023  
shall be a definite term of six, seven, eight, nine, ten, 1024  
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, 1025  
or eighteen months. 1026

(5) For a felony of the fifth degree, the prison term 1027  
shall be a definite term of six, seven, eight, nine, ten, 1028  
eleven, or twelve months. 1029

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

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

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

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

(iv) A prison term of nine years if the specification is of the type described in division (D) of section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or suppressor on or about the offender's person or under the offender's control while committing the offense and

specifies that the offender previously has been convicted of or 1060  
pleaded guilty to a specification of the type described in 1061  
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 1062  
the Revised Code; 1063

(v) A prison term of fifty-four months if the 1064  
specification is of the type described in division (D) of 1065  
section 2941.145 of the Revised Code that charges the offender 1066  
with having a firearm on or about the offender's person or under 1067  
the offender's control while committing the offense and 1068  
displaying the firearm, brandishing the firearm, indicating that 1069  
the offender possessed the firearm, or using the firearm to 1070  
facilitate the offense and that the offender previously has been 1071  
convicted of or pleaded guilty to a specification of the type 1072  
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 1073  
2941.1412 of the Revised Code; 1074

(vi) A prison term of eighteen months if the specification 1075  
is of the type described in division (D) of section 2941.141 of 1076  
the Revised Code that charges the offender with having a firearm 1077  
on or about the offender's person or under the offender's 1078  
control while committing the offense and that the offender 1079  
previously has been convicted of or pleaded guilty to a 1080  
specification of the type described in section 2941.141, 1081  
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 1082

(b) If a court imposes a prison term on an offender under 1083  
division (B)(1)(a) of this section, the prison term shall not be 1084  
reduced pursuant to section 2967.19, section 2929.20, section 1085  
2967.193, or any other provision of Chapter 2967. or Chapter 1086  
5120. of the Revised Code. Except as provided in division (B)(1) 1087  
(g) of this section, a court shall not impose more than one 1088  
prison term on an offender under division (B)(1)(a) of this 1089

section for felonies committed as part of the same act or 1090  
transaction. 1091

(c) (i) Except as provided in division (B) (1) (e) of this 1092  
section, if an offender who is convicted of or pleads guilty to 1093  
a violation of section 2923.161 of the Revised Code or to a 1094  
felony that includes, as an essential element, purposely or 1095  
knowingly causing or attempting to cause the death of or 1096  
physical harm to another, also is convicted of or pleads guilty 1097  
to a specification of the type described in division (A) of 1098  
section 2941.146 of the Revised Code that charges the offender 1099  
with committing the offense by discharging a firearm from a 1100  
motor vehicle other than a manufactured home, the court, after 1101  
imposing a prison term on the offender for the violation of 1102  
section 2923.161 of the Revised Code or for the other felony 1103  
offense under division (A), (B) (2), or (B) (3) of this section, 1104  
shall impose an additional prison term of five years upon the 1105  
offender that shall not be reduced pursuant to section 2929.20, 1106  
section 2967.19, section 2967.193, or any other provision of 1107  
Chapter 2967. or Chapter 5120. of the Revised Code. 1108

(ii) Except as provided in division (B) (1) (e) of this 1109  
section, if an offender who is convicted of or pleads guilty to 1110  
a violation of section 2923.161 of the Revised Code or to a 1111  
felony that includes, as an essential element, purposely or 1112  
knowingly causing or attempting to cause the death of or 1113  
physical harm to another, also is convicted of or pleads guilty 1114  
to a specification of the type described in division (C) of 1115  
section 2941.146 of the Revised Code that charges the offender 1116  
with committing the offense by discharging a firearm from a 1117  
motor vehicle other than a manufactured home and that the 1118  
offender previously has been convicted of or pleaded guilty to a 1119  
specification of the type described in section 2941.141, 1120

2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 1121  
the court, after imposing a prison term on the offender for the 1122  
violation of section 2923.161 of the Revised Code or for the 1123  
other felony offense under division (A), (B) (2), or (3) of this 1124  
section, shall impose an additional prison term of ninety months 1125  
upon the offender that shall not be reduced pursuant to section 1126  
2929.20, 2967.19, 2967.193, or any other provision of Chapter 1127  
2967. or Chapter 5120. of the Revised Code. 1128

(iii) A court shall not impose more than one additional 1129  
prison term on an offender under division (B) (1) (c) of this 1130  
section for felonies committed as part of the same act or 1131  
transaction. If a court imposes an additional prison term on an 1132  
offender under division (B) (1) (c) of this section relative to an 1133  
offense, the court also shall impose a prison term under 1134  
division (B) (1) (a) of this section relative to the same offense, 1135  
provided the criteria specified in that division for imposing an 1136  
additional prison term are satisfied relative to the offender 1137  
and the offense. 1138

(d) If an offender who is convicted of or pleads guilty to 1139  
an offense of violence that is a felony also is convicted of or 1140  
pleads guilty to a specification of the type described in 1141  
section 2941.1411 of the Revised Code that charges the offender 1142  
with wearing or carrying body armor while committing the felony 1143  
offense of violence, the court shall impose on the offender an 1144  
additional prison term of two years. The prison term so imposed, 1145  
subject to divisions (C) to (I) of section 2967.19 of the 1146  
Revised Code, shall not be reduced pursuant to section 2929.20, 1147  
section 2967.19, section 2967.193, or any other provision of 1148  
Chapter 2967. or Chapter 5120. of the Revised Code. A court 1149  
shall not impose more than one prison term on an offender under 1150  
division (B) (1) (d) of this section for felonies committed as 1151

part of the same act or transaction. If a court imposes an 1152  
additional prison term under division (B) (1) (a) or (c) of this 1153  
section, the court is not precluded from imposing an additional 1154  
prison term under division (B) (1) (d) of this section. 1155

(e) The court shall not impose any of the prison terms 1156  
described in division (B) (1) (a) of this section or any of the 1157  
additional prison terms described in division (B) (1) (c) of this 1158  
section upon an offender for a violation of section 2923.12 or 1159  
2923.123 of the Revised Code. The court shall not impose any of 1160  
the prison terms described in division (B) (1) (a) or (b) of this 1161  
section upon an offender for a violation of section 2923.122 1162  
that involves a deadly weapon that is a firearm other than a 1163  
dangerous ordnance, section 2923.16, or section 2923.121 of the 1164  
Revised Code. The court shall not impose any of the prison terms 1165  
described in division (B) (1) (a) of this section or any of the 1166  
additional prison terms described in division (B) (1) (c) of this 1167  
section upon an offender for a violation of section 2923.13 of 1168  
the Revised Code unless all of the following apply: 1169

(i) The offender previously has been convicted of 1170  
aggravated murder, murder, or any felony of the first or second 1171  
degree. 1172

(ii) Less than five years have passed since the offender 1173  
was released from prison or post-release control, whichever is 1174  
later, for the prior offense. 1175

(f) (i) If an offender is convicted of or pleads guilty to 1176  
a felony that includes, as an essential element, causing or 1177  
attempting to cause the death of or physical harm to another and 1178  
also is convicted of or pleads guilty to a specification of the 1179  
type described in division (A) of section 2941.1412 of the 1180  
Revised Code that charges the offender with committing the 1181



offense by discharging a firearm at a peace officer as defined 1182  
in section 2935.01 of the Revised Code or a corrections officer, 1183  
as defined in section 2941.1412 of the Revised Code, the court, 1184  
after imposing a prison term on the offender for the felony 1185  
offense under division (A), (B) (2), or (B) (3) of this section, 1186  
shall impose an additional prison term of seven years upon the 1187  
offender that shall not be reduced pursuant to section 2929.20, 1188  
section 2967.19, section 2967.193, or any other provision of 1189  
Chapter 2967. or Chapter 5120. of the Revised Code. 1190

(ii) If an offender is convicted of or pleads guilty to a 1191  
felony that includes, as an essential element, causing or 1192  
attempting to cause the death of or physical harm to another and 1193  
also is convicted of or pleads guilty to a specification of the 1194  
type described in division (B) of section 2941.1412 of the 1195  
Revised Code that charges the offender with committing the 1196  
offense by discharging a firearm at a peace officer, as defined 1197  
in section 2935.01 of the Revised Code, or a corrections 1198  
officer, as defined in section 2941.1412 of the Revised Code, 1199  
and that the offender previously has been convicted of or 1200  
pleaded guilty to a specification of the type described in 1201  
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 1202  
the Revised Code, the court, after imposing a prison term on the 1203  
offender for the felony offense under division (A), (B) (2), or 1204  
(3) of this section, shall impose an additional prison term of 1205  
one hundred twenty-six months upon the offender that shall not 1206  
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 1207  
any other provision of Chapter 2967. or 5120. of the Revised 1208  
Code. 1209

(iii) If an offender is convicted of or pleads guilty to 1210  
two or more felonies that include, as an essential element, 1211  
causing or attempting to cause the death or physical harm to 1212

another and also is convicted of or pleads guilty to a 1213  
specification of the type described under division (B) (1) (f) of 1214  
this section in connection with two or more of the felonies of 1215  
which the offender is convicted or to which the offender pleads 1216  
guilty, the sentencing court shall impose on the offender the 1217  
prison term specified under division (B) (1) (f) of this section 1218  
for each of two of the specifications of which the offender is 1219  
convicted or to which the offender pleads guilty and, in its 1220  
discretion, also may impose on the offender the prison term 1221  
specified under that division for any or all of the remaining 1222  
specifications. If a court imposes an additional prison term on 1223  
an offender under division (B) (1) (f) of this section relative to 1224  
an offense, the court shall not impose a prison term under 1225  
division (B) (1) (a) or (c) of this section relative to the same 1226  
offense. 1227

(g) If an offender is convicted of or pleads guilty to two 1228  
or more felonies, if one or more of those felonies are 1229  
aggravated murder, murder, attempted aggravated murder, 1230  
attempted murder, aggravated robbery, felonious assault, or 1231  
rape, and if the offender is convicted of or pleads guilty to a 1232  
specification of the type described under division (B) (1) (a) of 1233  
this section in connection with two or more of the felonies, the 1234  
sentencing court shall impose on the offender the prison term 1235  
specified under division (B) (1) (a) of this section for each of 1236  
the two most serious specifications of which the offender is 1237  
convicted or to which the offender pleads guilty and, in its 1238  
discretion, also may impose on the offender the prison term 1239  
specified under that division for any or all of the remaining 1240  
specifications. 1241

(2) (a) If division (B) (2) (b) of this section does not 1242  
apply, the court may impose on an offender, in addition to the 1243

longest prison term authorized or required for the offense or, 1244  
for offenses for which division (A) (1) (a) or (2) (a) of this 1245  
section applies, in addition to the longest minimum prison term 1246  
authorized or required for the offense, an additional definite 1247  
prison term of one, two, three, four, five, six, seven, eight, 1248  
nine, or ten years if all of the following criteria are met: 1249

(i) The offender is convicted of or pleads guilty to a 1250  
specification of the type described in section 2941.149 of the 1251  
Revised Code that the offender is a repeat violent offender. 1252

(ii) The offense of which the offender currently is 1253  
convicted or to which the offender currently pleads guilty is 1254  
aggravated murder and the court does not impose a sentence of 1255  
death or life imprisonment without parole, murder, terrorism and 1256  
the court does not impose a sentence of life imprisonment 1257  
without parole, any felony of the first degree that is an 1258  
offense of violence and the court does not impose a sentence of 1259  
life imprisonment without parole, or any felony of the second 1260  
degree that is an offense of violence and the trier of fact 1261  
finds that the offense involved an attempt to cause or a threat 1262  
to cause serious physical harm to a person or resulted in 1263  
serious physical harm to a person. 1264

(iii) The court imposes the longest prison term for the 1265  
offense or the longest minimum prison term for the offense, 1266  
whichever is applicable, that is not life imprisonment without 1267  
parole. 1268

(iv) The court finds that the prison terms imposed 1269  
pursuant to division (B) (2) (a) (iii) of this section and, if 1270  
applicable, division (B) (1) or (3) of this section are 1271  
inadequate to punish the offender and protect the public from 1272  
future crime, because the applicable factors under section 1273

2929.12 of the Revised Code indicating a greater likelihood of 1274  
recidivism outweigh the applicable factors under that section 1275  
indicating a lesser likelihood of recidivism. 1276

(v) The court finds that the prison terms imposed pursuant 1277  
to division (B) (2) (a) (iii) of this section and, if applicable, 1278  
division (B) (1) or (3) of this section are demeaning to the 1279  
seriousness of the offense, because one or more of the factors 1280  
under section 2929.12 of the Revised Code indicating that the 1281  
offender's conduct is more serious than conduct normally 1282  
constituting the offense are present, and they outweigh the 1283  
applicable factors under that section indicating that the 1284  
offender's conduct is less serious than conduct normally 1285  
constituting the offense. 1286

(b) The court shall impose on an offender the longest 1287  
prison term authorized or required for the offense or, for 1288  
offenses for which division (A) (1) (a) or (2) (a) of this section 1289  
applies, the longest minimum prison term authorized or required 1290  
for the offense, and shall impose on the offender an additional 1291  
definite prison term of one, two, three, four, five, six, seven, 1292  
eight, nine, or ten years if all of the following criteria are 1293  
met: 1294

(i) The offender is convicted of or pleads guilty to a 1295  
specification of the type described in section 2941.149 of the 1296  
Revised Code that the offender is a repeat violent offender. 1297

(ii) The offender within the preceding twenty years has 1298  
been convicted of or pleaded guilty to three or more offenses 1299  
described in division (CC) (1) of section 2929.01 of the Revised 1300  
Code, including all offenses described in that division of which 1301  
the offender is convicted or to which the offender pleads guilty 1302  
in the current prosecution and all offenses described in that 1303

division of which the offender previously has been convicted or 1304  
to which the offender previously pleaded guilty, whether 1305  
prosecuted together or separately. 1306

(iii) The offense or offenses of which the offender 1307  
currently is convicted or to which the offender currently pleads 1308  
guilty is aggravated murder and the court does not impose a 1309  
sentence of death or life imprisonment without parole, murder, 1310  
terrorism and the court does not impose a sentence of life 1311  
imprisonment without parole, any felony of the first degree that 1312  
is an offense of violence and the court does not impose a 1313  
sentence of life imprisonment without parole, or any felony of 1314  
the second degree that is an offense of violence and the trier 1315  
of fact finds that the offense involved an attempt to cause or a 1316  
threat to cause serious physical harm to a person or resulted in 1317  
serious physical harm to a person. 1318

(c) For purposes of division (B) (2) (b) of this section, 1319  
two or more offenses committed at the same time or as part of 1320  
the same act or event shall be considered one offense, and that 1321  
one offense shall be the offense with the greatest penalty. 1322

(d) A sentence imposed under division (B) (2) (a) or (b) of 1323  
this section shall not be reduced pursuant to section 2929.20, 1324  
section 2967.19, or section 2967.193, or any other provision of 1325  
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 1326  
shall serve an additional prison term imposed under division (B) 1327  
(2) (a) or (b) of this section consecutively to and prior to the 1328  
prison term imposed for the underlying offense. 1329

(e) When imposing a sentence pursuant to division (B) (2) 1330  
(a) or (b) of this section, the court shall state its findings 1331  
explaining the imposed sentence. 1332

(3) Except when an offender commits a violation of section 1333  
2903.01 or 2907.02 of the Revised Code and the penalty imposed 1334  
for the violation is life imprisonment or commits a violation of 1335  
section 2903.02 of the Revised Code, if the offender commits a 1336  
violation of section 2925.03 or 2925.11 of the Revised Code and 1337  
that section classifies the offender as a major drug offender, 1338  
if the offender commits a violation of section 2925.05 of the 1339  
Revised Code and division (E)(1) of that section classifies the 1340  
offender as a major drug offender, if the offender commits a 1341  
felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 1342  
3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, 1343  
division (C) or (D) of section 3719.172, division (E) of section 1344  
4729.51, or division (J) of section 4729.54 of the Revised Code 1345  
that includes the sale, offer to sell, or possession of a 1346  
schedule I or II controlled substance, with the exception of 1347  
marihuana, and the court imposing sentence upon the offender 1348  
finds that the offender is guilty of a specification of the type 1349  
described in division (A) of section 2941.1410 of the Revised 1350  
Code charging that the offender is a major drug offender, if the 1351  
court imposing sentence upon an offender for a felony finds that 1352  
the offender is guilty of corrupt activity with the most serious 1353  
offense in the pattern of corrupt activity being a felony of the 1354  
first degree, or if the offender is guilty of an attempted 1355  
violation of section 2907.02 of the Revised Code and, had the 1356  
offender completed the violation of section 2907.02 of the 1357  
Revised Code that was attempted, the offender would have been 1358  
subject to a sentence of life imprisonment or life imprisonment 1359  
without parole for the violation of section 2907.02 of the 1360  
Revised Code, the court shall impose upon the offender for the 1361  
felony violation a mandatory prison term determined as described 1362  
in this division that, subject to divisions (C) to (I) of 1363  
section 2967.19 of the Revised Code, cannot be reduced pursuant 1364

to section 2929.20, section 2967.19, or any other provision of 1365  
Chapter 2967. or 5120. of the Revised Code. The mandatory prison 1366  
term shall be the maximum definite prison term prescribed in 1367  
division (A) (1) (b) of this section for a felony of the first 1368  
degree, except that for offenses for which division (A) (1) (a) of 1369  
this section applies, the mandatory prison term shall be the 1370  
longest minimum prison term prescribed in that division for the 1371  
offense. 1372

(4) If the offender is being sentenced for a third or 1373  
fourth degree felony OVI offense under division (G) (2) of 1374  
section 2929.13 of the Revised Code, the sentencing court shall 1375  
impose upon the offender a mandatory prison term in accordance 1376  
with that division. In addition to the mandatory prison term, if 1377  
the offender is being sentenced for a fourth degree felony OVI 1378  
offense, the court, notwithstanding division (A) (4) of this 1379  
section, may sentence the offender to a definite prison term of 1380  
not less than six months and not more than thirty months, and if 1381  
the offender is being sentenced for a third degree felony OVI 1382  
offense, the sentencing court may sentence the offender to an 1383  
additional prison term of any duration specified in division (A) 1384  
(3) of this section. In either case, the additional prison term 1385  
imposed shall be reduced by the sixty or one hundred twenty days 1386  
imposed upon the offender as the mandatory prison term. The 1387  
total of the additional prison term imposed under division (B) 1388  
(4) of this section plus the sixty or one hundred twenty days 1389  
imposed as the mandatory prison term shall equal a definite term 1390  
in the range of six months to thirty months for a fourth degree 1391  
felony OVI offense and shall equal one of the authorized prison 1392  
terms specified in division (A) (3) of this section for a third 1393  
degree felony OVI offense. If the court imposes an additional 1394  
prison term under division (B) (4) of this section, the offender 1395

shall serve the additional prison term after the offender has 1396  
served the mandatory prison term required for the offense. In 1397  
addition to the mandatory prison term or mandatory and 1398  
additional prison term imposed as described in division (B) (4) 1399  
of this section, the court also may sentence the offender to a 1400  
community control sanction under section 2929.16 or 2929.17 of 1401  
the Revised Code, but the offender shall serve all of the prison 1402  
terms so imposed prior to serving the community control 1403  
sanction. 1404

If the offender is being sentenced for a fourth degree 1405  
felony OVI offense under division (G) (1) of section 2929.13 of 1406  
the Revised Code and the court imposes a mandatory term of local 1407  
incarceration, the court may impose a prison term as described 1408  
in division (A) (1) of that section. 1409

(5) If an offender is convicted of or pleads guilty to a 1410  
violation of division (A) (1) or (2) of section 2903.06 of the 1411  
Revised Code and also is convicted of or pleads guilty to a 1412  
specification of the type described in section 2941.1414 of the 1413  
Revised Code that charges that the victim of the offense is a 1414  
peace officer, as defined in section 2935.01 of the Revised 1415  
Code, or an investigator of the bureau of criminal 1416  
identification and investigation, as defined in section 2903.11 1417  
of the Revised Code, the court shall impose on the offender a 1418  
prison term of five years. If a court imposes a prison term on 1419  
an offender under division (B) (5) of this section, the prison 1420  
term, subject to divisions (C) to (I) of section 2967.19 of the 1421  
Revised Code, shall not be reduced pursuant to section 2929.20, 1422  
section 2967.19, section 2967.193, or any other provision of 1423  
Chapter 2967. or Chapter 5120. of the Revised Code. A court 1424  
shall not impose more than one prison term on an offender under 1425  
division (B) (5) of this section for felonies committed as part 1426



of the same act. 1427

(6) If an offender is convicted of or pleads guilty to a 1428  
violation of division (A) (1) or (2) of section 2903.06 of the 1429  
Revised Code and also is convicted of or pleads guilty to a 1430  
specification of the type described in section 2941.1415 of the 1431  
Revised Code that charges that the offender previously has been 1432  
convicted of or pleaded guilty to three or more violations of 1433  
division (A) or (B) of section 4511.19 of the Revised Code or an 1434  
equivalent offense, as defined in section 2941.1415 of the 1435  
Revised Code, or three or more violations of any combination of 1436  
those divisions and offenses, the court shall impose on the 1437  
offender a prison term of three years. If a court imposes a 1438  
prison term on an offender under division (B) (6) of this 1439  
section, the prison term, subject to divisions (C) to (I) of 1440  
section 2967.19 of the Revised Code, shall not be reduced 1441  
pursuant to section 2929.20, section 2967.19, section 2967.193, 1442  
or any other provision of Chapter 2967. or Chapter 5120. of the 1443  
Revised Code. A court shall not impose more than one prison term 1444  
on an offender under division (B) (6) of this section for 1445  
felonies committed as part of the same act. 1446

(7) (a) If an offender is convicted of or pleads guilty to 1447  
a felony violation of section 2905.01, 2905.02, 2907.21, 1448  
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323 1449  
involving a minor, or division (B) (1), (2), (3), (4), or (5) of 1450  
section 2919.22 of the Revised Code and also is convicted of or 1451  
pleads guilty to a specification of the type described in 1452  
section 2941.1422 of the Revised Code that charges that the 1453  
offender knowingly committed the offense in furtherance of human 1454  
trafficking, the court shall impose on the offender a mandatory 1455  
prison term that is one of the following: 1456

(i) If the offense is a felony of the first degree, a 1457  
definite prison term of not less than five years and not greater 1458  
than eleven years, except that if the offense is a felony of the 1459  
first degree committed on or after the effective date of this 1460  
amendment, the court shall impose as the minimum prison term a 1461  
mandatory term of not less than five years and not greater than 1462  
eleven years; 1463

(ii) If the offense is a felony of the second or third 1464  
degree, a definite prison term of not less than three years and 1465  
not greater than the maximum prison term allowed for the offense 1466  
by division (A) (2) (b) or (3) of this section, except that if the 1467  
offense is a felony of the second degree committed on or after 1468  
the effective date of this amendment, the court shall impose as 1469  
the minimum prison term a mandatory term of not less than three 1470  
years and not greater than eight years; 1471

(iii) If the offense is a felony of the fourth or fifth 1472  
degree, a definite prison term that is the maximum prison term 1473  
allowed for the offense by division (A) of section 2929.14 of 1474  
the Revised Code. 1475

(b) Subject to divisions (C) to (I) of section 2967.19 of 1476  
the Revised Code, the prison term imposed under division (B) (7) 1477  
(a) of this section shall not be reduced pursuant to section 1478  
2929.20, section 2967.19, section 2967.193, or any other 1479  
provision of Chapter 2967. of the Revised Code. A court shall 1480  
not impose more than one prison term on an offender under 1481  
division (B) (7) (a) of this section for felonies committed as 1482  
part of the same act, scheme, or plan. 1483

(8) If an offender is convicted of or pleads guilty to a 1484  
felony violation of section 2903.11, 2903.12, or 2903.13 of the 1485  
Revised Code and also is convicted of or pleads guilty to a 1486

specification of the type described in section 2941.1423 of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, notwithstanding the range prescribed in division (A) of this section as the definite prison term or minimum prison term for felonies of the same degree as the violation, the court shall impose on the offender a mandatory prison term that is either a definite prison term of six months or one of the prison terms prescribed in division (A) of this section for felonies of the same degree as the violation, except that if the violation is a felony of the first or second degree committed on or after the effective date of this amendment, the court shall impose as the minimum prison term under division (A) (1) (a) or (2) (a) of this section a mandatory term that is one of the terms prescribed in that division, whichever is applicable, for the offense.

(9) (a) If an offender is convicted of or pleads guilty to a violation of division (A) (1) or (2) of section 2903.11 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1425 of the Revised Code, the court shall impose on the offender a mandatory prison term of six years if either of the following applies:

(i) The violation is a violation of division (A) (1) of section 2903.11 of the Revised Code and the specification charges that the offender used an accelerant in committing the violation and the serious physical harm to another or to another's unborn caused by the violation resulted in a permanent, serious disfigurement or permanent, substantial incapacity;

(ii) The violation is a violation of division (A) (2) of

section 2903.11 of the Revised Code and the specification 1517  
charges that the offender used an accelerant in committing the 1518  
violation, that the violation caused physical harm to another or 1519  
to another's unborn, and that the physical harm resulted in a 1520  
permanent, serious disfigurement or permanent, substantial 1521  
incapacity. 1522

(b) If a court imposes a prison term on an offender under 1523  
division (B) (9) (a) of this section, the prison term shall not be 1524  
reduced pursuant to section 2929.20, section 2967.19, section 1525  
2967.193, or any other provision of Chapter 2967. or Chapter 1526  
5120. of the Revised Code. A court shall not impose more than 1527  
one prison term on an offender under division (B) (9) of this 1528  
section for felonies committed as part of the same act. 1529

(c) The provisions of divisions (B) (9) and (C) (6) of this 1530  
section and of division (D) (2) of section 2903.11, division (F) 1531  
(20) of section 2929.13, and section 2941.1425 of the Revised 1532  
Code shall be known as "Judy's Law." 1533

(10) If an offender is convicted of or pleads guilty to a 1534  
violation of division (A) of section 2903.11 of the Revised Code 1535  
and also is convicted of or pleads guilty to a specification of 1536  
the type described in section 2941.1426 of the Revised Code that 1537  
charges that the victim of the offense suffered permanent 1538  
disabling harm as a result of the offense and that the victim 1539  
was under ten years of age at the time of the offense, 1540  
regardless of whether the offender knew the age of the victim, 1541  
the court shall impose upon the offender an additional definite 1542  
prison term of six years. A prison term imposed on an offender 1543  
under division (B) (10) of this section shall not be reduced 1544  
pursuant to section 2929.20, section 2967.193, or any other 1545  
provision of Chapter 2967. or Chapter 5120. of the Revised Code. 1546

If a court imposes an additional prison term on an offender 1547  
under this division relative to a violation of division (A) of 1548  
section 2903.11 of the Revised Code, the court shall not impose 1549  
any other additional prison term on the offender relative to the 1550  
same offense. 1551

(11) If an offender is convicted of or pleads guilty to a 1552  
felony violation of section 2925.03 or 2925.05 of the Revised 1553  
Code or a felony violation of section 2925.11 of the Revised 1554  
Code for which division (C) (11) of that section applies in 1555  
determining the sentence for the violation, if the drug involved 1556  
in the violation is a fentanyl-related compound or a compound, 1557  
mixture, preparation, or substance containing a fentanyl-related 1558  
compound, and if the offender also is convicted of or pleads 1559  
guilty to a specification of the type described in division (B) 1560  
of section 2941.1410 of the Revised Code that charges that the 1561  
offender is a major drug offender, in addition to any other 1562  
penalty imposed for the violation, the court shall impose on the 1563  
offender a mandatory prison term of three, four, five, six, 1564  
seven, or eight years. If a court imposes a prison term on an 1565  
offender under division (B) (11) of this section, the prison 1566  
term, subject to divisions (C) to (I) of section 2967.19 of the 1567  
Revised Code, shall not be reduced pursuant to section 2929.20, 1568  
2967.19, or 2967.193, or any other provision of Chapter 2967. or 1569  
5120. of the Revised Code. A court shall not impose more than 1570  
one prison term on an offender under division (B) (11) of this 1571  
section for felonies committed as part of the same act. 1572

(C) (1) (a) Subject to division (C) (1) (b) of this section, 1573  
if a mandatory prison term is imposed upon an offender pursuant 1574  
to division (B) (1) (a) of this section for having a firearm on or 1575  
about the offender's person or under the offender's control 1576  
while committing a felony, if a mandatory prison term is imposed 1577

upon an offender pursuant to division (B) (1) (c) of this section 1578  
for committing a felony specified in that division by 1579  
discharging a firearm from a motor vehicle, or if both types of 1580  
mandatory prison terms are imposed, the offender shall serve any 1581  
mandatory prison term imposed under either division 1582  
consecutively to any other mandatory prison term imposed under 1583  
either division or under division (B) (1) (d) of this section, 1584  
consecutively to and prior to any prison term imposed for the 1585  
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 1586  
this section or any other section of the Revised Code, and 1587  
consecutively to any other prison term or mandatory prison term 1588  
previously or subsequently imposed upon the offender. 1589

(b) If a mandatory prison term is imposed upon an offender 1590  
pursuant to division (B) (1) (d) of this section for wearing or 1591  
carrying body armor while committing an offense of violence that 1592  
is a felony, the offender shall serve the mandatory term so 1593  
imposed consecutively to any other mandatory prison term imposed 1594  
under that division or under division (B) (1) (a) or (c) of this 1595  
section, consecutively to and prior to any prison term imposed 1596  
for the underlying felony under division (A), (B) (2), or (B) (3) 1597  
of this section or any other section of the Revised Code, and 1598  
consecutively to any other prison term or mandatory prison term 1599  
previously or subsequently imposed upon the offender. 1600

(c) If a mandatory prison term is imposed upon an offender 1601  
pursuant to division (B) (1) (f) of this section, the offender 1602  
shall serve the mandatory prison term so imposed consecutively 1603  
to and prior to any prison term imposed for the underlying 1604  
felony under division (A), (B) (2), or (B) (3) of this section or 1605  
any other section of the Revised Code, and consecutively to any 1606  
other prison term or mandatory prison term previously or 1607  
subsequently imposed upon the offender. 1608

(d) If a mandatory prison term is imposed upon an offender 1609  
pursuant to division (B) (7) or (8) of this section, the offender 1610  
shall serve the mandatory prison term so imposed consecutively 1611  
to any other mandatory prison term imposed under that division 1612  
or under any other provision of law and consecutively to any 1613  
other prison term or mandatory prison term previously or 1614  
subsequently imposed upon the offender. 1615

(e) If a mandatory prison term is imposed upon an offender 1616  
pursuant to division (B) (11) of this section, the offender shall 1617  
serve the mandatory prison term consecutively to any other 1618  
mandatory prison term imposed under that division, consecutively 1619  
to and prior to any prison term imposed for the underlying 1620  
felony, and consecutively to any other prison term or mandatory 1621  
prison term previously or subsequently imposed upon the 1622  
offender. 1623

(2) If an offender who is an inmate in a jail, prison, or 1624  
other residential detention facility violates section 2917.02, 1625  
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 1626  
(2) of section 2921.34 of the Revised Code, if an offender who 1627  
is under detention at a detention facility commits a felony 1628  
violation of section 2923.131 of the Revised Code, or if an 1629  
offender who is an inmate in a jail, prison, or other 1630  
residential detention facility or is under detention at a 1631  
detention facility commits another felony while the offender is 1632  
an escapee in violation of division (A) (1) or (2) of section 1633  
2921.34 of the Revised Code, any prison term imposed upon the 1634  
offender for one of those violations shall be served by the 1635  
offender consecutively to the prison term or term of 1636  
imprisonment the offender was serving when the offender 1637  
committed that offense and to any other prison term previously 1638  
or subsequently imposed upon the offender. 1639

(3) If a prison term is imposed for a violation of 1640  
division (B) of section 2911.01 of the Revised Code, a violation 1641  
of division (A) of section 2913.02 of the Revised Code in which 1642  
the stolen property is a firearm or dangerous ordnance, or a 1643  
felony violation of division (B) of section 2921.331 of the 1644  
Revised Code, the offender shall serve that prison term 1645  
consecutively to any other prison term or mandatory prison term 1646  
previously or subsequently imposed upon the offender. 1647

(4) If multiple prison terms are imposed on an offender 1648  
for convictions of multiple offenses, the court may require the 1649  
offender to serve the prison terms consecutively if the court 1650  
finds that the consecutive service is necessary to protect the 1651  
public from future crime or to punish the offender and that 1652  
consecutive sentences are not disproportionate to the 1653  
seriousness of the offender's conduct and to the danger the 1654  
offender poses to the public, and if the court also finds any of 1655  
the following: 1656

(a) The offender committed one or more of the multiple 1657  
offenses while the offender was awaiting trial or sentencing, 1658  
was under a sanction imposed pursuant to section 2929.16, 1659  
2929.17, or 2929.18 of the Revised Code, or was under post- 1660  
release control for a prior offense. 1661

(b) At least two of the multiple offenses were committed 1662  
as part of one or more courses of conduct, and the harm caused 1663  
by two or more of the multiple offenses so committed was so 1664  
great or unusual that no single prison term for any of the 1665  
offenses committed as part of any of the courses of conduct 1666  
adequately reflects the seriousness of the offender's conduct. 1667

(c) The offender's history of criminal conduct 1668  
demonstrates that consecutive sentences are necessary to protect 1669



the public from future crime by the offender. 1670

(5) If a mandatory prison term is imposed upon an offender 1671  
pursuant to division (B) (5) or (6) of this section, the offender 1672  
shall serve the mandatory prison term consecutively to and prior 1673  
to any prison term imposed for the underlying violation of 1674  
division (A) (1) or (2) of section 2903.06 of the Revised Code 1675  
pursuant to division (A) of this section or section 2929.142 of 1676  
the Revised Code. If a mandatory prison term is imposed upon an 1677  
offender pursuant to division (B) (5) of this section, and if a 1678  
mandatory prison term also is imposed upon the offender pursuant 1679  
to division (B) (6) of this section in relation to the same 1680  
violation, the offender shall serve the mandatory prison term 1681  
imposed pursuant to division (B) (5) of this section 1682  
consecutively to and prior to the mandatory prison term imposed 1683  
pursuant to division (B) (6) of this section and consecutively to 1684  
and prior to any prison term imposed for the underlying 1685  
violation of division (A) (1) or (2) of section 2903.06 of the 1686  
Revised Code pursuant to division (A) of this section or section 1687  
2929.142 of the Revised Code. 1688

(6) If a mandatory prison term is imposed on an offender 1689  
pursuant to division (B) (9) of this section, the offender shall 1690  
serve the mandatory prison term consecutively to and prior to 1691  
any prison term imposed for the underlying violation of division 1692  
(A) (1) or (2) of section 2903.11 of the Revised Code and 1693  
consecutively to and prior to any other prison term or mandatory 1694  
prison term previously or subsequently imposed on the offender. 1695

(7) If a mandatory prison term is imposed on an offender 1696  
pursuant to division (B) (10) of this section, the offender shall 1697  
serve that mandatory prison term consecutively to and prior to 1698  
any prison term imposed for the underlying felonious assault. 1699

Except as otherwise provided in division (C) of this section, 1700  
any other prison term or mandatory prison term previously or 1701  
subsequently imposed upon the offender may be served 1702  
concurrently with, or consecutively to, the prison term imposed 1703  
pursuant to division (B)(10) of this section. 1704

(8) Any prison term imposed for a violation of section 1705  
2903.04 of the Revised Code that is based on a violation of 1706  
section 2925.03 or 2925.11 of the Revised Code or on a violation 1707  
of section 2925.05 of the Revised Code that is not funding of 1708  
marihuana trafficking shall run consecutively to any prison term 1709  
imposed for the violation of section 2925.03 or 2925.11 of the 1710  
Revised Code or for the violation of section 2925.05 of the 1711  
Revised Code that is not funding of marihuana trafficking. 1712

(9) When consecutive prison terms are imposed pursuant to 1713  
division (C)(1), (2), (3), (4), (5), (6), (7), or (8) or 1714  
division (H)(1) or (2) of this section, subject to division (C) 1715  
(10) of this section, the term to be served is the aggregate of 1716  
all of the terms so imposed. 1717

(10) When a court sentences an offender to a non-life 1718  
felony indefinite prison term, any definite prison term or 1719  
mandatory definite prison term previously or subsequently 1720  
imposed on the offender in addition to that indefinite sentence 1721  
that is required to be served consecutively to that indefinite 1722  
sentence shall be served prior to the indefinite sentence. 1723

(11) If a court is sentencing an offender for a felony of 1724  
the first or second degree, if division (A)(1)(a) or (2)(a) of 1725  
this section applies with respect to the sentencing for the 1726  
offense, and if the court is required under the Revised Code 1727  
section that sets forth the offense or any other Revised Code 1728  
provision to impose a mandatory prison term for the offense, the 1729

court shall impose the required mandatory prison term as the 1730  
minimum term imposed under division (A) (1) (a) or (2) (a) of this 1731  
section, whichever is applicable. 1732

(D) (1) If a court imposes a prison term, other than a term 1733  
of life imprisonment, for a felony of the first degree, for a 1734  
felony of the second degree, for a felony sex offense, or for a 1735  
felony of the third degree that is an offense of violence and 1736  
that is not a felony sex offense, it shall include in the 1737  
sentence a requirement that the offender be subject to a period 1738  
of post-release control after the offender's release from 1739  
imprisonment, in accordance with section 2967.28 of the Revised 1740  
Code. If a court imposes a sentence including a prison term of a 1741  
type described in this division on or after July 11, 2006, the 1742  
failure of a court to include a post-release control requirement 1743  
in the sentence pursuant to this division does not negate, 1744  
limit, or otherwise affect the mandatory period of post-release 1745  
control that is required for the offender under division (B) of 1746  
section 2967.28 of the Revised Code. Section 2929.191 of the 1747  
Revised Code applies if, prior to July 11, 2006, a court imposed 1748  
a sentence including a prison term of a type described in this 1749  
division and failed to include in the sentence pursuant to this 1750  
division a statement regarding post-release control. 1751

(2) If a court imposes a prison term for a felony of the 1752  
third, fourth, or fifth degree that is not subject to division 1753  
(D) (1) of this section, it shall include in the sentence a 1754  
requirement that the offender be subject to a period of post- 1755  
release control after the offender's release from imprisonment, 1756  
in accordance with that division, if the parole board determines 1757  
that a period of post-release control is necessary. Section 1758  
2929.191 of the Revised Code applies if, prior to July 11, 2006, 1759  
a court imposed a sentence including a prison term of a type 1760

described in this division and failed to include in the sentence 1761  
pursuant to this division a statement regarding post-release 1762  
control. 1763

(E) The court shall impose sentence upon the offender in 1764  
accordance with section 2971.03 of the Revised Code, and Chapter 1765  
2971. of the Revised Code applies regarding the prison term or 1766  
term of life imprisonment without parole imposed upon the 1767  
offender and the service of that term of imprisonment if any of 1768  
the following apply: 1769

(1) A person is convicted of or pleads guilty to a violent 1770  
sex offense or a designated homicide, assault, or kidnapping 1771  
offense, and, in relation to that offense, the offender is 1772  
adjudicated a sexually violent predator. 1773

(2) A person is convicted of or pleads guilty to a 1774  
violation of division (A) (1) (b) of section 2907.02 of the 1775  
Revised Code committed on or after January 2, 2007, and either 1776  
the court does not impose a sentence of life without parole when 1777  
authorized pursuant to division (B) of section 2907.02 of the 1778  
Revised Code, or division (B) of section 2907.02 of the Revised 1779  
Code provides that the court shall not sentence the offender 1780  
pursuant to section 2971.03 of the Revised Code. 1781

(3) A person is convicted of or pleads guilty to attempted 1782  
rape committed on or after January 2, 2007, and a specification 1783  
of the type described in section 2941.1418, 2941.1419, or 1784  
2941.1420 of the Revised Code. 1785

(4) A person is convicted of or pleads guilty to a 1786  
violation of section 2905.01 of the Revised Code committed on or 1787  
after January 1, 2008, and that section requires the court to 1788  
sentence the offender pursuant to section 2971.03 of the Revised 1789

Code. 1790

(5) A person is convicted of or pleads guilty to 1791  
aggravated murder committed on or after January 1, 2008, and 1792  
division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), 1793  
(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or ~~(E) (1)~~ 1794  
~~(d)~~ (E) (1) (a) (iv) of section 2929.03, or division (A) or (B) of 1795  
section 2929.06 of the Revised Code requires the court to 1796  
sentence the offender pursuant to division (B) (3) of section 1797  
2971.03 of the Revised Code. 1798

(6) A person is convicted of or pleads guilty to murder 1799  
committed on or after January 1, 2008, and division (B) (2) of 1800  
section 2929.02 of the Revised Code requires the court to 1801  
sentence the offender pursuant to section 2971.03 of the Revised 1802  
Code. 1803

(F) If a person who has been convicted of or pleaded 1804  
guilty to a felony is sentenced to a prison term or term of 1805  
imprisonment under this section, sections 2929.02 to 2929.06 of 1806  
the Revised Code, section 2929.142 of the Revised Code, section 1807  
2971.03 of the Revised Code, or any other provision of law, 1808  
section 5120.163 of the Revised Code applies regarding the 1809  
person while the person is confined in a state correctional 1810  
institution. 1811

(G) If an offender who is convicted of or pleads guilty to 1812  
a felony that is an offense of violence also is convicted of or 1813  
pleads guilty to a specification of the type described in 1814  
section 2941.142 of the Revised Code that charges the offender 1815  
with having committed the felony while participating in a 1816  
criminal gang, the court shall impose upon the offender an 1817  
additional prison term of one, two, or three years. 1818

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

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

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

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

(b) In lieu of imposing an additional prison term under division (H) (2) (a) of this section, the court may directly

impose on the offender a sanction that requires the offender to 1849  
wear a real-time processing, continual tracking electronic 1850  
monitoring device during the period of time specified by the 1851  
court. The period of time specified by the court shall equal the 1852  
duration of an additional prison term that the court could have 1853  
imposed upon the offender under division (H) (2) (a) of this 1854  
section. A sanction imposed under this division shall commence 1855  
on the date specified by the court, provided that the sanction 1856  
shall not commence until after the offender has served the 1857  
prison term imposed for the felony violation of section 2907.22, 1858  
2907.24, 2907.241, or 2907.25 of the Revised Code and any 1859  
residential sanction imposed for the violation under section 1860  
2929.16 of the Revised Code. A sanction imposed under this 1861  
division shall be considered to be a community control sanction 1862  
for purposes of section 2929.15 of the Revised Code, and all 1863  
provisions of the Revised Code that pertain to community control 1864  
sanctions shall apply to a sanction imposed under this division, 1865  
except to the extent that they would by their nature be clearly 1866  
inapplicable. The offender shall pay all costs associated with a 1867  
sanction imposed under this division, including the cost of the 1868  
use of the monitoring device. 1869

(I) At the time of sentencing, the court may recommend the 1870  
offender for placement in a program of shock incarceration under 1871  
section 5120.031 of the Revised Code or for placement in an 1872  
intensive program prison under section 5120.032 of the Revised 1873  
Code, disapprove placement of the offender in a program of shock 1874  
incarceration or an intensive program prison of that nature, or 1875  
make no recommendation on placement of the offender. In no case 1876  
shall the department of rehabilitation and correction place the 1877  
offender in a program or prison of that nature unless the 1878  
department determines as specified in section 5120.031 or 1879

5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for the placement.

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

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

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

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



and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

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

(K) (1) The court shall impose an additional mandatory prison term of two, three, four, five, six, seven, eight, nine, ten, or eleven years on an offender who is convicted of or pleads guilty to a violent felony offense if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1424 of the Revised Code that charges that the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control while committing the presently charged violent felony offense and displayed or brandished the firearm, indicated that the offender possessed a firearm, or used the firearm to facilitate the offense. The offender shall serve the prison term imposed under this division consecutively to and prior to the prison term imposed for the underlying offense. The prison term shall not be reduced pursuant to section 2929.20 or 2967.19 or any other provision of Chapter 2967. or 5120. of the Revised Code. A court may not impose more than one sentence under division (B) (2) (a) of this section and this division for acts committed as part of the same act or transaction.

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

**Sec. 2941.148.** (A) (1) The application of Chapter 2971. of 1940  
the Revised Code to an offender is precluded unless one of the 1941  
following applies: 1942

(a) The offender is charged with a violent sex offense, 1943  
and the indictment, count in the indictment, or information 1944  
charging the violent sex offense also includes a specification 1945  
that the offender is a sexually violent predator, or the 1946  
offender is charged with a designated homicide, assault, or 1947  
kidnapping offense, and the indictment, count in the indictment, 1948  
or information charging the designated homicide, assault, or 1949  
kidnapping offense also includes both a specification of the 1950  
type described in section 2941.147 of the Revised Code and a 1951  
specification that the offender is a sexually violent predator. 1952

(b) The offender is convicted of or pleads guilty to a 1953  
violation of division (A) (1) (b) of section 2907.02 of the 1954  
Revised Code committed on or after January 2, 2007, and division 1955  
(B) of section 2907.02 of the Revised Code does not prohibit the 1956  
court from sentencing the offender pursuant to section 2971.03 1957  
of the Revised Code. 1958

(c) The offender is convicted of or pleads guilty to 1959  
attempted rape committed on or after January 2, 2007, and to a 1960  
specification of the type described in section 2941.1418, 1961  
2941.1419, or 2941.1420 of the Revised Code. 1962

(d) The offender is convicted of or pleads guilty to a 1963  
violation of section 2905.01 of the Revised Code and to a 1964  
specification of the type described in section 2941.147 of the 1965  
Revised Code, and section 2905.01 of the Revised Code requires a 1966  
court to sentence the offender pursuant to section 2971.03 of 1967  
the Revised Code. 1968

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

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

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

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

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

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

**Sec. 2953.21.** (A) (1) (a) A person in any of the following categories may file a petition in the court that imposed sentence, stating the grounds for relief relied upon, and asking the court to vacate or set aside the judgment or sentence or to grant other appropriate relief:

(i) Any person who has been convicted of a criminal offense or adjudicated a delinquent child and who claims that there was such a denial or infringement of the person's rights as to render the judgment void or voidable under the Ohio Constitution or the Constitution of the United States,~~any;~~

(ii) Any person who has been convicted of a criminal offense and sentenced to death and who claims that there was a denial or infringement of the person's rights under either of those Constitutions that creates a reasonable probability of an altered verdict,~~and any;~~

(iii) Any person who has been convicted of a criminal offense that is a felony and who is an offender for whom DNA testing that was performed under sections 2953.71 to 2953.81 of the Revised Code or under former section 2953.82 of the Revised Code and analyzed in the context of and upon consideration of all available admissible evidence related to the person's case as described in division (D) of section 2953.74 of the Revised Code provided results that establish, by clear and convincing evidence, actual innocence of that felony offense or, if the person was sentenced to death, establish, by clear and convincing evidence, actual innocence of the aggravating

circumstance or circumstances the person was found guilty of 2029  
committing and that is or are the basis of that sentence of 2030  
death, ~~may file a petition in the court that imposed sentence,~~ 2031  
~~stating the grounds for relief relied upon, and asking the court~~ 2032  
~~to vacate or set aside the judgment or sentence or to grant~~ 2033  
~~other appropriate relief;~~ 2034

(iv) Any person who has been convicted of aggravated 2035  
murder and sentenced to death for the offense and who claims 2036  
that the person had a serious mental illness at the time of the 2037  
commission of the offense and that as a result the court should 2038  
render void the sentence of death, with the filing of the 2039  
petition constituting the waiver described in division (A) (3) (b) 2040  
of this section. 2041

~~The~~ (b) A petitioner under division (A) (1) (a) of this 2042  
section may file a supporting affidavit and other documentary 2043  
evidence in support of the claim for relief. 2044

~~(b) (c)~~ As used in division (A) (1) (a) of this section, 2045  
"actual: 2046

(i) "Actual innocence" means that, had the results of the 2047  
DNA testing conducted under sections 2953.71 to 2953.81 of the 2048  
Revised Code or under former section 2953.82 of the Revised Code 2049  
been presented at trial, and had those results been analyzed in 2050  
the context of and upon consideration of all available 2051  
admissible evidence related to the person's case as described in 2052  
division (D) of section 2953.74 of the Revised Code, no 2053  
reasonable factfinder would have found the petitioner guilty of 2054  
the offense of which the petitioner was convicted, or, if the 2055  
person was sentenced to death, no reasonable factfinder would 2056  
have found the petitioner guilty of the aggravating circumstance 2057  
or circumstances the petitioner was found guilty of committing 2058

and that is or are the basis of that sentence of death. 2059

(ii) "Serious mental illness" has the same meaning as in 2060  
section 2929.025 of the Revised Code. 2061

~~(e)~~(d) As used in divisions (A) (1) (a) and ~~(b)~~(c) of this 2062  
section, "former section 2953.82 of the Revised Code" means 2063  
section 2953.82 of the Revised Code as it existed prior to July 2064  
6, 2010. 2065

~~(d)~~(e) At any time in conjunction with the filing of a 2066  
petition for postconviction relief under division (A) of this 2067  
section by a person who has been sentenced to death, or with the 2068  
litigation of a petition so filed, the court, for good cause 2069  
shown, may authorize the petitioner in seeking the 2070  
postconviction relief and the prosecuting attorney of the county 2071  
served by the court in defending the proceeding, to take 2072  
depositions and to issue subpoenas and subpoenas duces tecum in 2073  
accordance with divisions (A) (1) ~~(d)~~(e), (A) (1) ~~(e)~~(f), and (C) of 2074  
this section, and to any other form of discovery as in a civil 2075  
action that the court in its discretion permits. The court may 2076  
limit the extent of discovery under this division. In addition 2077  
to discovery that is relevant to the claim and was available 2078  
under Criminal Rule 16 through conclusion of the original 2079  
criminal trial, the court, for good cause shown, may authorize 2080  
the petitioner or prosecuting attorney to take depositions and 2081  
issue subpoenas and subpoenas duces tecum in either of the 2082  
following circumstances: 2083

(i) For any witness who testified at trial or who was 2084  
disclosed by the state prior to trial, except as otherwise 2085  
provided in this division, the petitioner or prosecuting 2086  
attorney shows clear and convincing evidence that the witness is 2087  
material and that a deposition of the witness or the issuing of 2088

a subpoena or subpoena duces tecum is of assistance in order to 2089  
substantiate or refute the petitioner's claim that there is a 2090  
reasonable probability of an altered verdict. This division does 2091  
not apply if the witness was unavailable for trial or would not 2092  
voluntarily be interviewed by the defendant or prosecuting 2093  
attorney. 2094

(ii) For any witness with respect to whom division (A) (1) 2095  
~~(d)~~ (e) (i) of this section does not apply, the petitioner or 2096  
prosecuting attorney shows good cause that the witness is 2097  
material and that a deposition of the witness or the issuing of 2098  
a subpoena or subpoena duces tecum is of assistance in order to 2099  
substantiate or refute the petitioner's claim that there is a 2100  
reasonable probability of an altered verdict. 2101

~~(e)~~ (f) If a person who has been sentenced to death and who 2102  
files a petition for postconviction relief under division (A) of 2103  
this section requests postconviction discovery as described in 2104  
division (A) (1) ~~(d)~~ (e) of this section or if the prosecuting 2105  
attorney of the county served by the court requests 2106  
postconviction discovery as described in that division, within 2107  
ten days after the docketing of the request, or within any other 2108  
time that the court sets for good cause shown, the prosecuting 2109  
attorney shall respond by answer or motion to the petitioner's 2110  
request or the petitioner shall respond by answer or motion to 2111  
the prosecuting attorney's request, whichever is applicable. 2112

~~(f)~~ (g) If a person who has been sentenced to death and who 2113  
files a petition for postconviction relief under division (A) of 2114  
this section requests postconviction discovery as described in 2115  
division (A) (1) ~~(d)~~ (e) of this section or if the prosecuting 2116  
attorney of the county served by the court requests 2117  
postconviction discovery as described in that division, upon 2118

motion by the petitioner, the prosecuting attorney, or the 2119  
person from whom discovery is sought, and for good cause shown, 2120  
the court in which the action is pending may make any order that 2121  
justice requires to protect a party or person from oppression or 2122  
undue burden or expense, including but not limited to the orders 2123  
described in divisions (A) (1) ~~(g)~~ (h) (i) to (viii) of this 2124  
section. The court also may make any such order if, in its 2125  
discretion, it determines that the discovery sought would be 2126  
irrelevant to the claims made in the petition; and if the court 2127  
makes any such order on that basis, it shall explain in the 2128  
order the reasons why the discovery would be irrelevant. 2129

~~(g)~~ (h) If a petitioner, prosecuting attorney, or person 2130  
from whom discovery is sought makes a motion for an order under 2131  
division (A) (1) ~~(f)~~ (g) of this section and the order is denied in 2132  
whole or in part, the court, on terms and conditions as are 2133  
just, may order that any party or person provide or permit 2134  
discovery as described in division (A) (1) ~~(d)~~ (e) of this section. 2135  
The provisions of Civil Rule 37(A) (4) apply to the award of 2136  
expenses incurred in relation to the motion, except that in no 2137  
case shall a court require a petitioner who is indigent to pay 2138  
expenses under those provisions. 2139

Before any person moves for an order under division (A) (1) 2140  
~~(f)~~ (g) of this section, that person shall make a reasonable 2141  
effort to resolve the matter through discussion with the 2142  
petitioner or prosecuting attorney seeking discovery. A motion 2143  
for an order under division (A) (1) ~~(f)~~ (g) of this section shall 2144  
be accompanied by a statement reciting the effort made to 2145  
resolve the matter in accordance with this paragraph. 2146

The orders that may be made under division (A) (1) ~~(f)~~ (g) of 2147  
this section include, but are not limited to, any of the 2148



following:	2149
(i) That the discovery not be had;	2150
(ii) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;	2151 2152
(iii) That the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;	2153 2154 2155
(iv) That certain matters not be inquired into or that the scope of the discovery be limited to certain matters;	2156 2157
(v) That discovery be conducted with no one present except persons designated by the court;	2158 2159
(vi) That a deposition after being sealed be opened only by order of the court;	2160 2161
(vii) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;	2162 2163 2164
(viii) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.	2165 2166 2167
<del>(h)</del> <u>(i)</u> Any postconviction discovery authorized under division (A) (1) <del>(d)</del> <u>(e)</u> 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.	2168 2169 2170 2171 2172
<del>(i)</del> <u>(j)</u> Nothing in division (A) (1) <del>(d)</del> <u>(e)</u> of this section authorizes, or shall be construed as authorizing, the relitigation, or discovery in support of relitigation, of any	2173 2174 2175

matter barred by the doctrine of res judicata. 2176

~~(j)~~(k) Division (A) (1) of this section does not apply to 2177  
any person who has been convicted of a criminal offense and 2178  
sentenced to death and who has unsuccessfully raised the same 2179  
claims in a petition for postconviction relief. 2180

(2)(a) Except as otherwise provided in section 2953.23 of 2181  
the Revised Code, a petition under division (A) (1) (a) (i), (ii), 2182  
or (iii) of this section shall be filed no later than three 2183  
hundred sixty-five days after the date on which the trial 2184  
transcript is filed in the court of appeals in the direct appeal 2185  
of the judgment of conviction or adjudication or, if the direct 2186  
appeal involves a sentence of death, the date on which the trial 2187  
transcript is filed in the supreme court. If no appeal is taken, 2188  
except as otherwise provided in section 2953.23 of the Revised 2189  
Code, the petition shall be filed no later than three hundred 2190  
sixty-five days after the expiration of the time for filing the 2191  
appeal. 2192

(b) Except as otherwise provided in section 2953.23 of the 2193  
Revised Code, a petition under division (A) (1) (a) (iv) of this 2194  
section shall be filed not later than three hundred sixty-five 2195  
days after the effective date of this amendment. 2196

(3)(a) In a petition filed under division (A) (1) (a) (i), 2197  
(ii), or (iii) of this section, a person who has been sentenced 2198  
to death may ask the court to render void or voidable the 2199  
judgment with respect to the conviction of aggravated murder or 2200  
the specification of an aggravating circumstance or the sentence 2201  
of death. 2202

(b) A person sentenced to death who files a petition under 2203  
division (A) (1) (a) (iv) of this section may ask the court to 2204

render void the sentence of death and to order the resentencing 2205  
of the person under division (A) of section 2929.06 of the 2206  
Revised Code. If a person sentenced to death files such a 2207  
petition and asks the court to render void the sentence of death 2208  
and to order the resentencing of the person under division (A) 2209  
of section 2929.06 of the Revised Code, the act of filing the 2210  
petition constitutes a waiver of any right to be sentenced under 2211  
the law that existed at the time the offense was committed and 2212  
constitutes consent to be sentenced to life imprisonment without 2213  
parole under division (A) of section 2929.06 of the Revised 2214  
Code. 2215

(4) A petitioner shall state in the original or amended 2216  
petition filed under division (A) of this section all grounds 2217  
for relief claimed by the petitioner. Except as provided in 2218  
section 2953.23 of the Revised Code, any ground for relief that 2219  
is not so stated in the petition is waived. 2220

(5) If the petitioner in a petition filed under division 2221  
(A) (1)(a)(i), (ii), or (iii) of this section was convicted of or 2222  
pleaded guilty to a felony, the petition may include a claim 2223  
that the petitioner was denied the equal protection of the laws 2224  
in violation of the Ohio Constitution or the United States 2225  
Constitution because the sentence imposed upon the petitioner 2226  
for the felony was part of a consistent pattern of disparity in 2227  
sentencing by the judge who imposed the sentence, with regard to 2228  
the petitioner's race, gender, ethnic background, or religion. 2229  
If the supreme court adopts a rule requiring a court of common 2230  
pleas to maintain information with regard to an offender's race, 2231  
gender, ethnic background, or religion, the supporting evidence 2232  
for the petition shall include, but shall not be limited to, a 2233  
copy of that type of information relative to the petitioner's 2234  
sentence and copies of that type of information relative to 2235

sentences that the same judge imposed upon other persons. 2236

(6) Notwithstanding any law or court rule to the contrary, 2237  
there is no limit on the number of pages in, or on the length 2238  
of, a petition filed under division (A) (1)(a)(i), (ii), (iii), 2239  
or (iv) of this section by a person who has been sentenced to 2240  
death. If any court rule specifies a limit on the number of 2241  
pages in, or on the length of, a petition filed under division 2242  
(A) (1)(a)(i), (ii), (iii), or (iv) of this section or on a 2243  
prosecuting attorney's response to such a petition by answer or 2244  
motion and a person who has been sentenced to death files a 2245  
petition that exceeds the limit specified for the petition, the 2246  
prosecuting attorney may respond by an answer or motion that 2247  
exceeds the limit specified for the response. 2248

(B) The clerk of the court in which the petition for 2249  
postconviction relief and, if applicable, a request for 2250  
postconviction discovery described in division (A) (1) ~~(d)~~ (e) of 2251  
this section is filed shall docket the petition and the request 2252  
and bring them promptly to the attention of the court. The clerk 2253  
of the court in which the petition for postconviction relief 2254  
and, if applicable, a request for postconviction discovery 2255  
described in division (A) (1) ~~(d)~~ (e) of this section is filed 2256  
immediately shall forward a copy of the petition and a copy of 2257  
the request if filed by the petitioner to the prosecuting 2258  
attorney of the county served by the court. If the request for 2259  
postconviction discovery is filed by the prosecuting attorney, 2260  
the clerk of the court immediately shall forward a copy of the 2261  
request to the petitioner or the petitioner's counsel. 2262

(C) If a person who has been sentenced to death and who 2263  
files a petition for postconviction relief under division (A) (1) 2264  
(a)(i), (ii), (iii), or (iv) of this section requests a 2265

deposition or the prosecuting attorney in the case requests a 2266  
deposition, and if the court grants the request under division 2267  
(A) (1) ~~(d)~~ (e) of this section, the court shall notify the 2268  
petitioner or the petitioner's counsel and the prosecuting 2269  
attorney. The deposition shall be conducted pursuant to 2270  
divisions (B), (D), and (E) of Criminal Rule 15. Notwithstanding 2271  
division (C) of Criminal Rule 15, the petitioner is not entitled 2272  
to attend the deposition. The prosecuting attorney shall be 2273  
permitted to attend and participate in any deposition. 2274

(D) The court shall consider a petition that is timely 2275  
filed ~~under~~ within the period specified in division (A) (2) of 2276  
this section even if a direct appeal of the judgment is pending. 2277  
Before granting a hearing on a petition filed under division (A) 2278  
(1) (a) (i), (ii), (iii), or (iv) of this section, the court shall 2279  
determine whether there are substantive grounds for relief. In 2280  
making such a determination, the court shall consider, in 2281  
addition to the petition, the supporting affidavits, and the 2282  
documentary evidence, all the files and records pertaining to 2283  
the proceedings against the petitioner, including, but not 2284  
limited to, the indictment, the court's journal entries, the 2285  
journalized records of the clerk of the court, and the court 2286  
reporter's transcript. The court reporter's transcript, if 2287  
ordered and certified by the court, shall be taxed as court 2288  
costs. If the court dismisses the petition, it shall make and 2289  
file findings of fact and conclusions of law with respect to 2290  
such dismissal. If the petition was filed by a person who has 2291  
been sentenced to death, the findings of fact and conclusions of 2292  
law shall state specifically the reasons for the dismissal of 2293  
the petition and of each claim it contains. 2294

(E) Within ten days after the docketing of the petition, 2295  
or within any further time that the court may fix for good cause 2296

shown, the prosecuting attorney shall respond by answer or 2297  
motion. Division (A) (6) of this section applies with respect to 2298  
the prosecuting attorney's response. Within twenty days from the 2299  
date the issues are raised, either party may move for summary 2300  
judgment. The right to summary judgment shall appear on the face 2301  
of the record. 2302

(F) Unless the petition and the files and records of the 2303  
case show the petitioner is not entitled to relief, the court 2304  
shall proceed to a prompt hearing on the issues even if a direct 2305  
appeal of the case is pending. If the court notifies the parties 2306  
that it has found grounds for granting relief, either party may 2307  
request an appellate court in which a direct appeal of the 2308  
judgment is pending to remand the pending case to the court. 2309

With respect to a petition filed under division (A) (1) (a) 2310  
(iv) of this section, the procedures and rules regarding 2311  
introduction of evidence and burden of proof at the pretrial 2312  
hearing that are set forth in divisions (C), (D), and (F) of 2313  
section 2929.025 of the Revised Code apply in considering the 2314  
petition. With respect to such a petition, the grounds for 2315  
granting relief are that the person has been diagnosed with one 2316  
or more of the conditions set forth in division (A) (1) (a) of 2317  
section 2929.025 of the Revised Code and that, at the time of 2318  
the aggravated murder that was the basis of the sentence of 2319  
death, the condition or conditions significantly impaired the 2320  
person's capacity in a manner described in division (A) (1) (b) of 2321  
that section. 2322

(G) A petitioner who files a petition under division (A) 2323  
(1) (a) (i), (ii), (iii), or (iv) of this section may amend the 2324  
petition as follows: 2325

(1) If the petition was filed by a person who has been 2326

sentenced to death, at any time that is not later than one 2327  
hundred eighty days after the petition is filed, the petitioner 2328  
may amend the petition with or without leave or prejudice to the 2329  
proceedings. 2330

(2) If division (G)(1) of this section does not apply, at 2331  
any time before the answer or motion is filed, the petitioner 2332  
may amend the petition with or without leave or prejudice to the 2333  
proceedings. 2334

(3) The petitioner may amend the petition with leave of 2335  
court at any time after the expiration of the applicable period 2336  
specified in division (G)(1) or (2) of this section. 2337

(H) If the court does not find grounds for granting 2338  
relief, it shall make and file findings of fact and conclusions 2339  
of law and shall enter judgment denying relief on the petition. 2340  
If the petition was filed by a person who has been sentenced to 2341  
death, the findings of fact and conclusions of law shall state 2342  
specifically the reasons for the denial of relief on the 2343  
petition and of each claim it contains. If no direct appeal of 2344  
the case is pending and the court finds grounds for relief or if 2345  
a pending direct appeal of the case has been remanded to the 2346  
court pursuant to a request made pursuant to division (F) of 2347  
this section and the court finds grounds for granting relief, it 2348  
shall make and file findings of fact and conclusions of law and 2349  
shall enter a judgment that vacates and sets aside the judgment 2350  
in question, and, in the case of a petitioner who is a prisoner 2351  
in custody, except as otherwise described in this division, 2352  
shall discharge or resentence the petitioner or grant a new 2353  
trial as the court determines appropriate. If the court finds 2354  
grounds for relief in the case of a petitioner who filed a 2355  
petition under division (A)(1)(a)(iv) of this section, the court 2356

shall render void the sentence of death and order the 2357  
resentencing of the offender under division (A) of section 2358  
2929.06 of the Revised Code. If the petitioner has been 2359  
sentenced to death, the findings of fact and conclusions of law 2360  
shall state specifically the reasons for the finding of grounds 2361  
for granting the relief, with respect to each claim contained in 2362  
the petition. The court also may make supplementary orders to 2363  
the relief granted, concerning such matters as rearraignment, 2364  
retrial, custody, and bail. If the trial court's order granting 2365  
the petition is reversed on appeal and if the direct appeal of 2366  
the case has been remanded from an appellate court pursuant to a 2367  
request under division (F) of this section, the appellate court 2368  
reversing the order granting the petition shall notify the 2369  
appellate court in which the direct appeal of the case was 2370  
pending at the time of the remand of the reversal and remand of 2371  
the trial court's order. Upon the reversal and remand of the 2372  
trial court's order granting the petition, regardless of whether 2373  
notice is sent or received, the direct appeal of the case that 2374  
was remanded is reinstated. 2375

(I) Upon the filing of a petition pursuant to division (A) 2376  
(1)(a)(i), (ii), (iii), or (iv) of this section by a person 2377  
sentenced to death, only the supreme court may stay execution of 2378  
the sentence of death. 2379

(J) (1) If a person sentenced to death intends to file a 2380  
petition under this section, the court shall appoint counsel to 2381  
represent the person upon a finding that the person is indigent 2382  
and that the person either accepts the appointment of counsel or 2383  
is unable to make a competent decision whether to accept or 2384  
reject the appointment of counsel. The court may decline to 2385  
appoint counsel for the person only upon a finding, after a 2386  
hearing if necessary, that the person rejects the appointment of 2387



counsel and understands the legal consequences of that decision 2388  
or upon a finding that the person is not indigent. 2389

(2) The court shall not appoint as counsel under division 2390  
(J) (1) of this section an attorney who represented the 2391  
petitioner at trial in the case to which the petition relates 2392  
unless the person and the attorney expressly request the 2393  
appointment. The court shall appoint as counsel under division 2394  
(J) (1) of this section only an attorney who is certified under 2395  
Rule 20 of the Rules of Superintendence for the Courts of Ohio 2396  
to represent indigent defendants charged with or convicted of an 2397  
offense for which the death penalty can be or has been imposed. 2398  
The ineffectiveness or incompetence of counsel during 2399  
proceedings under this section does not constitute grounds for 2400  
relief in a proceeding under this section, in an appeal of any 2401  
action under this section, or in an application to reopen a 2402  
direct appeal. 2403

(3) Division (J) of this section does not preclude 2404  
attorneys who represent the state of Ohio from invoking the 2405  
provisions of 28 U.S.C. 154 with respect to capital cases that 2406  
were pending in federal habeas corpus proceedings prior to July 2407  
1, 1996, insofar as the petitioners in those cases were 2408  
represented in proceedings under this section by one or more 2409  
counsel appointed by the court under this section or section 2410  
120.06, 120.16, 120.26, or 120.33 of the Revised Code and those 2411  
appointed counsel meet the requirements of division (J) (2) of 2412  
this section. 2413

(K) Subject to the appeal of a sentence for a felony that 2414  
is authorized by section 2953.08 of the Revised Code, the remedy 2415  
set forth in this section is the exclusive remedy by which a 2416  
person may bring a collateral challenge to the validity of a 2417

conviction or sentence in a criminal case or to the validity of 2418  
an adjudication of a child as a delinquent child for the 2419  
commission of an act that would be a criminal offense if 2420  
committed by an adult or the validity of a related order of 2421  
disposition. 2422

**Sec. 2953.23.** (A) Whether a hearing is or is not held on a 2423  
petition filed pursuant to section 2953.21 of the Revised Code, 2424  
a court may not entertain a petition filed after the expiration 2425  
of the period prescribed in division (A) of that section or a 2426  
second petition or successive petitions for similar relief on 2427  
behalf of a petitioner unless division (A)(1) or (2) of this 2428  
section applies: 2429

(1) Both of the following apply: 2430

(a) Either the petitioner shows that the petitioner was 2431  
unavoidably prevented from discovery of the facts upon which the 2432  
petitioner must rely to present the claim for relief, or, 2433  
subsequent to the period prescribed in division (A)(2) of 2434  
section 2953.21 of the Revised Code or to the filing of an 2435  
earlier petition, the United States Supreme Court recognized a 2436  
new federal or state right that applies retroactively to persons 2437  
in the petitioner's situation, and the petition asserts a claim 2438  
based on that right. 2439

(b) The petitioner shows by clear and convincing evidence 2440  
that, but for constitutional error at trial, no reasonable 2441  
factfinder would have found the petitioner guilty of the offense 2442  
of which the petitioner was convicted or, if the claim 2443  
challenges a sentence of death that, but for constitutional 2444  
error at the sentencing hearing, no reasonable factfinder would 2445  
have found the petitioner eligible for the death sentence. 2446

(2) The petitioner was convicted of a felony, the 2447  
petitioner is an offender for whom DNA testing was performed 2448  
under sections 2953.71 to 2953.81 of the Revised Code or under 2449  
former section 2953.82 of the Revised Code and analyzed in the 2450  
context of and upon consideration of all available admissible 2451  
evidence related to the inmate's case as described in division 2452  
(D) of section 2953.74 of the Revised Code, and the results of 2453  
the DNA testing establish, by clear and convincing evidence, 2454  
actual innocence of that felony offense or, if the person was 2455  
sentenced to death, establish, by clear and convincing evidence, 2456  
actual innocence of the aggravating circumstance or 2457  
circumstances the person was found guilty of committing and that 2458  
is or are the basis of that sentence of death. 2459

As used in this division, "actual innocence" has the same 2460  
meaning as in division (A) (1) ~~(b)~~ (c) of section 2953.21 of the 2461  
Revised Code, and "former section 2953.82 of the Revised Code" 2462  
has the same meaning as in division (A) (1) ~~(e)~~ (d) of section 2463  
2953.21 of the Revised Code. 2464

(B) An order awarding or denying relief sought in a 2465  
petition filed pursuant to section 2953.21 of the Revised Code 2466  
is a final judgment and may be appealed pursuant to Chapter 2467  
2953. of the Revised Code. 2468

If a petition filed pursuant to section 2953.21 of the 2469  
Revised Code by a person who has been sentenced to death is 2470  
denied and the person appeals the judgment, notwithstanding any 2471  
law or court rule to the contrary, there is no limit on the 2472  
number of pages in, or on the length of, a notice of appeal or 2473  
briefs related to an appeal filed by the person. If any court 2474  
rule specifies a limit on the number of pages in, or on the 2475  
length of, a notice of appeal or briefs described in this 2476

division or on a prosecuting attorney's response or briefs with 2477  
respect to such an appeal and a person who has been sentenced to 2478  
death files a notice of appeal or briefs that exceed the limit 2479  
specified for the petition, the prosecuting attorney may file a 2480  
response or briefs that exceed the limit specified for the 2481  
answer or briefs. 2482

**Sec. 2971.03.** (A) Notwithstanding divisions (A) and (D) of 2483  
section 2929.14, section 2929.02, 2929.03, 2929.06, 2929.13, or 2484  
another section of the Revised Code, other than divisions (B) 2485  
and (C) of section 2929.14 of the Revised Code, that authorizes 2486  
or requires a specified prison term or a mandatory prison term 2487  
for a person who is convicted of or pleads guilty to a felony or 2488  
that specifies the manner and place of service of a prison term 2489  
or term of imprisonment, the court shall impose a sentence upon 2490  
a person who is convicted of or pleads guilty to a violent sex 2491  
offense and who also is convicted of or pleads guilty to a 2492  
sexually violent predator specification that was included in the 2493  
indictment, count in the indictment, or information charging 2494  
that offense, and upon a person who is convicted of or pleads 2495  
guilty to a designated homicide, assault, or kidnapping offense 2496  
and also is convicted of or pleads guilty to both a sexual 2497  
motivation specification and a sexually violent predator 2498  
specification that were included in the indictment, count in the 2499  
indictment, or information charging that offense, as follows: 2500

(1) If the offense for which the sentence is being imposed 2501  
is aggravated murder and if the court does not impose upon the 2502  
offender a sentence of death, it shall impose upon the offender 2503  
a term of life imprisonment without parole. If the court 2504  
sentences the offender to death and the sentence of death is 2505  
vacated, overturned, or otherwise set aside, the court shall 2506  
impose upon the offender a term of life imprisonment without 2507

parole. 2508

(2) If the offense for which the sentence is being imposed 2509  
is murder; or if the offense is rape committed in violation of 2510  
division (A) (1) (b) of section 2907.02 of the Revised Code when 2511  
the offender purposely compelled the victim to submit by force 2512  
or threat of force, when the victim was less than ten years of 2513  
age, when the offender previously has been convicted of or 2514  
pleaded guilty to either rape committed in violation of that 2515  
division or a violation of an existing or former law of this 2516  
state, another state, or the United States that is substantially 2517  
similar to division (A) (1) (b) of section 2907.02 of the Revised 2518  
Code, or when the offender during or immediately after the 2519  
commission of the rape caused serious physical harm to the 2520  
victim; or if the offense is an offense other than aggravated 2521  
murder or murder for which a term of life imprisonment may be 2522  
imposed, it shall impose upon the offender a term of life 2523  
imprisonment without parole. 2524

(3) (a) Except as otherwise provided in division (A) (3) (b), 2525  
(c), (d), or (e) or (A) (4) of this section, if the offense for 2526  
which the sentence is being imposed is an offense other than 2527  
aggravated murder, murder, or rape and other than an offense for 2528  
which a term of life imprisonment may be imposed, it shall 2529  
impose an indefinite prison term consisting of a minimum term 2530  
fixed by the court as described in this division, but not less 2531  
than two years, and a maximum term of life imprisonment. Except 2532  
as otherwise specified in this division, the minimum term shall 2533  
be fixed by the court from among the range of terms available as 2534  
a definite term for the offense. If the offense is a felony of 2535  
the first or second degree committed on or after ~~the effective~~ 2536  
~~date of this amendment~~ March 22, 2019, the minimum term shall be 2537  
fixed by the court from among the range of terms available as a 2538

minimum term for the offense under division (A) (1) (a) or (2) (a) 2539  
of that section. 2540

(b) Except as otherwise provided in division (A) (4) of 2541  
this section, if the offense for which the sentence is being 2542  
imposed is kidnapping that is a felony of the first degree, it 2543  
shall impose an indefinite prison term as follows: 2544

(i) If the kidnapping is committed on or after January 1, 2545  
2008, and the victim of the offense is less than thirteen years 2546  
of age, except as otherwise provided in this division, it shall 2547  
impose an indefinite prison term consisting of a minimum term of 2548  
fifteen years and a maximum term of life imprisonment. If the 2549  
kidnapping is committed on or after January 1, 2008, the victim 2550  
of the offense is less than thirteen years of age, and the 2551  
offender released the victim in a safe place unharmed, it shall 2552  
impose an indefinite prison term consisting of a minimum term of 2553  
ten years and a maximum term of life imprisonment. 2554

(ii) If the kidnapping is committed prior to January 1, 2555  
2008, or division (A) (3) (b) (i) of this section does not apply, 2556  
it shall impose an indefinite term consisting of a minimum term 2557  
fixed by the court that is not less than ten years and a maximum 2558  
term of life imprisonment. 2559

(c) Except as otherwise provided in division (A) (4) of 2560  
this section, if the offense for which the sentence is being 2561  
imposed is kidnapping that is a felony of the second degree, it 2562  
shall impose an indefinite prison term consisting of a minimum 2563  
term fixed by the court that is not less than eight years, and a 2564  
maximum term of life imprisonment. 2565

(d) Except as otherwise provided in division (A) (4) of 2566  
this section, if the offense for which the sentence is being 2567

imposed is rape for which a term of life imprisonment is not 2568  
imposed under division (A) (2) of this section or division (B) of 2569  
section 2907.02 of the Revised Code, it shall impose an 2570  
indefinite prison term as follows: 2571

(i) If the rape is committed on or after January 2, 2007, 2572  
in violation of division (A) (1) (b) of section 2907.02 of the 2573  
Revised Code, it shall impose an indefinite prison term 2574  
consisting of a minimum term of twenty-five years and a maximum 2575  
term of life imprisonment. 2576

(ii) If the rape is committed prior to January 2, 2007, or 2577  
the rape is committed on or after January 2, 2007, other than in 2578  
violation of division (A) (1) (b) of section 2907.02 of the 2579  
Revised Code, it shall impose an indefinite prison term 2580  
consisting of a minimum term fixed by the court that is not less 2581  
than ten years, and a maximum term of life imprisonment. 2582

(e) Except as otherwise provided in division (A) (4) of 2583  
this section, if the offense for which sentence is being imposed 2584  
is attempted rape, it shall impose an indefinite prison term as 2585  
follows: 2586

(i) Except as otherwise provided in division (A) (3) (e) 2587  
(ii), (iii), or (iv) of this section, it shall impose an 2588  
indefinite prison term pursuant to division (A) (3) (a) of this 2589  
section. 2590

(ii) If the attempted rape for which sentence is being 2591  
imposed was committed on or after January 2, 2007, and if the 2592  
offender also is convicted of or pleads guilty to a 2593  
specification of the type described in section 2941.1418 of the 2594  
Revised Code, it shall impose an indefinite prison term 2595  
consisting of a minimum term of five years and a maximum term of 2596

twenty-five years. 2597

(iii) If the attempted rape for which sentence is being 2598  
imposed was committed on or after January 2, 2007, and if the 2599  
offender also is convicted of or pleads guilty to a 2600  
specification of the type described in section 2941.1419 of the 2601  
Revised Code, it shall impose an indefinite prison term 2602  
consisting of a minimum term of ten years and a maximum of life 2603  
imprisonment. 2604

(iv) If the attempted rape for which sentence is being 2605  
imposed was committed on or after January 2, 2007, and if the 2606  
offender also is convicted of or pleads guilty to a 2607  
specification of the type described in section 2941.1420 of the 2608  
Revised Code, it shall impose an indefinite prison term 2609  
consisting of a minimum term of fifteen years and a maximum of 2610  
life imprisonment. 2611

(4) For any offense for which the sentence is being 2612  
imposed, if the offender previously has been convicted of or 2613  
pleaded guilty to a violent sex offense and also to a sexually 2614  
violent predator specification that was included in the 2615  
indictment, count in the indictment, or information charging 2616  
that offense, or previously has been convicted of or pleaded 2617  
guilty to a designated homicide, assault, or kidnapping offense 2618  
and also to both a sexual motivation specification and a 2619  
sexually violent predator specification that were included in 2620  
the indictment, count in the indictment, or information charging 2621  
that offense, it shall impose upon the offender a term of life 2622  
imprisonment without parole. 2623

(B) (1) Notwithstanding section 2929.13, division (A) or 2624  
(D) of section 2929.14, or another section of the Revised Code 2625  
other than division (B) of section 2907.02 or divisions (B) and 2626



(C) of section 2929.14 of the Revised Code that authorizes or 2627  
requires a specified prison term or a mandatory prison term for 2628  
a person who is convicted of or pleads guilty to a felony or 2629  
that specifies the manner and place of service of a prison term 2630  
or term of imprisonment, if a person is convicted of or pleads 2631  
guilty to a violation of division (A) (1) (b) of section 2907.02 2632  
of the Revised Code committed on or after January 2, 2007, if 2633  
division (A) of this section does not apply regarding the 2634  
person, and if the court does not impose a sentence of life 2635  
without parole when authorized pursuant to division (B) of 2636  
section 2907.02 of the Revised Code, the court shall impose upon 2637  
the person an indefinite prison term consisting of one of the 2638  
following: 2639

(a) Except as otherwise required in division (B) (1) (b) or 2640  
(c) of this section, a minimum term of ten years and a maximum 2641  
term of life imprisonment. 2642

(b) If the victim was less than ten years of age, a 2643  
minimum term of fifteen years and a maximum of life 2644  
imprisonment. 2645

(c) If the offender purposely compels the victim to submit 2646  
by force or threat of force, or if the offender previously has 2647  
been convicted of or pleaded guilty to violating division (A) (1) 2648  
(b) of section 2907.02 of the Revised Code or to violating an 2649  
existing or former law of this state, another state, or the 2650  
United States that is substantially similar to division (A) (1) 2651  
(b) of that section, or if the offender during or immediately 2652  
after the commission of the offense caused serious physical harm 2653  
to the victim, a minimum term of twenty-five years and a maximum 2654  
of life imprisonment. 2655

(2) Notwithstanding section 2929.13, division (A) or (D) 2656

of section 2929.14, or another section of the Revised Code other 2657  
than divisions (B) and (C) of section 2929.14 of the Revised 2658  
Code that authorizes or requires a specified prison term or a 2659  
mandatory prison term for a person who is convicted of or pleads 2660  
guilty to a felony or that specifies the manner and place of 2661  
service of a prison term or term of imprisonment and except as 2662  
otherwise provided in division (B) of section 2907.02 of the 2663  
Revised Code, if a person is convicted of or pleads guilty to 2664  
attempted rape committed on or after January 2, 2007, and if 2665  
division (A) of this section does not apply regarding the 2666  
person, the court shall impose upon the person an indefinite 2667  
prison term consisting of one of the following: 2668

(a) If the person also is convicted of or pleads guilty to 2669  
a specification of the type described in section 2941.1418 of 2670  
the Revised Code, the court shall impose upon the person an 2671  
indefinite prison term consisting of a minimum term of five 2672  
years and a maximum term of twenty-five years. 2673

(b) If the person also is convicted of or pleads guilty to 2674  
a specification of the type described in section 2941.1419 of 2675  
the Revised Code, the court shall impose upon the person an 2676  
indefinite prison term consisting of a minimum term of ten years 2677  
and a maximum term of life imprisonment. 2678

(c) If the person also is convicted of or pleads guilty to 2679  
a specification of the type described in section 2941.1420 of 2680  
the Revised Code, the court shall impose upon the person an 2681  
indefinite prison term consisting of a minimum term of fifteen 2682  
years and a maximum term of life imprisonment. 2683

(3) Notwithstanding section 2929.13, division (A) or (D) 2684  
of section 2929.14, or another section of the Revised Code other 2685  
than divisions (B) and (C) of section 2929.14 of the Revised 2686

Code that authorizes or requires a specified prison term or a 2687  
mandatory prison term for a person who is convicted of or pleads 2688  
guilty to a felony or that specifies the manner and place of 2689  
service of a prison term or term of imprisonment, if a person is 2690  
convicted of or pleads guilty to an offense described in 2691  
division (B) (3) (a), (b), (c), or (d) of this section committed 2692  
on or after January 1, 2008, if the person also is convicted of 2693  
or pleads guilty to a sexual motivation specification that was 2694  
included in the indictment, count in the indictment, or 2695  
information charging that offense, and if division (A) of this 2696  
section does not apply regarding the person, the court shall 2697  
impose upon the person an indefinite prison term consisting of 2698  
one of the following: 2699

(a) An indefinite prison term consisting of a minimum of 2700  
ten years and a maximum term of life imprisonment if the offense 2701  
for which the sentence is being imposed is kidnapping, the 2702  
victim of the offense is less than thirteen years of age, and 2703  
the offender released the victim in a safe place unharmed; 2704

(b) An indefinite prison term consisting of a minimum of 2705  
fifteen years and a maximum term of life imprisonment if the 2706  
offense for which the sentence is being imposed is kidnapping 2707  
when the victim of the offense is less than thirteen years of 2708  
age and division (B) (3) (a) of this section does not apply; 2709

(c) An indefinite term consisting of a minimum of thirty 2710  
years and a maximum term of life imprisonment if the offense for 2711  
which the sentence is being imposed is aggravated murder, when 2712  
the victim of the offense is less than thirteen years of age, a 2713  
sentence of death or life imprisonment without parole is not 2714  
imposed for the offense, and division (A) (2) (b) (ii) of section 2715  
2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) 2716

(2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, 2717  
or division (A) or (B) of section 2929.06 of the Revised Code 2718  
requires that the sentence for the offense be imposed pursuant 2719  
to this division; 2720

(d) An indefinite prison term consisting of a minimum of 2721  
thirty years and a maximum term of life imprisonment if the 2722  
offense for which the sentence is being imposed is murder when 2723  
the victim of the offense is less than thirteen years of age. 2724

(C) (1) If the offender is sentenced to a prison term 2725  
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 2726  
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 2727  
parole board shall have control over the offender's service of 2728  
the term during the entire term unless the parole board 2729  
terminates its control in accordance with section 2971.04 of the 2730  
Revised Code. 2731

(2) Except as provided in division (C) (3) of this section, 2732  
an offender sentenced to a prison term or term of life 2733  
imprisonment without parole pursuant to division (A) of this 2734  
section shall serve the entire prison term or term of life 2735  
imprisonment in a state correctional institution. The offender 2736  
is not eligible for judicial release under section 2929.20 of 2737  
the Revised Code. 2738

(3) For a prison term imposed pursuant to division (A) (3), 2739  
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 2740  
(b), (c), or (d) of this section, the court, in accordance with 2741  
section 2971.05 of the Revised Code, may terminate the prison 2742  
term or modify the requirement that the offender serve the 2743  
entire term in a state correctional institution if all of the 2744  
following apply: 2745

(a) The offender has served at least the minimum term imposed as part of that prison term.	2746 2747
(b) The parole board, pursuant to section 2971.04 of the Revised Code, has terminated its control over the offender's service of that prison term.	2748 2749 2750
(c) The court has held a hearing and found, by clear and convincing evidence, one of the following:	2751 2752
(i) In the case of termination of the prison term, that the offender is unlikely to commit a sexually violent offense in the future;	2753 2754 2755
(ii) In the case of modification of the requirement, that the offender does not represent a substantial risk of physical harm to others.	2756 2757 2758
(4) An offender who has been sentenced to a term of life imprisonment without parole pursuant to division (A)(1), (2), or (4) of this section shall not be released from the term of life imprisonment or be permitted to serve a portion of it in a place other than a state correctional institution.	2759 2760 2761 2762 2763
(D) If a court sentences an offender to a prison term or term of life imprisonment without parole pursuant to division (A) of this section and the court also imposes on the offender one or more additional prison terms pursuant to division (B) of section 2929.14 of the Revised Code, all of the additional prison terms shall be served consecutively with, and prior to, the prison term or term of life imprisonment without parole imposed upon the offender pursuant to division (A) of this section.	2764 2765 2766 2767 2768 2769 2770 2771 2772
(E) If the offender is convicted of or pleads guilty to two or more offenses for which a prison term or term of life	2773 2774

imprisonment without parole is required to be imposed pursuant 2775  
to division (A) of this section, divisions (A) to (D) of this 2776  
section shall be applied for each offense. All minimum terms 2777  
imposed upon the offender pursuant to division (A) (3) or (B) of 2778  
this section for those offenses shall be aggregated and served 2779  
consecutively, as if they were a single minimum term imposed 2780  
under that division. 2781

(F) (1) If an offender is convicted of or pleads guilty to 2782  
a violent sex offense and also is convicted of or pleads guilty 2783  
to a sexually violent predator specification that was included 2784  
in the indictment, count in the indictment, or information 2785  
charging that offense, or is convicted of or pleads guilty to a 2786  
designated homicide, assault, or kidnapping offense and also is 2787  
convicted of or pleads guilty to both a sexual motivation 2788  
specification and a sexually violent predator specification that 2789  
were included in the indictment, count in the indictment, or 2790  
information charging that offense, the conviction of or plea of 2791  
guilty to the offense and the sexually violent predator 2792  
specification automatically classifies the offender as a tier 2793  
III sex offender/child-victim offender for purposes of Chapter 2794  
2950. of the Revised Code. 2795

(2) If an offender is convicted of or pleads guilty to 2796  
committing on or after January 2, 2007, a violation of division 2797  
(A) (1) (b) of section 2907.02 of the Revised Code and either the 2798  
offender is sentenced under section 2971.03 of the Revised Code 2799  
or a sentence of life without parole is imposed under division 2800  
(B) of section 2907.02 of the Revised Code, the conviction of or 2801  
plea of guilty to the offense automatically classifies the 2802  
offender as a tier III sex offender/child-victim offender for 2803  
purposes of Chapter 2950. of the Revised Code. 2804

(3) If a person is convicted of or pleads guilty to 2805  
committing on or after January 2, 2007, attempted rape and also 2806  
is convicted of or pleads guilty to a specification of the type 2807  
described in section 2941.1418, 2941.1419, or 2941.1420 of the 2808  
Revised Code, the conviction of or plea of guilty to the offense 2809  
and the specification automatically classify the offender as a 2810  
tier III sex offender/child-victim offender for purposes of 2811  
Chapter 2950. of the Revised Code. 2812

(4) If a person is convicted of or pleads guilty to one of 2813  
the offenses described in division (B) (3) (a), (b), (c), or (d) 2814  
of this section and a sexual motivation specification related to 2815  
the offense and the victim of the offense is less than thirteen 2816  
years of age, the conviction of or plea of guilty to the offense 2817  
automatically classifies the offender as a tier III sex 2818  
offender/child-victim offender for purposes of Chapter 2950. of 2819  
the Revised Code. 2820

**Sec. 2971.07.** (A) This chapter does not apply to any 2821  
offender unless the offender is one of the following: 2822

(1) The offender is convicted of or pleads guilty to a 2823  
violent sex offense and also is convicted of or pleads guilty to 2824  
a sexually violent predator specification that was included in 2825  
the indictment, count in the indictment, or information charging 2826  
that offense. 2827

(2) The offender is convicted of or pleads guilty to a 2828  
designated homicide, assault, or kidnapping offense and also is 2829  
convicted of or pleads guilty to both a sexual motivation 2830  
specification and a sexually violent predator specification that 2831  
were included in the indictment, count in the indictment, or 2832  
information charging that offense. 2833

(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 parole pursuant to division (B) of section 2907.02 of the Revised Code or division (B) of that section prohibits the court from sentencing the offender pursuant to section 2971.03 of the Revised Code.

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

(5) The offender is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code and also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging that offense, and that section requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(6) The offender is convicted of or pleads guilty to aggravated murder and also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging that offense, and division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires a court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.



(7) The offender is convicted of or pleads guilty to 2864  
murder and also is convicted of or pleads guilty to a sexual 2865  
motivation specification that was included in the indictment, 2866  
count in the indictment, or information charging that offense, 2867  
and division (B) (2) of section 2929.02 of the Revised Code 2868  
requires a court to sentence the offender pursuant to section 2869  
2971.03 of the Revised Code. 2870

(B) This chapter does not limit or affect a court in 2871  
imposing upon an offender described in divisions (A) (1) to (9) 2872  
of this section any financial sanction under section 2929.18 or 2873  
any other section of the Revised Code, or, except as 2874  
specifically provided in this chapter, any other sanction that 2875  
is authorized or required for the offense or violation by any 2876  
other provision of law. 2877

(C) If an offender is sentenced to a prison term under 2878  
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 2879  
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 2880  
Code and if, pursuant to section 2971.05 of the Revised Code, 2881  
the court modifies the requirement that the offender serve the 2882  
entire prison term in a state correctional institution or places 2883  
the offender on conditional release that involves the placement 2884  
of the offender under the supervision of the adult parole 2885  
authority, authorized field officers of the authority who are 2886  
engaged within the scope of their supervisory duties or 2887  
responsibilities may search, with or without a warrant, the 2888  
person of the offender, the place of residence of the offender, 2889  
and a motor vehicle, another item of tangible or intangible 2890  
personal property, or any other real property in which the 2891  
offender has the express or implied permission of a person with 2892  
a right, title, or interest to use, occupy, or possess if the 2893  
field officer has reasonable grounds to believe that the 2894

offender is not abiding by the law or otherwise is not complying 2895  
with the terms and conditions of the offender's modification or 2896  
release. The authority shall provide each offender with a 2897  
written notice that informs the offender that authorized field 2898  
officers of the authority who are engaged within the scope of 2899  
their supervisory duties or responsibilities may conduct those 2900  
types of searches during the period of the modification or 2901  
release if they have reasonable grounds to believe that the 2902  
offender is not abiding by the law or otherwise is not complying 2903  
with the terms and conditions of the offender's modification or 2904  
release. 2905

**Sec. 5120.61.** (A) (1) Not later than ninety days after 2906  
January 1, 1997, the department of rehabilitation and correction 2907  
shall adopt standards that it will use under this section to 2908  
assess the following criminal offenders and may periodically 2909  
revise the standards: 2910

(a) A criminal offender who is convicted of or pleads 2911  
guilty to a violent sex offense or designated homicide, assault, 2912  
or kidnapping offense and is adjudicated a sexually violent 2913  
predator in relation to that offense; 2914

(b) A criminal offender who is convicted of or pleads 2915  
guilty to a violation of division (A) (1) (b) of section 2907.02 2916  
of the Revised Code committed on or after January 2, 2007, and 2917  
either who is sentenced under section 2971.03 of the Revised 2918  
Code or upon whom a sentence of life without parole is imposed 2919  
under division (B) of section 2907.02 of the Revised Code; 2920

(c) A criminal offender who is convicted of or pleads 2921  
guilty to attempted rape committed on or after January 2, 2007, 2922  
and a specification of the type described in section 2941.1418, 2923  
2941.1419, or 2941.1420 of the Revised Code; 2924

(d) A criminal offender who is convicted of or pleads 2925  
guilty to a violation of section 2905.01 of the Revised Code and 2926  
also is convicted of or pleads guilty to a sexual motivation 2927  
specification that was included in the indictment, count in the 2928  
indictment, or information charging that offense, and who is 2929  
sentenced pursuant to section 2971.03 of the Revised Code; 2930

(e) A criminal offender who is convicted of or pleads 2931  
guilty to aggravated murder and also is convicted of or pleads 2932  
guilty to a sexual motivation specification that was included in 2933  
the indictment, count in the indictment, or information charging 2934  
that offense, and who pursuant to division (A) (2) (b) (ii) of 2935  
section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) 2936  
(ii), (D) (2) (b), (D) (3) (a) (iv), or ~~(E) (1) (d)~~ (E) (1) (a) (iv) of 2937  
section 2929.03, or division (A) or (B) of section 2929.06 of 2938  
the Revised Code is sentenced pursuant to division (B) (3) of 2939  
section 2971.03 of the Revised Code; 2940

(f) A criminal offender who is convicted of or pleads 2941  
guilty to murder and also is convicted of or pleads guilty to a 2942  
sexual motivation specification that was included in the 2943  
indictment, count in the indictment, or information charging 2944  
that offense, and who pursuant to division (B) (2) of section 2945  
2929.02 of the Revised Code is sentenced pursuant to section 2946  
2971.03 of the Revised Code. 2947

(2) When the department is requested by the parole board 2948  
or the court to provide a risk assessment report of the offender 2949  
under section 2971.04 or 2971.05 of the Revised Code, it shall 2950  
assess the offender and complete the assessment as soon as 2951  
possible after the offender has commenced serving the prison 2952  
term or term of life imprisonment without parole imposed under 2953  
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 2954

(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised Code. Thereafter, the department shall update a risk assessment report pertaining to an offender as follows:

(a) Periodically, in the discretion of the department, provided that each report shall be updated no later than two years after its initial preparation or most recent update;

(b) Upon the request of the parole board for 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;

(c) Upon the request of the court.

(3) After the department of rehabilitation and correction assesses an offender pursuant to division (A) (2) of this section, it shall prepare a report that contains its risk assessment for the offender or, if a risk assessment report previously has been prepared, it shall update the risk assessment report.

(4) The department of rehabilitation and correction shall provide each risk assessment report that it prepares or updates pursuant to this section regarding an offender to all of the following:

(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 2984  
has not terminated its control over the offender; 2985

(b) The court for use in determining, pursuant to section 2986  
2971.05 of the Revised Code, whether to modify the requirement 2987  
that the offender serve the entire prison term imposed upon the 2988  
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 2989  
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 2990  
2971.03 of the Revised Code in a state correctional institution, 2991  
whether to revise any modification previously made, or whether 2992  
to terminate the prison term; 2993

(c) The prosecuting attorney who prosecuted the case, or 2994  
the successor in office to that prosecuting attorney; 2995

(d) The offender. 2996

(B) When the department of rehabilitation and correction 2997  
provides a risk assessment report regarding an offender to the 2998  
parole board or court pursuant to division (A) (4) (a) or (b) of 2999  
this section, the department, prior to the parole board's or 3000  
court's hearing, also shall provide to the offender or to the 3001  
offender's attorney of record a copy of the report and a copy of 3002  
any other relevant documents the department possesses regarding 3003  
the offender that the department does not consider to be 3004  
confidential. 3005

(C) As used in this section: 3006

(1) "Adjudicated a sexually violent predator" has the same 3007  
meaning as in section 2929.01 of the Revised Code, and a person 3008  
is "adjudicated a sexually violent predator" in the same manner 3009  
and the same circumstances as are described in that section. 3010

(2) "Designated homicide, assault, or kidnapping offense" 3011  
and "violent sex offense" have the same meanings as in section 3012

2971.01 of the Revised Code. 3013

**Section 2.** That existing sections 2929.02, 2929.022, 3014  
2929.024, 2929.03, 2929.04, 2929.06, 2929.14, 2941.148, 2953.21, 3015  
2953.23, 2971.03, 2971.07, and 5120.61 of the Revised Code are 3016  
hereby repealed. 3017

**Section 3.** Notwithstanding section 1.50 of the Revised 3018  
Code, if any provision of a section as amended or enacted by 3019  
this act is determined to be unconstitutional or otherwise 3020  
invalid in a final judgment by a court of last resort, the 3021  
remainder of the enactments and amendments made in Section 1 of 3022  
this act are void. 3023

**Section 4.** Section 2929.14 of the Revised Code is 3024  
presented in this act as a composite of the section as amended 3025  
by H.B. 63, S.B. 1, S.B. 20, and S.B. 201, all of the 132nd 3026  
General Assembly. The General Assembly, applying the principle 3027  
stated in division (B) of section 1.52 of the Revised Code that 3028  
amendments are to be harmonized if reasonably capable of 3029  
simultaneous operation, finds that the composite is the 3030  
resulting version of the section in effect prior to the 3031  
effective date of the section as presented in this act. 3032