

As Introduced

133rd General Assembly

Regular Session

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H. B. No. 413

Representatives Keller, Hood

**Cosponsors: Representatives Antani, Becker, Cross, Vitale, Brinkman, Riedel,
Manchester, Powell, McClain, Zeltwanger, Romanchuk, Dean, Ginter, Jordan,
Plummer, Smith, T., Kick, Merrin, Richardson**

A BILL

To amend sections 109.57, 109.572, 109.97, 177.01, 1
313.131, 2105.19, 2108.77, 2151.356, 2151.414, 2
2151.419, 2152.02, 2152.021, 2152.11, 2152.12, 3
2152.16, 2152.17, 2152.20, 2152.59, 2152.72, 4
2152.74, 2152.86, 2317.02, 2901.01, 2901.02, 5
2901.07, 2901.13, 2903.41, 2909.24, 2921.32, 6
2921.34, 2923.01, 2923.02, 2923.131, 2923.132, 7
2923.31, 2923.32, 2927.21, 2929.01, 2929.02, 8
2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 9
2929.04, 2929.05, 2929.06, 2929.13, 2929.14, 10
2929.143, 2929.31, 2929.32, 2929.34, 2930.16, 11
2933.51, 2933.81, 2933.82, 2937.222, 2941.14, 12
2941.143, 2941.147, 2941.148, 2945.06, 2945.11, 13
2945.38, 2945.57, 2945.74, 2949.02, 2950.01, 14
2950.99, 2953.08, 2953.09, 2953.11, 2953.21, 15
2953.25, 2967.01, 2967.05, 2967.12, 2967.121, 16
2967.13, 2967.18, 2967.19, 2967.193, 2967.26, 17
2971.01, 2971.03, 2971.07, 3301.32, 3301.541, 18
3313.662, 3319.31, 3319.39, 3712.09, 3721.121, 19
3734.44, 4715.30, 4717.05, 4717.051, 4717.14, 20
4723.092, 4723.281, 4730.25, 4731.22, 4734.36, 21
4741.22, 4757.361, 4759.07, 4760.13, 4761.09, 22

4762.13, 4765.114, 4774.13, 4776.10, 4778.14, 23
5103.0319, 5120.032, 5120.53, 5120.61, 5139.05, 24
5139.20, 5149.101, and 5153.111 and to enact 25
sections 2904.01, 2904.02, 2904.03, 2904.04, 26
2904.20, 2904.30, and 2904.35 of the Revised 27
Code to create the capital offense of aggravated 28
abortion murder and the offense of abortion 29
murder. 30

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

Section 1. That sections 109.57, 109.572, 109.97, 177.01, 31
313.131, 2105.19, 2108.77, 2151.356, 2151.414, 2151.419, 32
2152.02, 2152.021, 2152.11, 2152.12, 2152.16, 2152.17, 2152.20, 33
2152.59, 2152.72, 2152.74, 2152.86, 2317.02, 2901.01, 2901.02, 34
2901.07, 2901.13, 2903.41, 2909.24, 2921.32, 2921.34, 2923.01, 35
2923.02, 2923.131, 2923.132, 2923.31, 2923.32, 2927.21, 2929.01, 36
2929.02, 2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 37
2929.04, 2929.05, 2929.06, 2929.13, 2929.14, 2929.143, 2929.31, 38
2929.32, 2929.34, 2930.16, 2933.51, 2933.81, 2933.82, 2937.222, 39
2941.14, 2941.143, 2941.147, 2941.148, 2945.06, 2945.11, 40
2945.38, 2945.57, 2945.74, 2949.02, 2950.01, 2950.99, 2953.08, 41
2953.09, 2953.11, 2953.21, 2953.25, 2967.01, 2967.05, 2967.12, 42
2967.121, 2967.13, 2967.18, 2967.19, 2967.193, 2967.26, 2971.01, 43
2971.03, 2971.07, 3301.32, 3301.541, 3313.662, 3319.31, 3319.39, 44
3712.09, 3721.121, 3734.44, 4715.30, 4717.05, 4717.051, 4717.14, 45
4723.092, 4723.281, 4730.25, 4731.22, 4734.36, 4741.22, 46
4757.361, 4759.07, 4760.13, 4761.09, 4762.13, 4765.114, 4774.13, 47
4776.10, 4778.14, 5103.0319, 5120.032, 5120.53, 5120.61, 48
5139.05, 5139.20, 5149.101, and 5153.111 be amended and sections 49

2904.01, 2904.02, 2904.03, 2904.04, 2904.20, 2904.30, and 50
2904.35 of the Revised Code be enacted to read as follows: 51

Sec. 109.57. (A) (1) The superintendent of the bureau of 52
criminal identification and investigation shall procure from 53
wherever procurable and file for record photographs, pictures, 54
descriptions, fingerprints, measurements, and other information 55
that may be pertinent of all persons who have been convicted of 56
committing within this state a felony, any crime constituting a 57
misdemeanor on the first offense and a felony on subsequent 58
offenses, or any misdemeanor described in division (A) (1) (a), 59
(A) (5) (a), or (A) (7) (a) of section 109.572 of the Revised Code, 60
of all children under eighteen years of age who have been 61
adjudicated delinquent children for committing within this state 62
an act that would be a felony or an offense of violence if 63
committed by an adult or who have been convicted of or pleaded 64
guilty to committing within this state a felony or an offense of 65
violence, and of all well-known and habitual criminals. The 66
person in charge of any county, multicounty, municipal, 67
municipal-county, or multicounty-municipal jail or workhouse, 68
community-based correctional facility, halfway house, 69
alternative residential facility, or state correctional 70
institution and the person in charge of any state institution 71
having custody of a person suspected of having committed a 72
felony, any crime constituting a misdemeanor on the first 73
offense and a felony on subsequent offenses, or any misdemeanor 74
described in division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of 75
section 109.572 of the Revised Code or having custody of a child 76
under eighteen years of age with respect to whom there is 77
probable cause to believe that the child may have committed an 78
act that would be a felony or an offense of violence if 79
committed by an adult shall furnish such material to the 80

superintendent of the bureau. Fingerprints, photographs, or 81
other descriptive information of a child who is under eighteen 82
years of age, has not been arrested or otherwise taken into 83
custody for committing an act that would be a felony or an 84
offense of violence who is not in any other category of child 85
specified in this division, if committed by an adult, has not 86
been adjudicated a delinquent child for committing an act that 87
would be a felony or an offense of violence if committed by an 88
adult, has not been convicted of or pleaded guilty to committing 89
a felony or an offense of violence, and is not a child with 90
respect to whom there is probable cause to believe that the 91
child may have committed an act that would be a felony or an 92
offense of violence if committed by an adult shall not be 93
procured by the superintendent or furnished by any person in 94
charge of any county, multicounty, municipal, municipal-county, 95
or multicounty-municipal jail or workhouse, community-based 96
correctional facility, halfway house, alternative residential 97
facility, or state correctional institution, except as 98
authorized in section 2151.313 of the Revised Code. 99

(2) Every clerk of a court of record in this state, other 100
than the supreme court or a court of appeals, shall send to the 101
superintendent of the bureau a weekly report containing a 102
summary of each case involving a felony, involving any crime 103
constituting a misdemeanor on the first offense and a felony on 104
subsequent offenses, involving a misdemeanor described in 105
division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 106
of the Revised Code, or involving an adjudication in a case in 107
which a child under eighteen years of age was alleged to be a 108
delinquent child for committing an act that would be a felony or 109
an offense of violence if committed by an adult. The clerk of 110
the court of common pleas shall include in the report and 111

summary the clerk sends under this division all information 112
described in divisions (A) (2) (a) to (f) of this section 113
regarding a case before the court of appeals that is served by 114
that clerk. The summary shall be written on the standard forms 115
furnished by the superintendent pursuant to division (B) of this 116
section and shall include the following information: 117

(a) The incident tracking number contained on the standard 118
forms furnished by the superintendent pursuant to division (B) 119
of this section; 120

(b) The style and number of the case; 121

(c) The date of arrest, offense, summons, or arraignment; 122

(d) The date that the person was convicted of or pleaded 123
guilty to the offense, adjudicated a delinquent child for 124
committing the act that would be a felony or an offense of 125
violence if committed by an adult, found not guilty of the 126
offense, or found not to be a delinquent child for committing an 127
act that would be a felony or an offense of violence if 128
committed by an adult, the date of an entry dismissing the 129
charge, an entry declaring a mistrial of the offense in which 130
the person is discharged, an entry finding that the person or 131
child is not competent to stand trial, or an entry of a nolle 132
prosequi, or the date of any other determination that 133
constitutes final resolution of the case; 134

(e) A statement of the original charge with the section of 135
the Revised Code that was alleged to be violated; 136

(f) If the person or child was convicted, pleaded guilty, 137
or was adjudicated a delinquent child, the sentence or terms of 138
probation imposed or any other disposition of the offender or 139
the delinquent child. 140

If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its

political subdivisions. 172

(4) The superintendent shall carry out Chapter 2950. of 173
the Revised Code with respect to the registration of persons who 174
are convicted of or plead guilty to a sexually oriented offense 175
or a child-victim oriented offense and with respect to all other 176
duties imposed on the bureau under that chapter. 177

(5) The bureau shall perform centralized recordkeeping 178
functions for criminal history records and services in this 179
state for purposes of the national crime prevention and privacy 180
compact set forth in section 109.571 of the Revised Code and is 181
the criminal history record repository as defined in that 182
section for purposes of that compact. The superintendent or the 183
superintendent's designee is the compact officer for purposes of 184
that compact and shall carry out the responsibilities of the 185
compact officer specified in that compact. 186

(6) The superintendent shall, upon request, assist a 187
county coroner in the identification of a deceased person 188
through the use of fingerprint impressions obtained pursuant to 189
division (A)(1) of this section or collected pursuant to section 190
109.572 or 311.41 of the Revised Code. 191

(B) The superintendent shall prepare and furnish to every 192
county, multicounty, municipal, municipal-county, or 193
multicounty-municipal jail or workhouse, community-based 194
correctional facility, halfway house, alternative residential 195
facility, or state correctional institution and to every clerk 196
of a court in this state specified in division (A)(2) of this 197
section standard forms for reporting the information required 198
under division (A) of this section. The standard forms that the 199
superintendent prepares pursuant to this division may be in a 200
tangible format, in an electronic format, or in both tangible 201

formats and electronic formats. 202

(C) (1) The superintendent may operate a center for 203
electronic, automated, or other data processing for the storage 204
and retrieval of information, data, and statistics pertaining to 205
criminals and to children under eighteen years of age who are 206
adjudicated delinquent children for committing an act that would 207
be a felony or an offense of violence if committed by an adult, 208
criminal activity, crime prevention, law enforcement, and 209
criminal justice, and may establish and operate a statewide 210
communications network to be known as the Ohio law enforcement 211
gateway to gather and disseminate information, data, and 212
statistics for the use of law enforcement agencies and for other 213
uses specified in this division. The superintendent may gather, 214
store, retrieve, and disseminate information, data, and 215
statistics that pertain to children who are under eighteen years 216
of age and that are gathered pursuant to sections 109.57 to 217
109.61 of the Revised Code together with information, data, and 218
statistics that pertain to adults and that are gathered pursuant 219
to those sections. 220

(2) The superintendent or the superintendent's designee 221
shall gather information of the nature described in division (C) 222
(1) of this section that pertains to the offense and delinquency 223
history of a person who has been convicted of, pleaded guilty 224
to, or been adjudicated a delinquent child for committing a 225
sexually oriented offense or a child-victim oriented offense for 226
inclusion in the state registry of sex offenders and child- 227
victim offenders maintained pursuant to division (A) (1) of 228
section 2950.13 of the Revised Code and in the internet database 229
operated pursuant to division (A) (13) of that section and for 230
possible inclusion in the internet database operated pursuant to 231
division (A) (11) of that section. 232

(3) In addition to any other authorized use of 233
information, data, and statistics of the nature described in 234
division (C)(1) of this section, the superintendent or the 235
superintendent's designee may provide and exchange the 236
information, data, and statistics pursuant to the national crime 237
prevention and privacy compact as described in division (A)(5) 238
of this section. 239

(4) The Ohio law enforcement gateway shall contain the 240
name, confidential address, and telephone number of program 241
participants in the address confidentiality program established 242
under sections 111.41 to 111.47 of the Revised Code. 243

(5) The attorney general may adopt rules under Chapter 244
119. of the Revised Code establishing guidelines for the 245
operation of and participation in the Ohio law enforcement 246
gateway. The rules may include criteria for granting and 247
restricting access to information gathered and disseminated 248
through the Ohio law enforcement gateway. The attorney general 249
shall adopt rules under Chapter 119. of the Revised Code that 250
grant access to information in the gateway regarding an address 251
confidentiality program participant under sections 111.41 to 252
111.47 of the Revised Code to only chiefs of police, village 253
marshals, county sheriffs, county prosecuting attorneys, and a 254
designee of each of these individuals. The attorney general 255
shall permit the state medical board and board of nursing to 256
access and view, but not alter, information gathered and 257
disseminated through the Ohio law enforcement gateway. 258

The attorney general may appoint a steering committee to 259
advise the attorney general in the operation of the Ohio law 260
enforcement gateway that is comprised of persons who are 261
representatives of the criminal justice agencies in this state 262

that use the Ohio law enforcement gateway and is chaired by the	263
superintendent or the superintendent's designee.	264
(D) (1) The following are not public records under section	265
149.43 of the Revised Code:	266
(a) Information and materials furnished to the	267
superintendent pursuant to division (A) of this section;	268
(b) Information, data, and statistics gathered or	269
disseminated through the Ohio law enforcement gateway pursuant	270
to division (C) (1) of this section;	271
(c) Information and materials furnished to any board or	272
person under division (F) or (G) of this section.	273
(2) The superintendent or the superintendent's designee	274
shall gather and retain information so furnished under division	275
(A) of this section that pertains to the offense and delinquency	276
history of a person who has been convicted of, pleaded guilty	277
to, or been adjudicated a delinquent child for committing a	278
sexually oriented offense or a child-victim oriented offense for	279
the purposes described in division (C) (2) of this section.	280
(E) (1) The attorney general shall adopt rules, in	281
accordance with Chapter 119. of the Revised Code and subject to	282
division (E) (2) of this section, setting forth the procedure by	283
which a person may receive or release information gathered by	284
the superintendent pursuant to division (A) of this section. A	285
reasonable fee may be charged for this service. If a temporary	286
employment service submits a request for a determination of	287
whether a person the service plans to refer to an employment	288
position has been convicted of or pleaded guilty to an offense	289
listed or described in division (A) (1), (2), or (3) of section	290
109.572 of the Revised Code, the request shall be treated as a	291

single request and only one fee shall be charged. 292

(2) Except as otherwise provided in this division or 293
division (E) (3) or (4) of this section, a rule adopted under 294
division (E) (1) of this section may provide only for the release 295
of information gathered pursuant to division (A) of this section 296
that relates to the conviction of a person, or a person's plea 297
of guilty to, a criminal offense or to the arrest of a person as 298
provided in division (E) (3) of this section. The superintendent 299
shall not release, and the attorney general shall not adopt any 300
rule under division (E) (1) of this section that permits the 301
release of, any information gathered pursuant to division (A) of 302
this section that relates to an adjudication of a child as a 303
delinquent child, or that relates to a criminal conviction of a 304
person under eighteen years of age if the person's case was 305
transferred back to a juvenile court under division (B) (2) or 306
(3) of section 2152.121 of the Revised Code and the juvenile 307
court imposed a disposition or serious youthful offender 308
disposition upon the person under either division, unless either 309
of the following applies with respect to the adjudication or 310
conviction: 311

(a) The adjudication or conviction was for a violation of 312
section 2903.01 ~~or~~, 2903.02, 2904.03, or 2904.04 of the Revised 313
Code. 314

(b) The adjudication or conviction was for a sexually 315
oriented offense, the juvenile court was required to classify 316
the child a juvenile offender registrant for that offense under 317
section 2152.82, 2152.83, or 2152.86 of the Revised Code, that 318
classification has not been removed, and the records of the 319
adjudication or conviction have not been sealed or expunged 320
pursuant to sections 2151.355 to 2151.358 or sealed pursuant to 321

section 2952.32 of the Revised Code. 322

(3) A rule adopted under division (E)(1) of this section 323
may provide for the release of information gathered pursuant to 324
division (A) of this section that relates to the arrest of a 325
person who is eighteen years of age or older when the person has 326
not been convicted as a result of that arrest if any of the 327
following applies: 328

(a) The arrest was made outside of this state. 329

(b) A criminal action resulting from the arrest is 330
pending, and the superintendent confirms that the criminal 331
action has not been resolved at the time the criminal records 332
check is performed. 333

(c) The bureau cannot reasonably determine whether a 334
criminal action resulting from the arrest is pending, and not 335
more than one year has elapsed since the date of the arrest. 336

(4) A rule adopted under division (E)(1) of this section 337
may provide for the release of information gathered pursuant to 338
division (A) of this section that relates to an adjudication of 339
a child as a delinquent child if not more than five years have 340
elapsed since the date of the adjudication, the adjudication was 341
for an act that would have been a felony if committed by an 342
adult, the records of the adjudication have not been sealed or 343
expunged pursuant to sections 2151.355 to 2151.358 of the 344
Revised Code, and the request for information is made under 345
division (F) of this section or under section 109.572 of the 346
Revised Code. In the case of an adjudication for a violation of 347
the terms of community control or supervised release, the five- 348
year period shall be calculated from the date of the 349
adjudication to which the community control or supervised 350

release pertains. 351

(F) (1) As used in division (F) (2) of this section, "head 352
start agency" means an entity in this state that has been 353
approved to be an agency for purposes of subchapter II of the 354
"Community Economic Development Act," 95 Stat. 489 (1981), 42 355
U.S.C.A. 9831, as amended. 356

(2) (a) In addition to or in conjunction with any request 357
that is required to be made under section 109.572, 2151.86, 358
3301.32, 3301.541, division (C) of section 3310.58, or section 359
3319.39, 3319.391, 3327.10, 3701.881, 5104.013, 5123.081, or 360
5153.111 of the Revised Code or that is made under section 361
3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the 362
board of education of any school district; the director of 363
developmental disabilities; any county board of developmental 364
disabilities; any provider or subcontractor as defined in 365
section 5123.081 of the Revised Code; the chief administrator of 366
any chartered nonpublic school; the chief administrator of a 367
registered private provider that is not also a chartered 368
nonpublic school; the chief administrator of any home health 369
agency; the chief administrator of or person operating any child 370
day-care center, type A family day-care home, or type B family 371
day-care home licensed under Chapter 5104. of the Revised Code; 372
the chief administrator of any head start agency; the executive 373
director of a public children services agency; a private company 374
described in section 3314.41, 3319.392, 3326.25, or 3328.20 of 375
the Revised Code; or an employer described in division (J) (2) of 376
section 3327.10 of the Revised Code may request that the 377
superintendent of the bureau investigate and determine, with 378
respect to any individual who has applied for employment in any 379
position after October 2, 1989, or any individual wishing to 380
apply for employment with a board of education may request, with 381

regard to the individual, whether the bureau has any information 382
gathered under division (A) of this section that pertains to 383
that individual. On receipt of the request, subject to division 384
(E) (2) of this section, the superintendent shall determine 385
whether that information exists and, upon request of the person, 386
board, or entity requesting information, also shall request from 387
the federal bureau of investigation any criminal records it has 388
pertaining to that individual. The superintendent or the 389
superintendent's designee also may request criminal history 390
records from other states or the federal government pursuant to 391
the national crime prevention and privacy compact set forth in 392
section 109.571 of the Revised Code. Within thirty days of the 393
date that the superintendent receives a request, subject to 394
division (E) (2) of this section, the superintendent shall send 395
to the board, entity, or person a report of any information that 396
the superintendent determines exists, including information 397
contained in records that have been sealed under section 2953.32 398
of the Revised Code, and, within thirty days of its receipt, 399
subject to division (E) (2) of this section, shall send the 400
board, entity, or person a report of any information received 401
from the federal bureau of investigation, other than information 402
the dissemination of which is prohibited by federal law. 403

(b) When a board of education or a registered private 404
provider is required to receive information under this section 405
as a prerequisite to employment of an individual pursuant to 406
division (C) of section 3310.58 or section 3319.39 of the 407
Revised Code, it may accept a certified copy of records that 408
were issued by the bureau of criminal identification and 409
investigation and that are presented by an individual applying 410
for employment with the district in lieu of requesting that 411
information itself. In such a case, the board shall accept the 412

certified copy issued by the bureau in order to make a photocopy 413
of it for that individual's employment application documents and 414
shall return the certified copy to the individual. In a case of 415
that nature, a district or provider only shall accept a 416
certified copy of records of that nature within one year after 417
the date of their issuance by the bureau. 418

(c) Notwithstanding division (F)(2)(a) of this section, in 419
the case of a request under section 3319.39, 3319.391, or 420
3327.10 of the Revised Code only for criminal records maintained 421
by the federal bureau of investigation, the superintendent shall 422
not determine whether any information gathered under division 423
(A) of this section exists on the person for whom the request is 424
made. 425

(3) The state board of education may request, with respect 426
to any individual who has applied for employment after October 427
2, 1989, in any position with the state board or the department 428
of education, any information that a school district board of 429
education is authorized to request under division (F)(2) of this 430
section, and the superintendent of the bureau shall proceed as 431
if the request has been received from a school district board of 432
education under division (F)(2) of this section. 433

(4) When the superintendent of the bureau receives a 434
request for information under section 3319.291 of the Revised 435
Code, the superintendent shall proceed as if the request has 436
been received from a school district board of education and 437
shall comply with divisions (F)(2)(a) and (c) of this section. 438

(G) In addition to or in conjunction with any request that 439
is required to be made under section 3701.881, 3712.09, or 440
3721.121 of the Revised Code with respect to an individual who 441
has applied for employment in a position that involves providing 442

direct care to an older adult or adult resident, the chief 443
administrator of a home health agency, hospice care program, 444
home licensed under Chapter 3721. of the Revised Code, or adult 445
day-care program operated pursuant to rules adopted under 446
section 3721.04 of the Revised Code may request that the 447
superintendent of the bureau investigate and determine, with 448
respect to any individual who has applied after January 27, 449
1997, for employment in a position that does not involve 450
providing direct care to an older adult or adult resident, 451
whether the bureau has any information gathered under division 452
(A) of this section that pertains to that individual. 453

In addition to or in conjunction with any request that is 454
required to be made under section 173.27 of the Revised Code 455
with respect to an individual who has applied for employment in 456
a position that involves providing ombudsman services to 457
residents of long-term care facilities or recipients of 458
community-based long-term care services, the state long-term 459
care ombudsman, the director of aging, a regional long-term care 460
ombudsman program, or the designee of the ombudsman, director, 461
or program may request that the superintendent investigate and 462
determine, with respect to any individual who has applied for 463
employment in a position that does not involve providing such 464
ombudsman services, whether the bureau has any information 465
gathered under division (A) of this section that pertains to 466
that applicant. 467

In addition to or in conjunction with any request that is 468
required to be made under section 173.38 of the Revised Code 469
with respect to an individual who has applied for employment in 470
a direct-care position, the chief administrator of a provider, 471
as defined in section 173.39 of the Revised Code, may request 472
that the superintendent investigate and determine, with respect 473

to any individual who has applied for employment in a position 474
that is not a direct-care position, whether the bureau has any 475
information gathered under division (A) of this section that 476
pertains to that applicant. 477

In addition to or in conjunction with any request that is 478
required to be made under section 3712.09 of the Revised Code 479
with respect to an individual who has applied for employment in 480
a position that involves providing direct care to a pediatric 481
respite care patient, the chief administrator of a pediatric 482
respite care program may request that the superintendent of the 483
bureau investigate and determine, with respect to any individual 484
who has applied for employment in a position that does not 485
involve providing direct care to a pediatric respite care 486
patient, whether the bureau has any information gathered under 487
division (A) of this section that pertains to that individual. 488

On receipt of a request under this division, the 489
superintendent shall determine whether that information exists 490
and, on request of the individual requesting information, shall 491
also request from the federal bureau of investigation any 492
criminal records it has pertaining to the applicant. The 493
superintendent or the superintendent's designee also may request 494
criminal history records from other states or the federal 495
government pursuant to the national crime prevention and privacy 496
compact set forth in section 109.571 of the Revised Code. Within 497
thirty days of the date a request is received, subject to 498
division (E)(2) of this section, the superintendent shall send 499
to the requester a report of any information determined to 500
exist, including information contained in records that have been 501
sealed under section 2953.32 of the Revised Code, and, within 502
thirty days of its receipt, shall send the requester a report of 503
any information received from the federal bureau of 504

investigation, other than information the dissemination of which 505
is prohibited by federal law. 506

(H) Information obtained by a government entity or person 507
under this section is confidential and shall not be released or 508
disseminated. 509

(I) The superintendent may charge a reasonable fee for 510
providing information or criminal records under division (F) (2) 511
or (G) of this section. 512

(J) As used in this section: 513

(1) "Pediatric respite care program" and "pediatric care 514
patient" have the same meanings as in section 3712.01 of the 515
Revised Code. 516

(2) "Sexually oriented offense" and "child-victim oriented 517
offense" have the same meanings as in section 2950.01 of the 518
Revised Code. 519

(3) "Registered private provider" means a nonpublic school 520
or entity registered with the superintendent of public 521
instruction under section 3310.41 of the Revised Code to 522
participate in the autism scholarship program or section 3310.58 523
of the Revised Code to participate in the Jon Peterson special 524
needs scholarship program. 525

Sec. 109.572. (A) (1) Upon receipt of a request pursuant to 526
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised 527
Code, a completed form prescribed pursuant to division (C) (1) of 528
this section, and a set of fingerprint impressions obtained in 529
the manner described in division (C) (2) of this section, the 530
superintendent of the bureau of criminal identification and 531
investigation shall conduct a criminal records check in the 532
manner described in division (B) of this section to determine 533

whether any information exists that indicates that the person 534
who is the subject of the request previously has been convicted 535
of or pleaded guilty to any of the following: 536

(a) A violation of section 2903.01, 2903.02, 2903.03, 537
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 538
2904.03, 2904.04, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 539
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 540
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 541
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 542
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 543
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 544
felonious sexual penetration in violation of former section 545
2907.12 of the Revised Code, a violation of section 2905.04 of 546
the Revised Code as it existed prior to July 1, 1996, a 547
violation of section 2919.23 of the Revised Code that would have 548
been a violation of section 2905.04 of the Revised Code as it 549
existed prior to July 1, 1996, had the violation been committed 550
prior to that date, or a violation of section 2925.11 of the 551
Revised Code that is not a minor drug possession offense; 552

(b) A violation of an existing or former law of this 553
state, any other state, or the United States that is 554
substantially equivalent to any of the offenses listed in 555
division (A)(1)(a) of this section; 556

(c) If the request is made pursuant to section 3319.39 of 557
the Revised Code for an applicant who is a teacher, any offense 558
specified in section 3319.31 of the Revised Code. 559

(2) On receipt of a request pursuant to section 3712.09 or 560
3721.121 of the Revised Code, a completed form prescribed 561
pursuant to division (C)(1) of this section, and a set of 562
fingerprint impressions obtained in the manner described in 563

division (C) (2) of this section, the superintendent of the 564
bureau of criminal identification and investigation shall 565
conduct a criminal records check with respect to any person who 566
has applied for employment in a position for which a criminal 567
records check is required by those sections. The superintendent 568
shall conduct the criminal records check in the manner described 569
in division (B) of this section to determine whether any 570
information exists that indicates that the person who is the 571
subject of the request previously has been convicted of or 572
pleaded guilty to any of the following: 573

(a) A violation of section 2903.01, 2903.02, 2903.03, 574
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 575
2904.03, 2904.04, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 576
2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 577
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 578
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 579
2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 580
2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 581
2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 582
Revised Code; 583

(b) An existing or former law of this state, any other 584
state, or the United States that is substantially equivalent to 585
any of the offenses listed in division (A) (2) (a) of this 586
section. 587

(3) On receipt of a request pursuant to section 173.27, 588
173.38, 173.381, 3701.881, 5164.34, 5164.341, 5164.342, 589
5123.081, or 5123.169 of the Revised Code, a completed form 590
prescribed pursuant to division (C) (1) of this section, and a 591
set of fingerprint impressions obtained in the manner described 592
in division (C) (2) of this section, the superintendent of the 593

bureau of criminal identification and investigation shall 594
conduct a criminal records check of the person for whom the 595
request is made. The superintendent shall conduct the criminal 596
records check in the manner described in division (B) of this 597
section to determine whether any information exists that 598
indicates that the person who is the subject of the request 599
previously has been convicted of, has pleaded guilty to, or 600
(except in the case of a request pursuant to section 5164.34, 601
5164.341, or 5164.342 of the Revised Code) has been found 602
eligible for intervention in lieu of conviction for any of the 603
following, regardless of the date of the conviction, the date of 604
entry of the guilty plea, or (except in the case of a request 605
pursuant to section 5164.34, 5164.341, or 5164.342 of the 606
Revised Code) the date the person was found eligible for 607
intervention in lieu of conviction: 608

(a) A violation of section 959.13, 959.131, 2903.01, 609
2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 610
2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 611
2904.03, 2904.04, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 612
2905.32, 2905.33, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 613
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 614
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 615
2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 616
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 617
2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 618
2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 619
2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 620
2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 621
2919.25, 2921.03, 2921.11, 2921.12, 2921.13, 2921.21, 2921.24, 622
2921.32, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 623
2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 624

2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 625
2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.141, 2925.22, 626
2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 627
of the Revised Code; 628

(b) Felonious sexual penetration in violation of former 629
section 2907.12 of the Revised Code; 630

(c) A violation of section 2905.04 of the Revised Code as 631
it existed prior to July 1, 1996; 632

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 633
the Revised Code when the underlying offense that is the object 634
of the conspiracy, attempt, or complicity is one of the offenses 635
listed in divisions (A) (3) (a) to (c) of this section; 636

(e) A violation of an existing or former municipal 637
ordinance or law of this state, any other state, or the United 638
States that is substantially equivalent to any of the offenses 639
listed in divisions (A) (3) (a) to (d) of this section. 640

(4) On receipt of a request pursuant to section 2151.86 of 641
the Revised Code, a completed form prescribed pursuant to 642
division (C) (1) of this section, and a set of fingerprint 643
impressions obtained in the manner described in division (C) (2) 644
of this section, the superintendent of the bureau of criminal 645
identification and investigation shall conduct a criminal 646
records check in the manner described in division (B) of this 647
section to determine whether any information exists that 648
indicates that the person who is the subject of the request 649
previously has been convicted of or pleaded guilty to any of the 650
following: 651

(a) A violation of section 959.13, 2903.01, 2903.02, 652
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 653

2903.21, 2903.211, 2903.22, 2903.34, 2904.03, 2904.04, 2905.01, 654
2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 655
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 656
2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 657
2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 658
2911.12, 2913.49, 2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 659
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 660
2925.05, 2925.06, 2927.12, or 3716.11 of the Revised Code, a 661
violation of section 2905.04 of the Revised Code as it existed 662
prior to July 1, 1996, a violation of section 2919.23 of the 663
Revised Code that would have been a violation of section 2905.04 664
of the Revised Code as it existed prior to July 1, 1996, had the 665
violation been committed prior to that date, a violation of 666
section 2925.11 of the Revised Code that is not a minor drug 667
possession offense, two or more OVI or OVUAC violations 668
committed within the three years immediately preceding the 669
submission of the application or petition that is the basis of 670
the request, or felonious sexual penetration in violation of 671
former section 2907.12 of the Revised Code; 672

(b) A violation of an existing or former law of this 673
state, any other state, or the United States that is 674
substantially equivalent to any of the offenses listed in 675
division (A) (4) (a) of this section. 676

(5) Upon receipt of a request pursuant to section 5104.013 677
of the Revised Code, a completed form prescribed pursuant to 678
division (C) (1) of this section, and a set of fingerprint 679
impressions obtained in the manner described in division (C) (2) 680
of this section, the superintendent of the bureau of criminal 681
identification and investigation shall conduct a criminal 682
records check in the manner described in division (B) of this 683
section to determine whether any information exists that 684

indicates that the person who is the subject of the request has 685
been convicted of or pleaded guilty to any of the following: 686

(a) A violation of section 2151.421, 2903.01, 2903.02, 687
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 688
2903.22, 2903.34, 2904.03, 2904.04, 2905.01, 2905.02, 2905.05, 689
2905.11, 2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 690
2907.07, 2907.08, 2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 691
2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 692
2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 693
2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 694
2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 695
2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 696
2913.46, 2913.47, 2913.48, 2913.49, 2917.01, 2917.02, 2917.03, 697
2917.31, 2919.12, 2919.22, 2919.224, 2919.225, 2919.24, 2919.25, 698
2921.03, 2921.11, 2921.13, 2921.14, 2921.34, 2921.35, 2923.01, 699
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 700
2925.06, or 3716.11 of the Revised Code, felonious sexual 701
penetration in violation of former section 2907.12 of the 702
Revised Code, a violation of section 2905.04 of the Revised Code 703
as it existed prior to July 1, 1996, a violation of section 704
2919.23 of the Revised Code that would have been a violation of 705
section 2905.04 of the Revised Code as it existed prior to July 706
1, 1996, had the violation been committed prior to that date, a 707
violation of section 2925.11 of the Revised Code that is not a 708
minor drug possession offense, a violation of section 2923.02 or 709
2923.03 of the Revised Code that relates to a crime specified in 710
this division, or a second violation of section 4511.19 of the 711
Revised Code within five years of the date of application for 712
licensure or certification. 713

(b) A violation of an existing or former law of this 714
state, any other state, or the United States that is 715

substantially equivalent to any of the offenses or violations 716
described in division (A) (5) (a) of this section. 717

(6) Upon receipt of a request pursuant to section 5153.111 718
of the Revised Code, a completed form prescribed pursuant to 719
division (C) (1) of this section, and a set of fingerprint 720
impressions obtained in the manner described in division (C) (2) 721
of this section, the superintendent of the bureau of criminal 722
identification and investigation shall conduct a criminal 723
records check in the manner described in division (B) of this 724
section to determine whether any information exists that 725
indicates that the person who is the subject of the request 726
previously has been convicted of or pleaded guilty to any of the 727
following: 728

(a) A violation of section 2903.01, 2903.02, 2903.03, 729
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 730
2904.03, 2904.04, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 731
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 732
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 733
2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 734
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 735
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the 736
Revised Code, felonious sexual penetration in violation of 737
former section 2907.12 of the Revised Code, a violation of 738
section 2905.04 of the Revised Code as it existed prior to July 739
1, 1996, a violation of section 2919.23 of the Revised Code that 740
would have been a violation of section 2905.04 of the Revised 741
Code as it existed prior to July 1, 1996, had the violation been 742
committed prior to that date, or a violation of section 2925.11 743
of the Revised Code that is not a minor drug possession offense; 744

(b) A violation of an existing or former law of this 745

state, any other state, or the United States that is 746
substantially equivalent to any of the offenses listed in 747
division (A) (6) (a) of this section. 748

(7) On receipt of a request for a criminal records check 749
from an individual pursuant to section 4749.03 or 4749.06 of the 750
Revised Code, accompanied by a completed copy of the form 751
prescribed in division (C) (1) of this section and a set of 752
fingerprint impressions obtained in a manner described in 753
division (C) (2) of this section, the superintendent of the 754
bureau of criminal identification and investigation shall 755
conduct a criminal records check in the manner described in 756
division (B) of this section to determine whether any 757
information exists indicating that the person who is the subject 758
of the request has been convicted of or pleaded guilty to a 759
felony in this state or in any other state. If the individual 760
indicates that a firearm will be carried in the course of 761
business, the superintendent shall require information from the 762
federal bureau of investigation as described in division (B) (2) 763
of this section. Subject to division (F) of this section, the 764
superintendent shall report the findings of the criminal records 765
check and any information the federal bureau of investigation 766
provides to the director of public safety. 767

(8) On receipt of a request pursuant to section 1321.37, 768
1321.53, or 4763.05 of the Revised Code, a completed form 769
prescribed pursuant to division (C) (1) of this section, and a 770
set of fingerprint impressions obtained in the manner described 771
in division (C) (2) of this section, the superintendent of the 772
bureau of criminal identification and investigation shall 773
conduct a criminal records check with respect to any person who 774
has applied for a license, permit, or certification from the 775
department of commerce or a division in the department. The 776

superintendent shall conduct the criminal records check in the 777
manner described in division (B) of this section to determine 778
whether any information exists that indicates that the person 779
who is the subject of the request previously has been convicted 780
of or pleaded guilty to any of the following: a violation of 781
section 2913.02, 2913.11, 2913.31, 2913.51, or 2925.03 of the 782
Revised Code; any other criminal offense involving theft, 783
receiving stolen property, embezzlement, forgery, fraud, passing 784
bad checks, money laundering, or drug trafficking, or any 785
criminal offense involving money or securities, as set forth in 786
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 787
the Revised Code; or any existing or former law of this state, 788
any other state, or the United States that is substantially 789
equivalent to those offenses. 790

(9) On receipt of a request for a criminal records check 791
from the treasurer of state under section 113.041 of the Revised 792
Code or from an individual under section 4701.08, 4715.101, 793
4717.061, 4725.121, 4725.501, 4729.071, 4729.53, 4729.90, 794
4729.92, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 795
4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 796
4734.202, 4740.061, 4741.10, 4747.051, 4753.061, 4755.70, 797
4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 798
4762.06, 4774.031, 4774.06, 4776.021, 4778.04, 4778.07, 799
4779.091, or 4783.04 of the Revised Code, accompanied by a 800
completed form prescribed under division (C)(1) of this section 801
and a set of fingerprint impressions obtained in the manner 802
described in division (C)(2) of this section, the superintendent 803
of the bureau of criminal identification and investigation shall 804
conduct a criminal records check in the manner described in 805
division (B) of this section to determine whether any 806
information exists that indicates that the person who is the 807

subject of the request has been convicted of or pleaded guilty 808
to any criminal offense in this state or any other state. 809
Subject to division (F) of this section, the superintendent 810
shall send the results of a check requested under section 811
113.041 of the Revised Code to the treasurer of state and shall 812
send the results of a check requested under any of the other 813
listed sections to the licensing board specified by the 814
individual in the request. 815

(10) On receipt of a request pursuant to section 124.74, 816
1121.23, 1315.141, 1733.47, or 1761.26 of the Revised Code, a 817
completed form prescribed pursuant to division (C)(1) of this 818
section, and a set of fingerprint impressions obtained in the 819
manner described in division (C)(2) of this section, the 820
superintendent of the bureau of criminal identification and 821
investigation shall conduct a criminal records check in the 822
manner described in division (B) of this section to determine 823
whether any information exists that indicates that the person 824
who is the subject of the request previously has been convicted 825
of or pleaded guilty to any criminal offense under any existing 826
or former law of this state, any other state, or the United 827
States. 828

(11) On receipt of a request for a criminal records check 829
from an appointing or licensing authority under section 3772.07 830
of the Revised Code, a completed form prescribed under division 831
(C)(1) of this section, and a set of fingerprint impressions 832
obtained in the manner prescribed in division (C)(2) of this 833
section, the superintendent of the bureau of criminal 834
identification and investigation shall conduct a criminal 835
records check in the manner described in division (B) of this 836
section to determine whether any information exists that 837
indicates that the person who is the subject of the request 838

previously has been convicted of or pleaded guilty or no contest 839
to any offense under any existing or former law of this state, 840
any other state, or the United States that is a disqualifying 841
offense as defined in section 3772.07 of the Revised Code or 842
substantially equivalent to such an offense. 843

(12) On receipt of a request pursuant to section 2151.33 844
or 2151.412 of the Revised Code, a completed form prescribed 845
pursuant to division (C)(1) of this section, and a set of 846
fingerprint impressions obtained in the manner described in 847
division (C)(2) of this section, the superintendent of the 848
bureau of criminal identification and investigation shall 849
conduct a criminal records check with respect to any person for 850
whom a criminal records check is required under that section. 851
The superintendent shall conduct the criminal records check in 852
the manner described in division (B) of this section to 853
determine whether any information exists that indicates that the 854
person who is the subject of the request previously has been 855
convicted of or pleaded guilty to any of the following: 856

(a) A violation of section 2903.01, 2903.02, 2903.03, 857
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 858
2904.03, 2904.04, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 859
2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 860
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 861
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 862
2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 863
2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 864
2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 865
Revised Code; 866

(b) An existing or former law of this state, any other 867
state, or the United States that is substantially equivalent to 868

any of the offenses listed in division (A) (12) (a) of this 869
section. 870

(13) On receipt of a request pursuant to section 3796.12 871
of the Revised Code, a completed form prescribed pursuant to 872
division (C) (1) of this section, and a set of fingerprint 873
impressions obtained in a manner described in division (C) (2) of 874
this section, the superintendent of the bureau of criminal 875
identification and investigation shall conduct a criminal 876
records check in the manner described in division (B) of this 877
section to determine whether any information exists that 878
indicates that the person who is the subject of the request 879
previously has been convicted of or pleaded guilty to the 880
following: 881

(a) A disqualifying offense as specified in rules adopted 882
under division (B) (2) (b) of section 3796.03 of the Revised Code 883
if the person who is the subject of the request is an 884
administrator or other person responsible for the daily 885
operation of, or an owner or prospective owner, officer or 886
prospective officer, or board member or prospective board member 887
of, an entity seeking a license from the department of commerce 888
under Chapter 3796. of the Revised Code; 889

(b) A disqualifying offense as specified in rules adopted 890
under division (B) (2) (b) of section 3796.04 of the Revised Code 891
if the person who is the subject of the request is an 892
administrator or other person responsible for the daily 893
operation of, or an owner or prospective owner, officer or 894
prospective officer, or board member or prospective board member 895
of, an entity seeking a license from the state board of pharmacy 896
under Chapter 3796. of the Revised Code. 897

(14) On receipt of a request required by section 3796.13 898

of the Revised Code, a completed form prescribed pursuant to 899
division (C) (1) of this section, and a set of fingerprint 900
impressions obtained in a manner described in division (C) (2) of 901
this section, the superintendent of the bureau of criminal 902
identification and investigation shall conduct a criminal 903
records check in the manner described in division (B) of this 904
section to determine whether any information exists that 905
indicates that the person who is the subject of the request 906
previously has been convicted of or pleaded guilty to the 907
following: 908

(a) A disqualifying offense as specified in rules adopted 909
under division (B) (8) (a) of section 3796.03 of the Revised Code 910
if the person who is the subject of the request is seeking 911
employment with an entity licensed by the department of commerce 912
under Chapter 3796. of the Revised Code; 913

(b) A disqualifying offense as specified in rules adopted 914
under division (B) (14) (a) of section 3796.04 of the Revised Code 915
if the person who is the subject of the request is seeking 916
employment with an entity licensed by the state board of 917
pharmacy under Chapter 3796. of the Revised Code. 918

(15) On receipt of a request pursuant to section 4768.06 919
of the Revised Code, a completed form prescribed under division 920
(C) (1) of this section, and a set of fingerprint impressions 921
obtained in the manner described in division (C) (2) of this 922
section, the superintendent of the bureau of criminal 923
identification and investigation shall conduct a criminal 924
records check in the manner described in division (B) of this 925
section to determine whether any information exists indicating 926
that the person who is the subject of the request has been 927
convicted of or pleaded guilty to a felony in this state or in 928

any other state. 929

(16) On receipt of a request pursuant to division (B) of 930
section 4764.07 of the Revised Code, a completed form prescribed 931
under division (C)(1) of this section, and a set of fingerprint 932
impressions obtained in the manner described in division (C)(2) 933
of this section, the superintendent of the bureau of criminal 934
identification and investigation shall conduct a criminal 935
records check in the manner described in division (B) of this 936
section to determine whether any information exists indicating 937
that the person who is the subject of the request has been 938
convicted of or pleaded guilty to any crime of moral turpitude, 939
a felony, or an equivalent offense in any other state or the 940
United States. 941

(17) On receipt of a request for a criminal records check 942
under section 147.022 of the Revised Code, a completed form 943
prescribed under division (C)(1) of this section, and a set of 944
fingerprint impressions obtained in the manner prescribed in 945
division (C)(2) of this section, the superintendent of the 946
bureau of criminal identification and investigation shall 947
conduct a criminal records check in the manner described in 948
division (B) of this section to determine whether any 949
information exists that indicates that the person who is the 950
subject of the request previously has been convicted of or 951
pleaded guilty or no contest to any disqualifying offense, as 952
defined in section 147.011 of the Revised Code, or to any 953
offense under any existing or former law of this state, any 954
other state, or the United States that is substantially 955
equivalent to such a disqualifying offense. 956

(B) Subject to division (F) of this section, the 957
superintendent shall conduct any criminal records check to be 958

conducted under this section as follows: 959

(1) The superintendent shall review or cause to be 960
reviewed any relevant information gathered and compiled by the 961
bureau under division (A) of section 109.57 of the Revised Code 962
that relates to the person who is the subject of the criminal 963
records check, including, if the criminal records check was 964
requested under section 113.041, 121.08, 124.74, 173.27, 173.38, 965
173.381, 1121.23, 1315.141, 1321.37, 1321.53, 1733.47, 1761.26, 966
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 967
3721.121, 3772.07, 3796.12, 3796.13, 4729.071, 4729.53, 4729.90, 968
4729.92, 4749.03, 4749.06, 4763.05, 4764.07, 4768.06, 5104.013, 969
5164.34, 5164.341, 5164.342, 5123.081, 5123.169, or 5153.111 of 970
the Revised Code, any relevant information contained in records 971
that have been sealed under section 2953.32 of the Revised Code; 972

(2) If the request received by the superintendent asks for 973
information from the federal bureau of investigation, the 974
superintendent shall request from the federal bureau of 975
investigation any information it has with respect to the person 976
who is the subject of the criminal records check, including 977
fingerprint-based checks of national crime information databases 978
as described in 42 U.S.C. 671 if the request is made pursuant to 979
section 2151.86 or 5104.013 of the Revised Code or if any other 980
Revised Code section requires fingerprint-based checks of that 981
nature, and shall review or cause to be reviewed any information 982
the superintendent receives from that bureau. If a request under 983
section 3319.39 of the Revised Code asks only for information 984
from the federal bureau of investigation, the superintendent 985
shall not conduct the review prescribed by division (B) (1) of 986
this section. 987

(3) The superintendent or the superintendent's designee 988

may request criminal history records from other states or the 989
federal government pursuant to the national crime prevention and 990
privacy compact set forth in section 109.571 of the Revised 991
Code. 992

(4) The superintendent shall include in the results of the 993
criminal records check a list or description of the offenses 994
listed or described in division (A) (1), (2), (3), (4), (5), (6), 995
(7), (8), (9), (10), (11), (12), (13), (14), (15), (16), or (17) 996
of this section, whichever division requires the superintendent 997
to conduct the criminal records check. The superintendent shall 998
exclude from the results any information the dissemination of 999
which is prohibited by federal law. 1000

(5) The superintendent shall send the results of the 1001
criminal records check to the person to whom it is to be sent 1002
not later than the following number of days after the date the 1003
superintendent receives the request for the criminal records 1004
check, the completed form prescribed under division (C) (1) of 1005
this section, and the set of fingerprint impressions obtained in 1006
the manner described in division (C) (2) of this section: 1007

(a) If the superintendent is required by division (A) of 1008
this section (other than division (A) (3) of this section) to 1009
conduct the criminal records check, thirty; 1010

(b) If the superintendent is required by division (A) (3) 1011
of this section to conduct the criminal records check, sixty. 1012

(C) (1) The superintendent shall prescribe a form to obtain 1013
the information necessary to conduct a criminal records check 1014
from any person for whom a criminal records check is to be 1015
conducted under this section. The form that the superintendent 1016
prescribes pursuant to this division may be in a tangible 1017

format, in an electronic format, or in both tangible and 1018
electronic formats. 1019

(2) The superintendent shall prescribe standard impression 1020
sheets to obtain the fingerprint impressions of any person for 1021
whom a criminal records check is to be conducted under this 1022
section. Any person for whom a records check is to be conducted 1023
under this section shall obtain the fingerprint impressions at a 1024
county sheriff's office, municipal police department, or any 1025
other entity with the ability to make fingerprint impressions on 1026
the standard impression sheets prescribed by the superintendent. 1027
The office, department, or entity may charge the person a 1028
reasonable fee for making the impressions. The standard 1029
impression sheets the superintendent prescribes pursuant to this 1030
division may be in a tangible format, in an electronic format, 1031
or in both tangible and electronic formats. 1032

(3) Subject to division (D) of this section, the 1033
superintendent shall prescribe and charge a reasonable fee for 1034
providing a criminal records check under this section. The 1035
person requesting the criminal records check shall pay the fee 1036
prescribed pursuant to this division. In the case of a request 1037
under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1038
1761.26, 2151.33, 2151.412, or 5164.34 of the Revised Code, the 1039
fee shall be paid in the manner specified in that section. 1040

(4) The superintendent of the bureau of criminal 1041
identification and investigation may prescribe methods of 1042
forwarding fingerprint impressions and information necessary to 1043
conduct a criminal records check, which methods shall include, 1044
but not be limited to, an electronic method. 1045

(D) The results of a criminal records check conducted 1046
under this section, other than a criminal records check 1047

specified in division (A) (7) of this section, are valid for the 1048
person who is the subject of the criminal records check for a 1049
period of one year from the date upon which the superintendent 1050
completes the criminal records check. If during that period the 1051
superintendent receives another request for a criminal records 1052
check to be conducted under this section for that person, the 1053
superintendent shall provide the results from the previous 1054
criminal records check of the person at a lower fee than the fee 1055
prescribed for the initial criminal records check. 1056

(E) When the superintendent receives a request for 1057
information from a registered private provider, the 1058
superintendent shall proceed as if the request was received from 1059
a school district board of education under section 3319.39 of 1060
the Revised Code. The superintendent shall apply division (A) (1) 1061
(c) of this section to any such request for an applicant who is 1062
a teacher. 1063

(F) (1) Subject to division (F) (2) of this section, all 1064
information regarding the results of a criminal records check 1065
conducted under this section that the superintendent reports or 1066
sends under division (A) (7) or (9) of this section to the 1067
director of public safety, the treasurer of state, or the 1068
person, board, or entity that made the request for the criminal 1069
records check shall relate to the conviction of the subject 1070
person, or the subject person's plea of guilty to, a criminal 1071
offense. 1072

(2) Division (F) (1) of this section does not limit, 1073
restrict, or preclude the superintendent's release of 1074
information that relates to the arrest of a person who is 1075
eighteen years of age or older, to an adjudication of a child as 1076
a delinquent child, or to a criminal conviction of a person 1077

under eighteen years of age in circumstances in which a release 1078
of that nature is authorized under division (E) (2), (3), or (4) 1079
of section 109.57 of the Revised Code pursuant to a rule adopted 1080
under division (E) (1) of that section. 1081

(G) As used in this section: 1082

(1) "Criminal records check" means any criminal records 1083
check conducted by the superintendent of the bureau of criminal 1084
identification and investigation in accordance with division (B) 1085
of this section. 1086

(2) "Minor drug possession offense" has the same meaning 1087
as in section 2925.01 of the Revised Code. 1088

(3) "OVI or OVUAC violation" means a violation of section 1089
4511.19 of the Revised Code or a violation of an existing or 1090
former law of this state, any other state, or the United States 1091
that is substantially equivalent to section 4511.19 of the 1092
Revised Code. 1093

(4) "Registered private provider" means a nonpublic school 1094
or entity registered with the superintendent of public 1095
instruction under section 3310.41 of the Revised Code to 1096
participate in the autism scholarship program or section 3310.58 1097
of the Revised Code to participate in the Jon Peterson special 1098
needs scholarship program. 1099

Sec. 109.97. (A) As used in this section: 1100

(1) "Commutation," "pardon," "prisoner," and "state 1101
correctional institution" have the same meanings as in section 1102
2967.01 of the Revised Code. 1103

(2) "Individual's present legal status" means whichever of 1104
the following circumstances apply on the thirty-first day of 1105

December of the calendar year covered by a capital case status 1106
report described in divisions (B) and (C) of this section to an 1107
individual who was sentenced to death pursuant to sections 1108
2929.02 to 2929.04 or section 2929.06 of the Revised Code for an 1109
aggravated murder or aggravated abortion murder committed on or 1110
after October 19, 1981: 1111

(a) The individual was executed in accordance with section 1112
2949.22 of the Revised Code for the aggravated murder or 1113
aggravated abortion murder, or the individual otherwise is 1114
deceased. 1115

(b) The individual continues to be confined in a state 1116
correctional institution waiting for the execution of the 1117
sentence of death. 1118

(c) The individual has been released from confinement in a 1119
state correctional institution pursuant to a pardon granted in 1120
connection with the aggravated murder or aggravated abortion 1121
murder, or the individual has been granted a commutation in 1122
connection with the aggravated murder or aggravated abortion 1123
murder and has been released from confinement or is serving a 1124
prison term or sentence of imprisonment pursuant to the 1125
commutation. 1126

(d) The individual has had the sentence of death vacated 1127
or reversed on appeal or pursuant to division (C) of section 1128
2929.05 of the Revised Code or otherwise has been relieved of 1129
the sentence of death by a court of this state or the United 1130
States. 1131

(e) The individual has had the sentence of death vacated 1132
as described in section 2929.06 of the Revised Code or 1133
otherwise, the individual has been resentenced pursuant to that 1134

section or otherwise to a sentence other than a sentence of 1135
death, and the individual is a prisoner serving a prison term or 1136
sentence of imprisonment in a state correctional institution. 1137

(f) The individual is confined in a correctional 1138
institution of another state or the United States for the 1139
commission of another offense or has been executed in accordance 1140
with a sentence of death imposed by a court of another state or 1141
the United States for the commission of another offense. 1142

(g) The individual has escaped from confinement in a state 1143
correctional institution or a correctional institution of 1144
another state or the United States and currently is at-large. 1145

(B) The attorney general annually shall prepare or cause 1146
to be prepared a capital case status report that pertains to all 1147
individuals who were sentenced to death pursuant to sections 1148
2929.02 to 2929.04 or section 2929.06 of the Revised Code for an 1149
aggravated murder or aggravated abortion murder committed on or 1150
after October 19, 1981, and that contains for each of those 1151
individuals the information described in division (C) (1) of this 1152
section. The attorney general shall file a copy of each annual 1153
capital case status report with the governor, the chief justice 1154
of the supreme court, the president of the senate, and the 1155
speaker of the house of representatives no later than the first 1156
day of April of the calendar year following the calendar year 1157
covered by the report. Each annual capital case status report 1158
shall be a public record subject to inspection and copying in 1159
accordance with section 149.43 of the Revised Code. 1160

(C) (1) An annual capital case status report prepared 1161
pursuant to division (B) of this section shall contain all of 1162
the following information that pertains as of the thirty-first 1163
day of December of the calendar year covered by the report to 1164

each individual who was sentenced to death pursuant to sections 1165
2929.02 to 2929.04 or 2929.06 of the Revised Code for an 1166
aggravated murder or aggravated abortion murder committed on or 1167
after October 19, 1981: 1168

(a) A citation to and brief summary of the facts of each 1169
case in which the individual was sentenced to death pursuant to 1170
sections 2929.02 to 2929.04 or section 2929.06 of the Revised 1171
Code for an aggravated murder or aggravated abortion murder 1172
committed on or after October 19, 1981; 1173

(b) A statement as to the individual's present legal 1174
status; 1175

(c) A summary history of the individual's legal actions to 1176
vacate, reverse, or otherwise be relieved from the sentence of 1177
death described in division (C)(1)(a) of this section, 1178
including, but not limited to, motions to vacate the sentence of 1179
death, appeals, petitions for postconviction relief, and 1180
petitions for habeas corpus relief filed with a court of this 1181
state or a court of the United States under section 2929.05, 1182
2953.21, or another section of the Revised Code, the Ohio 1183
Constitution, federal statutes, or the United States 1184
Constitution; 1185

(d) Any other information that the attorney general 1186
determines is relevant, including, but not limited to, a 1187
tentatively scheduled date for the execution of the individual's 1188
sentence of death in accordance with section 2949.22 of the 1189
Revised Code. 1190

(2) In each annual capital case status report prepared 1191
pursuant to division (B) of this section, the attorney general 1192
shall set forth or cause to be set forth the information 1193

described in division (C) (1) of this section in the form that 1194
the attorney general considers most appropriate to present that 1195
information, including, but not limited to, charts, tables, 1196
graphs, and narrative summaries. 1197

(D) All officers and employees of the government of this 1198
state and its political subdivisions shall cooperate, upon 1199
request of the attorney general, in providing information that 1200
facilitates the attorney general in the performance of the 1201
attorney general's responsibilities under this section. 1202

Sec. 177.01. (A) The organized crime investigations 1203
commission, consisting of seven members, is hereby established 1204
in the office of the attorney general. One of the members shall 1205
be the attorney general. Of the remaining members, each of whom 1206
shall be appointed by the governor with the advice and consent 1207
of the senate, two shall be prosecuting attorneys, two shall be 1208
county sheriffs, and two shall be chief municipal law 1209
enforcement officers. No more than four members of the 1210
commission shall be members of the same political party. 1211

Of the initial appointments to the commission, one member 1212
who is a prosecuting attorney and one who is a county sheriff 1213
each shall be appointed for terms ending September 3, 1987, one 1214
member who is a prosecuting attorney and one who is a chief 1215
municipal law enforcement officer each shall be appointed for 1216
terms ending September 3, 1988, and one member who is a county 1217
sheriff and one who is a chief municipal law enforcement officer 1218
each shall be appointed for terms ending September 3, 1989. 1219
Thereafter, terms of office of persons appointed to the 1220
commission shall be for three years, with each term ending on 1221
the same day of the same month of the year as did the term that 1222
it succeeds. Members may be reappointed. Each appointed member 1223

shall hold office from the date of the member's appointment 1224
until the end of the term for which the member was appointed, 1225
except that an appointed member who ceases to hold the office or 1226
position of prosecuting attorney, county sheriff, or chief 1227
municipal law enforcement officer prior to the expiration of the 1228
member's term of office on the commission shall cease to be a 1229
member of the commission on the date that the member ceases to 1230
hold the office or position. Vacancies shall be filled in the 1231
manner provided for original appointments. Any member appointed 1232
to fill a vacancy occurring prior to the expiration of the term 1233
for which the member's predecessor was appointed shall take 1234
office on the commission when the member is confirmed by the 1235
senate and shall hold office for the remainder of such term. Any 1236
member shall continue in office subsequent to the expiration 1237
date of the member's term until the member's successor takes 1238
office, or until a period of sixty days has elapsed, whichever 1239
occurs first. 1240

The attorney general shall become a member of the 1241
commission on September 3, 1986. Successors in office to that 1242
attorney general shall become members of the commission on the 1243
day they assume the office of attorney general. An attorney 1244
general's term of office as a member of the commission shall 1245
continue for as long as the person in question holds the office 1246
of attorney general. 1247

Each member of the commission may designate, in writing, 1248
another person to represent the member on the commission. If a 1249
member makes such a designation, either the member or the 1250
designee may perform the member's duties and exercise the 1251
member's authority on the commission. If a member makes such a 1252
designation, the member may revoke the designation by sending 1253
written notice of the revocation to the commission. Upon such a 1254

revocation, the member may designate a different person to 1255
represent the member on the commission by sending written notice 1256
of the designation to the commission at least two weeks prior to 1257
the date on which the new designation is to take effect. 1258

The attorney general or a person the attorney general 1259
designates pursuant to this division to represent the attorney 1260
general on the commission shall serve as chairperson of the 1261
commission. The commission shall meet within two weeks after all 1262
appointed members have been appointed, at a time and place 1263
determined by the governor. The commission shall organize by 1264
selecting a vice-chairperson and other officers who are 1265
necessary and shall adopt rules to govern its procedures. 1266
Thereafter, the commission shall meet at least once every six 1267
months, or more often upon the call of the chairperson or the 1268
written request of two or more members. Each member of the 1269
commission shall have one vote. Four members constitute a 1270
quorum, and four votes are required to validate an action of the 1271
commission. 1272

The members of the commission shall serve without 1273
compensation, but each member shall be reimbursed for actual and 1274
necessary expenses incurred in the performance of official 1275
duties. In the absence of the chairperson, the vice-chairperson 1276
shall perform the duties of the chairperson. 1277

(B) The commission shall coordinate investigations of 1278
organized criminal activity and perform all of the functions and 1279
duties relative to the investigations that are set forth in 1280
section 177.02 of the Revised Code, and it shall cooperate with 1281
departments and officers of the government of the United States 1282
in the suppression of organized criminal activity. 1283

(C) The commission shall appoint and fix the compensation 1284

of a director and such technical and clerical employees who are 1285
necessary to exercise the powers and carry out the duties of the 1286
commission, may enter into contracts with one or more 1287
consultants to assist in exercising those powers and carrying 1288
out those duties, and may enter into contracts and purchase any 1289
equipment necessary to the performance of its duties. The 1290
director and employees of the commission shall be members of the 1291
unclassified service as defined in section 124.11 of the Revised 1292
Code. The commission shall require the director and each 1293
employee, prior to commencing employment with the commission, to 1294
undergo an investigation for the purpose of obtaining a security 1295
clearance and, after the initial investigation, may require the 1296
director and each employee to undergo an investigation for that 1297
purpose at any time during the director's or employee's 1298
employment with the commission. The commission may require any 1299
consultant with whom it contracts to undergo an investigation 1300
for the purpose of obtaining a security clearance. An 1301
investigation under this division may include, but is not 1302
limited to, a polygraph examination and shall be conducted by an 1303
organization designated by the commission. 1304

(D) An appointed commission member may be removed from 1305
office as a member of the commission by the vote of four members 1306
of the commission or by the governor for any of the following 1307
reasons: 1308

(1) Neglect of duty, misconduct, incompetence, or 1309
malfeasance in office; 1310

(2) Conviction of or a plea of guilty to a felony or an 1311
offense of moral turpitude; 1312

(3) Being mentally ill or mentally incompetent; 1313

(4) Being the subject of an investigation by a task force 1314
established by the commission or another law enforcement agency, 1315
where the proof of criminal activity is evident or the 1316
presumption great; 1317

(5) Engaging in any activity or associating with any 1318
persons or organization inappropriate to the member's position 1319
as a member of the commission. 1320

(E) As used in sections 177.01 to 177.03 of the Revised 1321
Code: 1322

(1) "Organized criminal activity" means any combination or 1323
conspiracy to engage in activity that constitutes "engaging in a 1324
pattern of corrupt activity;" any violation, combination of 1325
violations, or conspiracy to commit one or more violations of 1326
section 2925.03, 2925.04, 2925.05, 2925.06, or 2925.11 of the 1327
Revised Code other than a violation of section 2925.11 of the 1328
Revised Code that is a minor drug possession offense; or any 1329
criminal activity that relates to the corruption of a public 1330
official, as defined in section 2921.01 of the Revised Code, or 1331
of a public servant of the type described in division (B) (3) of 1332
that section. 1333

(2) A person is engaging in an activity that constitutes 1334
"engaging in a pattern of corrupt activity" if any of the 1335
following apply: 1336

(a) The person is or was employed by, or associated with, 1337
an enterprise and the person conducts or participates in, 1338
directly or indirectly, the affairs of the enterprise through a 1339
pattern of corrupt activity or the collection of an unlawful 1340
debt. 1341

(b) The person, through a pattern of corrupt activity or 1342

the collection of an unlawful debt, acquires or maintains, 1343
directly or indirectly, an interest in, or control of, an 1344
enterprise or real property. 1345

(c) The person knowingly has received proceeds derived, 1346
directly or indirectly, from a pattern of corrupt activity or 1347
the collection of an unlawful debt and the person uses or 1348
invests, directly or indirectly, a part of those proceeds, or 1349
proceeds derived from the use or investment of any of those 1350
proceeds, in the acquisition of title to, or a right, interest, 1351
or equity in, real property or the establishment or operation of 1352
an enterprise. A purchase of securities on the open market with 1353
intent to make an investment, without intent to control or 1354
participate in the control of the issuer, and without intent to 1355
assist another to do so is not an activity that constitutes 1356
"engaging in a pattern of corrupt activity" if the securities of 1357
the issuer held after the purchase by the purchaser, the members 1358
of the purchaser's immediate family, and the purchaser's or 1359
members' accomplices in any pattern of corrupt activity or the 1360
collection of an unlawful debt, do not aggregate one per cent of 1361
the outstanding securities of any one class of the issuer and do 1362
not confer, in law or in fact, the power to elect one or more 1363
directors of the issuer. 1364

(3) "Pattern of corrupt activity" means two or more 1365
incidents of corrupt activity, whether or not there has been a 1366
prior conviction, that are related to the affairs of the same 1367
enterprise, are not isolated, and are not so closely related to 1368
each other and connected in time and place that they constitute 1369
a single event. At least one of the incidents forming the 1370
pattern shall occur on or after September 3, 1986. Unless any 1371
incident was an aggravated murder~~or~~, murder, aggravated 1372
abortion murder, or abortion murder, the most recent of the 1373

incidents forming the pattern shall occur within six years after 1374
the commission of any prior incident forming the pattern, 1375
excluding any period of imprisonment served by any person 1376
engaging in the corrupt activity. 1377

(4) "Corrupt activity," "unlawful debt," "enterprise," 1378
"person," "real property," and "beneficial interest" have the 1379
same meanings as in section 2923.31 of the Revised Code. 1380

(5) "Minor drug possession offense" has the same meaning 1381
as in section 2925.01 of the Revised Code. 1382

Sec. 313.131. (A) As used in this section: 1383

(1) "Friend" means any person who maintained regular 1384
contact with the deceased person, and who was familiar with the 1385
deceased person's activities, health, and religious beliefs at 1386
the time of the deceased person's death, any person who assumes 1387
custody of the body for burial, and any person authorized by 1388
written instrument, executed by the deceased person to make 1389
burial arrangements. 1390

(2) "Relative" means any of the following persons: the 1391
deceased person's surviving spouse, children, parents, or 1392
siblings. 1393

(B) The coroner, deputy coroner, or pathologist shall 1394
perform an autopsy if, in the opinion of the coroner, or, in ~~his~~ 1395
the coroner's absence, in the opinion of the deputy coroner, an 1396
autopsy is necessary, except for certain circumstances provided 1397
for in this section where a relative or friend of the deceased 1398
person informs the coroner that an autopsy is contrary to the 1399
deceased person's religious beliefs, or the coroner otherwise 1400
has reason to believe that an autopsy is contrary to the 1401
deceased person's religious beliefs. The coroner has such reason 1402

to believe an autopsy is contrary to the deceased person's 1403
religious beliefs if a document signed by the deceased and 1404
stating an objection to an autopsy is found on the ~~deceased's~~ 1405
deceased person or in ~~his~~ the deceased person's effects. For the 1406
purposes of this division, a person is a relative or friend of 1407
the deceased person if the person presents an affidavit stating 1408
that ~~he~~ the person is a relative or friend as defined in 1409
division (A) of this section. 1410

(C) (1) Except as provided in division (F) of this section, 1411
if a relative or friend of the deceased person informs the 1412
coroner that an autopsy is contrary to the deceased person's 1413
religious beliefs, or the coroner otherwise has reason to 1414
believe that an autopsy is contrary to the deceased person's 1415
religious beliefs, and the coroner concludes the autopsy is a 1416
compelling public necessity, no autopsy shall be performed for 1417
forty-eight hours after the coroner takes charge of the deceased 1418
person. An autopsy is a compelling public necessity if it is 1419
necessary to the conduct of an investigation by law enforcement 1420
officials of a homicide or suspected homicide, or any other 1421
criminal investigation, or is necessary to establish the cause 1422
of the deceased person's death for the purpose of protecting 1423
against an immediate and substantial threat to the public 1424
health. During the forty-eight-hour period, the objecting 1425
relative or friend may file suit to enjoin the autopsy, and 1426
shall give notice of any such filing to the coroner. The coroner 1427
may seek an order waiving the forty-eight-hour waiting period. 1428
If the coroner seeks such an order, the court shall give notice 1429
of the coroner's motion, by telephone if necessary, to the 1430
objecting relative or friend, or, if none objected, to all of 1431
the deceased person's relatives whose addresses or telephone 1432
numbers can be obtained through the exercise of reasonable 1433

diligence. The court may grant the coroner's motion if the court 1434
determines that no friend or relative of the deceased person 1435
objects to the autopsy or if the court is satisfied that any 1436
objections of a friend or relative have been heard, and if it 1437
also determines that the delay may prejudice the accuracy of the 1438
autopsy, or if law enforcement officials are investigating the 1439
deceased person's death as a homicide and suspect the objecting 1440
party committed the homicide or aided or abetted in the 1441
homicide. If no friend or relative files suit within the forty- 1442
eight-hour period, the coroner may proceed with the autopsy. 1443

(2) The court shall hear a petition to enjoin an autopsy 1444
within forty-eight hours after the filing of the petition. The 1445
Rules of Civil Procedure shall govern all aspects of the 1446
proceedings, except as otherwise provided in division (C) (2) of 1447
this section. The court is not bound by the rules of evidence in 1448
the conduct of the hearing. The court shall order the autopsy if 1449
the court finds that under the circumstances the coroner has 1450
demonstrated a need for the autopsy. If the court enjoins the 1451
autopsy, the coroner shall immediately proceed under section 1452
313.14 of the Revised Code. 1453

(D) (1) If a relative or friend of the decedent informs the 1454
coroner that an autopsy is contrary to the deceased person's 1455
religious beliefs, or the coroner otherwise has reason to 1456
believe that an autopsy is contrary to the deceased person's 1457
religious beliefs, and the coroner concludes the autopsy is 1458
necessary, but not a compelling public necessity, the coroner 1459
may file a petition in a court of common pleas seeking a 1460
declaratory judgment authorizing the autopsy. Upon the filing of 1461
the petition, the court shall schedule a hearing on the 1462
petition, and shall issue a summons to the objecting relative or 1463
friend, or, if none objected, to all of the deceased person's 1464

relatives whose addresses can be obtained through the exercise 1465
of reasonable diligence. The court shall hold the hearing no 1466
later than forty-eight hours after the filing of the petition. 1467
The court shall conduct the hearing in the manner provided in 1468
division (C) (2) of this section. 1469

(2) Each person claiming to be a relative or friend of the 1470
deceased person shall immediately upon receipt of the summons 1471
file an affidavit with the court stating the facts upon which 1472
the claim is based. If the court finds that any person is 1473
falsely representing ~~himself~~ self as a relative or friend of the 1474
deceased person, the court shall dismiss the person from the 1475
action. If after dismissal no objecting party remains, and the 1476
coroner does not have reason to believe that an autopsy is 1477
contrary to the deceased person's religious beliefs, the court 1478
shall dismiss the action and the coroner may proceed with the 1479
autopsy. The court shall order the autopsy after hearing the 1480
petition if the court finds that under the circumstances the 1481
coroner has demonstrated a need for the autopsy. The court shall 1482
waive the payment of all court costs in the action. If the 1483
petition is denied, the coroner shall immediately proceed under 1484
section 313.14 of the Revised Code. 1485

Any autopsy performed pursuant to a court order granting 1486
an autopsy shall be performed using the least intrusive 1487
procedure. 1488

(E) For purposes of divisions (B), (C) (1), and (D) (1) of 1489
this section, any time the friends or relatives of a deceased 1490
person disagree about whether an autopsy is contrary to the 1491
deceased person's religious beliefs, the coroner shall consider 1492
only the information provided to ~~him~~ the coroner by the person 1493
of highest priority, as determined by which is listed first 1494

among the following:	1495
(1) The deceased person's surviving spouse;	1496
(2) An adult son or daughter of the deceased person;	1497
(3) Either parent of the deceased person;	1498
(4) An adult brother or sister of the deceased person;	1499
(5) The guardian of the person of the deceased person at the time of death;	1500 1501
(6) A person other than those listed in divisions (E) (1) to (5) of this section who is a friend as defined in division (A) of this section.	1502 1503 1504
If two or more persons of equal priority disagree about whether an autopsy is contrary to the deceased person's religious beliefs, and those persons are also of the highest priority among those who provide the coroner with information the coroner has reason to believe that an autopsy is contrary to the deceased person's religious beliefs.	1505 1506 1507 1508 1509 1510
(F) (1) Divisions (C) (1) and (2) of this section do not apply in any case involving aggravated murder, suspected aggravated murder, murder, suspected murder, <u>aggravated abortion</u> <u>murder, suspected aggravated abortion murder, abortion murder,</u> <u>suspected abortion murder, manslaughter offenses, or suspected</u> manslaughter offenses.	1511 1512 1513 1514 1515 1516
(2) This section does not prohibit the coroner, deputy coroner, or pathologist from administering a chemical test to the blood of a deceased person to determine the alcohol, drug, or alcohol and drug content of the blood, when required by division (B) of section 313.13 of the Revised Code, and does not limit the coroner, deputy coroner, or pathologist in the	1517 1518 1519 1520 1521 1522

performance of ~~his~~ the coroner's, deputy coroner's, or 1523
pathologist's duties in administering a chemical test under that 1524
division. 1525

Sec. 2105.19. (A) Except as provided in division (C) of 1526
this section, no person who is convicted of, pleads guilty to, 1527
or is found not guilty by reason of insanity of a violation of 1528
or complicity in the violation of section 2903.01, 2903.02, ~~or~~ 1529
2903.03, 2904.03, or 2904.04 of the Revised Code or a violation 1530
of division (A) of section 2903.04 of the Revised Code that is 1531
not a proximate result of a felony violation of section 2903.06 1532
of the Revised Code, or of an existing or former law of any 1533
other state, the United States, or a foreign nation, 1534
substantially equivalent to a violation of or complicity in the 1535
violation of any of these sections, no person who is indicted 1536
for a violation of or complicity in the violation of any of 1537
those sections or laws and subsequently is adjudicated 1538
incompetent to stand trial on that charge, and no juvenile who 1539
is found to be a delinquent child by reason of committing an act 1540
that, if committed by an adult, would be a violation of or 1541
complicity in the violation of any of those sections or laws, 1542
shall in any way benefit by the death. All property of the 1543
decedent, and all money, insurance proceeds, or other property 1544
or benefits payable or distributable in respect of the 1545
decedent's death, shall pass or be paid or distributed as if the 1546
person who caused the death of the decedent had predeceased the 1547
decedent. 1548

(B) A person prohibited by division (A) of this section 1549
from benefiting by the death of another is a constructive 1550
trustee for the benefit of those entitled to any property or 1551
benefit that the person has obtained, or over which the person 1552
has exerted control, because of the decedent's death. A person 1553

who purchases any such property or benefit from the constructive trustee, for value, in good faith, and without notice of the constructive trustee's disability under division (A) of this section, acquires good title, but the constructive trustee is accountable to the beneficiaries for the proceeds or value of the property or benefit.

(C) A person who is prohibited from benefiting from a death pursuant to division (A) of this section either because the person was adjudicated incompetent to stand trial or was found not guilty by reason of insanity, or the person's guardian appointed pursuant to Chapter 2111. of the Revised Code or other legal representative, may file a complaint to declare the person's right to benefit from the death in the probate court in which the decedent's estate is being administered or that released the estate from administration. The complaint shall be filed no later than sixty days after the person is adjudicated incompetent to stand trial or found not guilty by reason of insanity. The court shall notify each person who is a devisee or legatee under the decedent's will, or if there is no will, each person who is an heir of the decedent pursuant to section 2105.06 of the Revised Code that a complaint of that nature has been filed within ten days after the filing of the complaint. The person who files the complaint, and each person who is required to be notified of the filing of the complaint under this division, is entitled to a jury trial in the action. To assert the right, the person desiring a jury trial shall demand a jury in the manner prescribed in the Civil Rules.

A person who files a complaint pursuant to this division shall be restored to the person's right to benefit from the death unless the court determines, by a preponderance of the evidence, that the person would have been convicted of a

violation of, or complicity in the violation of, section 1585
2903.01, 2903.02, ~~or~~ 2903.03, 2904.03, or 2904.04 of the Revised 1586
Code or a violation of division (A) of section 2903.04 of the 1587
Revised Code that is not a proximate result of a felony 1588
violation of section 2903.06 of the Revised Code, or of a law of 1589
another state, the United States, or a foreign nation that is 1590
substantially similar to any of those sections, if the person 1591
had been brought to trial in the case in which the person was 1592
adjudicated incompetent or if the person were not insane at the 1593
time of the commission of the offense. 1594

Sec. 2108.77. If the person named as the declarant's 1595
representative or successor representative in a written 1596
declaration, or the person who has a deceased adult's right of 1597
disposition pursuant to section 2108.81 of the Revised Code, 1598
meets any of the following criteria, the person shall be 1599
disqualified from serving as the representative or successor 1600
representative, or from having the right: 1601

(A) (1) Subject to division (A) (2) of this section, the 1602
person has been charged with murder, aggravated murder, 1603
aggravated abortion murder, abortion murder, or voluntary 1604
manslaughter. 1605

(2) If the charges against the person described in 1606
division (A) (1) of this section are dismissed or if the person 1607
is acquitted of such charges, the right is restored to the 1608
person. 1609

(B) (1) Subject to division (B) (2) of this section, the 1610
person has been charged with an act of domestic violence under 1611
section 2919.25 of the Revised Code and it has been alleged in 1612
the charging instrument or accompanying papers that the act 1613
resulted in or contributed to the declarant's death. 1614

(2) If the charges against the person described in 1615
division (B)(1) of this section are dismissed or if the person 1616
is acquitted of such charges, the right is restored to the 1617
person. 1618

(C) The person and the declarant or deceased adult are 1619
spouses and an action to terminate the marriage pursuant to 1620
Chapter 3105. of the Revised Code was pending at the time of the 1621
declarant's or deceased adult's death. 1622

(D) The person and the declarant or deceased adult are 1623
spouses and a probate court, on the motion of any other person 1624
or its own motion, determines that the declarant's or deceased 1625
adult's spouse and the declarant were estranged at the time of 1626
the declarant's or deceased adult's death. As used in this 1627
division, "estranged" means that a declarant's or a deceased 1628
adult's spouse and the declarant or deceased adult were 1629
physically and emotionally separated from each other, at the 1630
time of the declarant's or deceased adult's death, and had been 1631
separated for a period of time that clearly demonstrates an 1632
absence of due affection, trust, and regard between spouse and 1633
the declarant of deceased adult. 1634

Sec. 2151.356. (A) The records of a case in which a person 1635
was adjudicated a delinquent child for committing a violation of 1636
section 2903.01, 2903.02, 2904.03, 2904.04, or 2907.02 of the 1637
Revised Code shall not be sealed under this section. 1638

(B)(1) The juvenile court shall promptly order the 1639
immediate sealing of records pertaining to a juvenile in any of 1640
the following circumstances: 1641

(a) If the court receives a record from a public office or 1642
agency under division (B)(2) of this section; 1643

(b) If a person was brought before or referred to the court for allegedly committing a delinquent or unruly act and the case was resolved without the filing of a complaint against the person with respect to that act pursuant to section 2151.27 of the Revised Code;

(c) If a person was charged with violating division (E) (1) of section 4301.69 of the Revised Code and the person has successfully completed a diversion program under division (E) (2) (a) of section 4301.69 of the Revised Code with respect to that charge;

(d) If a complaint was filed against a person alleging that the person was a delinquent child, an unruly child, or a juvenile traffic offender and the court dismisses the complaint after a trial on the merits of the case or finds the person not to be a delinquent child, an unruly child, or a juvenile traffic offender;

(e) Notwithstanding division (C) of this section and subject to section 2151.358 of the Revised Code, if a person has been adjudicated an unruly child, that person has attained eighteen years of age, and the person is not under the jurisdiction of the court in relation to a complaint alleging the person to be a delinquent child.

(2) The appropriate public office or agency shall immediately deliver all original records at that public office or agency pertaining to a juvenile to the court, if the person was arrested or taken into custody for allegedly committing a delinquent or unruly act, no complaint was filed against the person with respect to the commission of the act pursuant to section 2151.27 of the Revised Code, and the person was not brought before or referred to the court for the commission of

the act. The records delivered to the court as required under 1674
this division shall not include fingerprints, DNA specimens, and 1675
DNA records described under division (A) (3) of section 2151.357 1676
of the Revised Code. 1677

(C) (1) The juvenile court shall consider the sealing of 1678
records pertaining to a juvenile upon the court's own motion or 1679
upon the application of a person if the person has been 1680
adjudicated a delinquent child for committing an act other than 1681
a violation of section 2903.01, 2903.02, 2904.03, 2904.04, or 1682
2907.02 of the Revised Code, an unruly child, or a juvenile 1683
traffic offender and if, at the time of the motion or 1684
application, the person is not under the jurisdiction of the 1685
court in relation to a complaint alleging the person to be a 1686
delinquent child. The court shall not require a fee for the 1687
filing of the application. The motion or application may be made 1688
on or after the time specified in whichever of the following is 1689
applicable: 1690

(a) If the person is under eighteen years of age, at any 1691
time after six months after any of the following events occur: 1692

(i) The termination of any order made by the court in 1693
relation to the adjudication; 1694

(ii) The unconditional discharge of the person from the 1695
department of youth services with respect to a dispositional 1696
order made in relation to the adjudication or from an 1697
institution or facility to which the person was committed 1698
pursuant to a dispositional order made in relation to the 1699
adjudication; 1700

(iii) The court enters an order under section 2152.84 or 1701
2152.85 of the Revised Code that contains a determination that 1702

the child is no longer a juvenile offender registrant. 1703

(b) If the person is eighteen years of age or older, at 1704
any time after the later of the following: 1705

(i) The person's attainment of eighteen years of age; 1706

(ii) The occurrence of any event identified in divisions 1707
(C) (1) (a) (i) to (iii) of this section. 1708

(2) In making the determination whether to seal records 1709
pursuant to division (C) (1) of this section, all of the 1710
following apply: 1711

(a) The court may require a person filing an application 1712
under division (C) (1) of this section to submit any relevant 1713
documentation to support the application. 1714

(b) The court may cause an investigation to be made to 1715
determine if the person who is the subject of the proceedings 1716
has been rehabilitated to a satisfactory degree. 1717

(c) The court shall promptly notify the prosecuting 1718
attorney of any proceedings to seal records initiated pursuant 1719
to division (C) (1) of this section. 1720

(d) (i) The prosecuting attorney may file a response with 1721
the court within thirty days of receiving notice of the sealing 1722
proceedings. 1723

(ii) If the prosecuting attorney does not file a response 1724
with the court or if the prosecuting attorney files a response 1725
but indicates that the prosecuting attorney does not object to 1726
the sealing of the records, the court may order the records of 1727
the person that are under consideration to be sealed without 1728
conducting a hearing on the motion or application. If the court 1729
decides in its discretion to conduct a hearing on the motion or 1730

application, the court shall conduct the hearing within thirty 1731
days after making that decision and shall give notice, by 1732
regular mail, of the date, time, and location of the hearing to 1733
the prosecuting attorney and to the person who is the subject of 1734
the records under consideration. 1735

(iii) If the prosecuting attorney files a response with 1736
the court that indicates that the prosecuting attorney objects 1737
to the sealing of the records, the court shall conduct a hearing 1738
on the motion or application within thirty days after the court 1739
receives the response. The court shall give notice, by regular 1740
mail, of the date, time, and location of the hearing to the 1741
prosecuting attorney and to the person who is the subject of the 1742
records under consideration. 1743

(e) After conducting a hearing in accordance with division 1744
(C) (2) (d) of this section or after due consideration when a 1745
hearing is not conducted, except as provided in division (B) (1) 1746
(c) of this section, the court may order the records of the 1747
person that are the subject of the motion or application to be 1748
sealed if it finds that the person has been rehabilitated to a 1749
satisfactory degree. In determining whether the person has been 1750
rehabilitated to a satisfactory degree, the court may consider 1751
all of the following: 1752

(i) The age of the person; 1753

(ii) The nature of the case; 1754

(iii) The cessation or continuation of delinquent, unruly, 1755
or criminal behavior; 1756

(iv) The education and employment history of the person; 1757

(v) The granting of a new tier classification or 1758
declassification from the juvenile offender registry pursuant to 1759

section 2152.85 of the Revised Code, except for public registry-qualified juvenile offender registrants;

(vi) Any other circumstances that may relate to the rehabilitation of the person who is the subject of the records under consideration.

(D) (1) (a) The juvenile court shall provide verbal notice to a person whose records are sealed under division (B) of this section, if that person is present in the court at the time the court issues a sealing order, that explains what sealing a record means, states that the person may apply to have those records expunged under section 2151.358 of the Revised Code, and explains what expunging a record means.

(b) The juvenile court shall provide written notice to a person whose records are sealed under division (B) of this section by regular mail to the person's last known address, if that person is not present in the court at the time the court issues a sealing order and if the court does not seal the person's record upon the court's own motion, that explains what sealing a record means, states that the person may apply to have those records expunged under section 2151.358 of the Revised Code, and explains what expunging a record means.

(2) Upon final disposition of a case in which a person has been adjudicated a delinquent child for committing an act other than a violation of section 2903.01, 2903.02, 2904.03, 2904.04, or 2907.02 of the Revised Code, an unruly child, or a juvenile traffic offender, the juvenile court shall provide written notice to the person that does all of the following:

(a) States that the person may apply to the court for an order to seal the record;

(b) Explains what sealing a record means;	1789
(c) States that the person may apply to the court for an order to expunge the record under section 2151.358 of the Revised Code;	1790 1791 1792
(d) Explains what expunging a record means.	1793
(3) The department of youth services and any other institution or facility that unconditionally discharges a person who has been adjudicated a delinquent child, an unruly child, or a juvenile traffic offender shall immediately give notice of the discharge to the court that committed the person. The court shall note the date of discharge on a separate record of discharges of those natures.	1794 1795 1796 1797 1798 1799 1800
Sec. 2151.414. (A) (1) Upon the filing of a motion pursuant to section 2151.413 of the Revised Code for permanent custody of a child, the court shall schedule a hearing and give notice of the filing of the motion and of the hearing, in accordance with section 2151.29 of the Revised Code, to all parties to the action and to the child's guardian ad litem. The notice also shall contain a full explanation that the granting of permanent custody permanently divests the parents of their parental rights, a full explanation of their right to be represented by counsel and to have counsel appointed pursuant to Chapter 120. of the Revised Code if they are indigent, and the name and telephone number of the court employee designated by the court pursuant to section 2151.314 of the Revised Code to arrange for the prompt appointment of counsel for indigent persons.	1801 1802 1803 1804 1805 1806 1807 1808 1809 1810 1811 1812 1813 1814
The court shall conduct a hearing in accordance with section 2151.35 of the Revised Code to determine if it is in the best interest of the child to permanently terminate parental	1815 1816 1817

rights and grant permanent custody to the agency that filed the 1818
motion. The adjudication that the child is an abused, neglected, 1819
or dependent child and any dispositional order that has been 1820
issued in the case under section 2151.353 of the Revised Code 1821
pursuant to the adjudication shall not be readjudicated at the 1822
hearing and shall not be affected by a denial of the motion for 1823
permanent custody. 1824

(2) The court shall hold the hearing scheduled pursuant to 1825
division (A)(1) of this section not later than one hundred 1826
twenty days after the agency files the motion for permanent 1827
custody, except that, for good cause shown, the court may 1828
continue the hearing for a reasonable period of time beyond the 1829
one-hundred-twenty-day deadline. The court shall issue an order 1830
that grants, denies, or otherwise disposes of the motion for 1831
permanent custody, and journalize the order, not later than two 1832
hundred days after the agency files the motion. 1833

If a motion is made under division (D)(2) of section 1834
2151.413 of the Revised Code and no dispositional hearing has 1835
been held in the case, the court may hear the motion in the 1836
dispositional hearing required by division (B) of section 1837
2151.35 of the Revised Code. If the court issues an order 1838
pursuant to section 2151.353 of the Revised Code granting 1839
permanent custody of the child to the agency, the court shall 1840
immediately dismiss the motion made under division (D)(2) of 1841
section 2151.413 of the Revised Code. 1842

The failure of the court to comply with the time periods 1843
set forth in division (A)(2) of this section does not affect the 1844
authority of the court to issue any order under this chapter and 1845
does not provide any basis for attacking the jurisdiction of the 1846
court or the validity of any order of the court. 1847

(B) (1) Except as provided in division (B) (2) of this 1848
section, the court may grant permanent custody of a child to a 1849
movant if the court determines at the hearing held pursuant to 1850
division (A) of this section, by clear and convincing evidence, 1851
that it is in the best interest of the child to grant permanent 1852
custody of the child to the agency that filed the motion for 1853
permanent custody and that any of the following apply: 1854

(a) The child is not abandoned or orphaned, has not been 1855
in the temporary custody of one or more public children services 1856
agencies or private child placing agencies for twelve or more 1857
months of a consecutive twenty-two-month period, or has not been 1858
in the temporary custody of one or more public children services 1859
agencies or private child placing agencies for twelve or more 1860
months of a consecutive twenty-two-month period if, as described 1861
in division (D) (1) of section 2151.413 of the Revised Code, the 1862
child was previously in the temporary custody of an equivalent 1863
agency in another state, and the child cannot be placed with 1864
either of the child's parents within a reasonable time or should 1865
not be placed with the child's parents. 1866

(b) The child is abandoned. 1867

(c) The child is orphaned, and there are no relatives of 1868
the child who are able to take permanent custody. 1869

(d) The child has been in the temporary custody of one or 1870
more public children services agencies or private child placing 1871
agencies for twelve or more months of a consecutive twenty-two- 1872
month period, or the child has been in the temporary custody of 1873
one or more public children services agencies or private child 1874
placing agencies for twelve or more months of a consecutive 1875
twenty-two-month period and, as described in division (D) (1) of 1876
section 2151.413 of the Revised Code, the child was previously 1877

in the temporary custody of an equivalent agency in another 1878
state. 1879

(e) The child or another child in the custody of the 1880
parent or parents from whose custody the child has been removed 1881
has been adjudicated an abused, neglected, or dependent child on 1882
three separate occasions by any court in this state or another 1883
state. 1884

For the purposes of division (B) (1) of this section, a 1885
child shall be considered to have entered the temporary custody 1886
of an agency on the earlier of the date the child is adjudicated 1887
pursuant to section 2151.28 of the Revised Code or the date that 1888
is sixty days after the removal of the child from home. 1889

(2) With respect to a motion made pursuant to division (D) 1890
(2) of section 2151.413 of the Revised Code, the court shall 1891
grant permanent custody of the child to the movant if the court 1892
determines in accordance with division (E) of this section that 1893
the child cannot be placed with one of the child's parents 1894
within a reasonable time or should not be placed with either 1895
parent and determines in accordance with division (D) of this 1896
section that permanent custody is in the child's best interest. 1897

(C) In making the determinations required by this section 1898
or division (A) (4) of section 2151.353 of the Revised Code, a 1899
court shall not consider the effect the granting of permanent 1900
custody to the agency would have upon any parent of the child. A 1901
written report of the guardian ad litem of the child shall be 1902
submitted to the court prior to or at the time of the hearing 1903
held pursuant to division (A) of this section or section 2151.35 1904
of the Revised Code but shall not be submitted under oath. 1905

If the court grants permanent custody of a child to a 1906

movant under this division, the court, upon the request of any party, shall file a written opinion setting forth its findings of fact and conclusions of law in relation to the proceeding. The court shall not deny an agency's motion for permanent custody solely because the agency failed to implement any particular aspect of the child's case plan.

(D) (1) In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A) (4) or (5) of section 2151.353 or division (C) of section 2151.415 of the Revised Code, the court shall consider all relevant factors, including, but not limited to, the following:

(a) The interaction and interrelationship of the child with the child's parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;

(b) The wishes of the child, as expressed directly by the child or through the child's guardian ad litem, with due regard for the maturity of the child;

(c) The custodial history of the child, including whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D) (1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state;

(d) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency;

(e) Whether any of the factors in divisions (E) (7) to (11) of this section apply in relation to the parents and child.

For the purposes of division (D) (1) of this section, a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.

(2) If all of the following apply, permanent custody is in the best interest of the child, and the court shall commit the child to the permanent custody of a public children services agency or private child placing agency:

(a) The court determines by clear and convincing evidence that one or more of the factors in division (E) of this section exist and the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent.

(b) The child has been in an agency's custody for two years or longer, and no longer qualifies for temporary custody pursuant to division (D) of section 2151.415 of the Revised Code.

(c) The child does not meet the requirements for a planned permanent living arrangement pursuant to division (A) (5) of section 2151.353 of the Revised Code.

(d) Prior to the dispositional hearing, no relative or other interested person has filed, or has been identified in, a motion for legal custody of the child.

(E) In determining at a hearing held pursuant to division 1966
(A) of this section or for the purposes of division (A) (4) of 1967
section 2151.353 of the Revised Code whether a child cannot be 1968
placed with either parent within a reasonable period of time or 1969
should not be placed with the parents, the court shall consider 1970
all relevant evidence. If the court determines, by clear and 1971
convincing evidence, at a hearing held pursuant to division (A) 1972
of this section or for the purposes of division (A) (4) of 1973
section 2151.353 of the Revised Code that one or more of the 1974
following exist as to each of the child's parents, the court 1975
shall enter a finding that the child cannot be placed with 1976
either parent within a reasonable time or should not be placed 1977
with either parent: 1978

(1) Following the placement of the child outside the 1979
child's home and notwithstanding reasonable case planning and 1980
diligent efforts by the agency to assist the parents to remedy 1981
the problems that initially caused the child to be placed 1982
outside the home, the parent has failed continuously and 1983
repeatedly to substantially remedy the conditions causing the 1984
child to be placed outside the child's home. In determining 1985
whether the parents have substantially remedied those 1986
conditions, the court shall consider parental utilization of 1987
medical, psychiatric, psychological, and other social and 1988
rehabilitative services and material resources that were made 1989
available to the parents for the purpose of changing parental 1990
conduct to allow them to resume and maintain parental duties. 1991

(2) Chronic mental illness, chronic emotional illness, 1992
intellectual disability, physical disability, or chemical 1993
dependency of the parent that is so severe that it makes the 1994
parent unable to provide an adequate permanent home for the 1995
child at the present time and, as anticipated, within one year 1996

after the court holds the hearing pursuant to division (A) of 1997
this section or for the purposes of division (A)(4) of section 1998
2151.353 of the Revised Code; 1999

(3) The parent committed any abuse as described in section 2000
2151.031 of the Revised Code against the child, caused the child 2001
to suffer any neglect as described in section 2151.03 of the 2002
Revised Code, or allowed the child to suffer any neglect as 2003
described in section 2151.03 of the Revised Code between the 2004
date that the original complaint alleging abuse or neglect was 2005
filed and the date of the filing of the motion for permanent 2006
custody; 2007

(4) The parent has demonstrated a lack of commitment 2008
toward the child by failing to regularly support, visit, or 2009
communicate with the child when able to do so, or by other 2010
actions showing an unwillingness to provide an adequate 2011
permanent home for the child; 2012

(5) The parent is incarcerated for an offense committed 2013
against the child or a sibling of the child; 2014

(6) The parent has been convicted of or pleaded guilty to 2015
an offense under division (A) or (C) of section 2919.22 or under 2016
section 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.03, 2017
2905.04, 2905.05, 2907.07, 2907.08, 2907.09, 2907.12, 2907.23, 2018
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2019
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.24, 2919.25, 2020
2923.12, 2923.13, 2923.161, 2925.02, or 3716.11 of the Revised 2021
Code, and the child or a sibling of the child was a victim of 2022
the offense, or the parent has been convicted of or pleaded 2023
guilty to an offense under section 2903.04 of the Revised Code, 2024
a sibling of the child was the victim of the offense, and the 2025
parent who committed the offense poses an ongoing danger to the 2026

child or a sibling of the child. 2027

(7) The parent has been convicted of or pleaded guilty to 2028
one of the following: 2029

(a) An offense under section 2903.01, 2903.02, ~~or 2903.03,~~ 2030
2904.03, or 2904.04 of the Revised Code or under an existing or 2031
former law of this state, any other state, or the United States 2032
that is substantially equivalent to an offense described in 2033
those sections and the victim of the offense was a sibling of 2034
the child or the victim was another child who lived in the 2035
parent's household at the time of the offense; 2036

(b) An offense under section 2903.11, 2903.12, or 2903.13 2037
of the Revised Code or under an existing or former law of this 2038
state, any other state, or the United States that is 2039
substantially equivalent to an offense described in those 2040
sections and the victim of the offense is the child, a sibling 2041
of the child, or another child who lived in the parent's 2042
household at the time of the offense; 2043

(c) An offense under division (B) (2) of section 2919.22 of 2044
the Revised Code or under an existing or former law of this 2045
state, any other state, or the United States that is 2046
substantially equivalent to the offense described in that 2047
section and the child, a sibling of the child, or another child 2048
who lived in the parent's household at the time of the offense 2049
is the victim of the offense; 2050

(d) An offense under section 2907.02, 2907.03, 2907.04, 2051
2907.05, or 2907.06 of the Revised Code or under an existing or 2052
former law of this state, any other state, or the United States 2053
that is substantially equivalent to an offense described in 2054
those sections and the victim of the offense is the child, a 2055

sibling of the child, or another child who lived in the parent's household at the time of the offense;

(e) An offense under section 2905.32, 2907.21, or 2907.22 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(f) A conspiracy or attempt to commit, or complicity in committing, an offense described in division (E) (7) (a), (d), or (e) of this section.

(8) The parent has repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food, and, in the case of withheld medical treatment, the parent withheld it for a purpose other than to treat the physical or mental illness or defect of the child by spiritual means through prayer alone in accordance with the tenets of a recognized religious body.

(9) The parent has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refused to participate in further treatment two or more times after a case plan issued pursuant to section 2151.412 of the Revised Code requiring treatment of the parent was journalized as part of a dispositional order issued with respect to the child or an order was issued by any other court requiring treatment of the parent.

(10) The parent has abandoned the child.

(11) The parent has had parental rights involuntarily

terminated with respect to a sibling of the child pursuant to 2085
this section or section 2151.353 or 2151.415 of the Revised 2086
Code, or under an existing or former law of this state, any 2087
other state, or the United States that is substantially 2088
equivalent to those sections, and the parent has failed to 2089
provide clear and convincing evidence to prove that, 2090
notwithstanding the prior termination, the parent can provide a 2091
legally secure permanent placement and adequate care for the 2092
health, welfare, and safety of the child. 2093

(12) The parent is incarcerated at the time of the filing 2094
of the motion for permanent custody or the dispositional hearing 2095
of the child and will not be available to care for the child for 2096
at least eighteen months after the filing of the motion for 2097
permanent custody or the dispositional hearing. 2098

(13) The parent is repeatedly incarcerated, and the 2099
repeated incarceration prevents the parent from providing care 2100
for the child. 2101

(14) The parent for any reason is unwilling to provide 2102
food, clothing, shelter, and other basic necessities for the 2103
child or to prevent the child from suffering physical, 2104
emotional, or sexual abuse or physical, emotional, or mental 2105
neglect. 2106

(15) The parent has committed abuse as described in 2107
section 2151.031 of the Revised Code against the child or caused 2108
or allowed the child to suffer neglect as described in section 2109
2151.03 of the Revised Code, and the court determines that the 2110
seriousness, nature, or likelihood of recurrence of the abuse or 2111
neglect makes the child's placement with the child's parent a 2112
threat to the child's safety. 2113

(16) Any other factor the court considers relevant. 2114

(F) The parents of a child for whom the court has issued 2115
an order granting permanent custody pursuant to this section, 2116
upon the issuance of the order, cease to be parties to the 2117
action. This division is not intended to eliminate or restrict 2118
any right of the parents to appeal the granting of permanent 2119
custody of their child to a movant pursuant to this section. 2120

Sec. 2151.419. (A) (1) Except as provided in division (A) 2121
(2) of this section, at any hearing held pursuant to section 2122
2151.28, division (E) of section 2151.31, or section 2151.314, 2123
2151.33, or 2151.353 of the Revised Code at which the court 2124
removes a child from the child's home or continues the removal 2125
of a child from the child's home, the court shall determine 2126
whether the public children services agency or private child 2127
placing agency that filed the complaint in the case, removed the 2128
child from home, has custody of the child, or will be given 2129
custody of the child has made reasonable efforts to prevent the 2130
removal of the child from the child's home, to eliminate the 2131
continued removal of the child from the child's home, or to make 2132
it possible for the child to return safely home. The agency 2133
shall have the burden of proving that it has made those 2134
reasonable efforts. If the agency removed the child from home 2135
during an emergency in which the child could not safely remain 2136
at home and the agency did not have prior contact with the 2137
child, the court is not prohibited, solely because the agency 2138
did not make reasonable efforts during the emergency to prevent 2139
the removal of the child, from determining that the agency made 2140
those reasonable efforts. In determining whether reasonable 2141
efforts were made, the child's health and safety shall be 2142
paramount. 2143

(2) If any of the following apply, the court shall make a determination that the agency is not required to make reasonable efforts to prevent the removal of the child from the child's home, eliminate the continued removal of the child from the child's home, and return the child to the child's home:

(a) The parent from whom the child was removed has been convicted of or pleaded guilty to one of the following:

(i) An offense under section 2903.01, 2903.02, ~~or 2903.03,~~ 2904.03, or 2904.04 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense was a sibling of the child or the victim was another child who lived in the parent's household at the time of the offense;

(ii) An offense under section 2903.11, 2903.12, or 2903.13 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(iii) An offense under division (B) (2) of section 2919.22 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense is the victim of the offense;

(iv) An offense under section 2907.02, 2907.03, 2907.04,

2907.05, or 2907.06 of the Revised Code or under an existing or 2173
former law of this state, any other state, or the United States 2174
that is substantially equivalent to an offense described in 2175
those sections and the victim of the offense is the child, a 2176
sibling of the child, or another child who lived in the parent's 2177
household at the time of the offense; 2178

(v) An offense under section 2905.32, 2907.21, or 2907.22 2179
of the Revised Code or under an existing or former law of this 2180
state, any other state, or the United States that is 2181
substantially equivalent to the offense described in those 2182
sections and the victim of the offense is the child, a sibling 2183
of the child, or another child who lived in the parent's 2184
household at the time of the offense; 2185

(vi) A conspiracy or attempt to commit, or complicity in 2186
committing, an offense described in division (A)(2)(a)(i), (iv), 2187
or (v) of this section. 2188

(b) The parent from whom the child was removed has 2189
repeatedly withheld medical treatment or food from the child 2190
when the parent has the means to provide the treatment or food. 2191
If the parent has withheld medical treatment in order to treat 2192
the physical or mental illness or defect of the child by 2193
spiritual means through prayer alone, in accordance with the 2194
tenets of a recognized religious body, the court or agency shall 2195
comply with the requirements of division (A)(1) of this section. 2196

(c) The parent from whom the child was removed has placed 2197
the child at substantial risk of harm two or more times due to 2198
alcohol or drug abuse and has rejected treatment two or more 2199
times or refused to participate in further treatment two or more 2200
times after a case plan issued pursuant to section 2151.412 of 2201
the Revised Code requiring treatment of the parent was 2202

journalized as part of a dispositional order issued with respect 2203
to the child or an order was issued by any other court requiring 2204
such treatment of the parent. 2205

(d) The parent from whom the child was removed has 2206
abandoned the child. 2207

(e) The parent from whom the child was removed has had 2208
parental rights involuntarily terminated with respect to a 2209
sibling of the child pursuant to section 2151.353, 2151.414, or 2210
2151.415 of the Revised Code or under an existing or former law 2211
of this state, any other state, or the United States that is 2212
substantially equivalent to those sections. 2213

(3) At any hearing in which the court determines whether 2214
to return a child to the child's home, the court may issue an 2215
order that returns the child in situations in which the 2216
conditions described in divisions (A) (2) (a) to (e) of this 2217
section are present. 2218

(B) (1) A court that is required to make a determination as 2219
described in division (A) (1) or (2) of this section shall issue 2220
written findings of fact setting forth the reasons supporting 2221
its determination. If the court makes a written determination 2222
under division (A) (1) of this section, it shall briefly describe 2223
in the findings of fact the relevant services provided by the 2224
agency to the family of the child and why those services did not 2225
prevent the removal of the child from the child's home or enable 2226
the child to return safely home. 2227

(2) If a court issues an order that returns the child to 2228
the child's home in situations in which division (A) (2) (a), (b), 2229
(c), (d), or (e) of this section applies, the court shall issue 2230
written findings of fact setting forth the reasons supporting 2231

its determination. 2232

(C) If the court makes a determination pursuant to 2233
division (A) (2) of this section, the court shall conduct a 2234
review hearing pursuant to section 2151.417 of the Revised Code 2235
to approve a permanency plan with respect to the child, unless 2236
the court issues an order returning the child home pursuant to 2237
division (A) (3) of this section. The hearing to approve the 2238
permanency plan may be held immediately following the court's 2239
determination pursuant to division (A) (2) of this section and 2240
shall be held no later than thirty days following that 2241
determination. 2242

Sec. 2152.02. As used in this chapter: 2243

(A) "Act charged" means the act that is identified in a 2244
complaint, indictment, or information alleging that a child is a 2245
delinquent child. 2246

(B) "Admitted to a department of youth services facility" 2247
includes admission to a facility operated, or contracted for, by 2248
the department and admission to a comparable facility outside 2249
this state by another state or the United States. 2250

(C) (1) "Child" means a person who is under eighteen years 2251
of age, except as otherwise provided in divisions (C) (2) to (8) 2252
of this section. 2253

(2) Subject to division (C) (3) of this section, any person 2254
who violates a federal or state law or a municipal ordinance 2255
prior to attaining eighteen years of age shall be deemed a 2256
"child" irrespective of that person's age at the time the 2257
complaint with respect to that violation is filed or the hearing 2258
on the complaint is held. 2259

(3) Any person who, while under eighteen years of age, 2260

commits an act that would be a felony if committed by an adult 2261
and who is not taken into custody or apprehended for that act 2262
until after the person attains twenty-one years of age is not a 2263
child in relation to that act. 2264

(4) Except as otherwise provided in divisions (C) (5) and 2265
(7) of this section, any person whose case is transferred for 2266
criminal prosecution pursuant to section 2152.12 of the Revised 2267
Code shall be deemed after the transfer not to be a child in the 2268
transferred case. 2269

(5) Any person whose case is transferred for criminal 2270
prosecution pursuant to section 2152.12 of the Revised Code and 2271
who subsequently is convicted of or pleads guilty to a felony in 2272
that case, unless a serious youthful offender dispositional 2273
sentence is imposed on the child for that offense under division 2274
(B) (2) or (3) of section 2152.121 of the Revised Code and the 2275
adult portion of that sentence is not invoked pursuant to 2276
section 2152.14 of the Revised Code, and any person who is 2277
adjudicated a delinquent child for the commission of an act, who 2278
has a serious youthful offender dispositional sentence imposed 2279
for the act pursuant to section 2152.13 of the Revised Code, and 2280
whose adult portion of the dispositional sentence is invoked 2281
pursuant to section 2152.14 of the Revised Code, shall be deemed 2282
after the conviction, plea, or invocation not to be a child in 2283
any case in which a complaint is filed against the person. 2284

(6) The juvenile court has jurisdiction over a person who 2285
is adjudicated a delinquent child or juvenile traffic offender 2286
prior to attaining eighteen years of age until the person 2287
attains twenty-one years of age, and, for purposes of that 2288
jurisdiction related to that adjudication, except as otherwise 2289
provided in this division, a person who is so adjudicated a 2290

delinquent child or juvenile traffic offender shall be deemed a 2291
"child" until the person attains twenty-one years of age. If a 2292
person is so adjudicated a delinquent child or juvenile traffic 2293
offender and the court makes a disposition of the person under 2294
this chapter, at any time after the person attains twenty-one 2295
years of age, the places at which the person may be held under 2296
that disposition are not limited to places authorized under this 2297
chapter solely for confinement of children, and the person may 2298
be confined under that disposition, in accordance with division 2299
(F) (2) of section 2152.26 of the Revised Code, in places other 2300
than those authorized under this chapter solely for confinement 2301
of children. 2302

(7) The juvenile court has jurisdiction over any person 2303
whose case is transferred for criminal prosecution solely for 2304
the purpose of detaining the person as authorized in division 2305
(F) (1) or (4) of section 2152.26 of the Revised Code unless the 2306
person is convicted of or pleads guilty to a felony in the adult 2307
court. 2308

(8) Any person who, while eighteen years of age, violates 2309
division (A) (1) or (2) of section 2919.27 of the Revised Code by 2310
violating a protection order issued or consent agreement 2311
approved under section 2151.34 or 3113.31 of the Revised Code 2312
shall be considered a child for the purposes of that violation 2313
of section 2919.27 of the Revised Code. 2314

(D) "Community corrections facility," "public safety 2315
beds," "release authority," and "supervised release" have the 2316
same meanings as in section 5139.01 of the Revised Code. 2317

(E) "Delinquent child" includes any of the following: 2318

(1) Any child, except a juvenile traffic offender, who 2319

violates any law of this state or the United States, or any ordinance of a political subdivision of the state, that would be an offense if committed by an adult;

(2) Any child who violates any lawful order of the court made under this chapter, including a child who violates a court order regarding the child's prior adjudication as an unruly child for being an habitual truant;

(3) Any child who violates any lawful order of the court made under Chapter 2151. of the Revised Code other than an order issued under section 2151.87 of the Revised Code;

(4) Any child who violates division (C) of section 2907.39, division (A) of section 2923.211, or division (C) (1) or (D) of section 2925.55 of the Revised Code.

(F) "Discretionary serious youthful offender" means a person who is eligible for a discretionary SYO and who is not transferred to adult court under a mandatory or discretionary transfer.

(G) "Discretionary SYO" means a case in which the juvenile court, in the juvenile court's discretion, may impose a serious youthful offender disposition under section 2152.13 of the Revised Code.

(H) "Discretionary transfer" means that the juvenile court has discretion to transfer a case for criminal prosecution under division (B) of section 2152.12 of the Revised Code.

(I) "Drug abuse offense," "felony drug abuse offense," and "minor drug possession offense" have the same meanings as in section 2925.01 of the Revised Code.

(J) "Electronic monitoring" and "electronic monitoring

device" have the same meanings as in section 2929.01 of the Revised Code.

(K) "Economic loss" means any economic detriment suffered by a victim of a delinquent act or juvenile traffic offense as a direct and proximate result of the delinquent act or juvenile traffic offense and includes any loss of income due to lost time at work because of any injury caused to the victim and any property loss, medical cost, or funeral expense incurred as a result of the delinquent act or juvenile traffic offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages.

(L) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(M) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code.

(N) "Juvenile traffic offender" means any child who violates any traffic law, traffic ordinance, or traffic regulation of this state, the United States, or any political subdivision of this state, other than a resolution, ordinance, or regulation of a political subdivision of this state the violation of which is required to be handled by a parking violations bureau or a joint parking violations bureau pursuant to Chapter 4521. of the Revised Code.

(O) A "legitimate excuse for absence from the public school the child is supposed to attend" has the same meaning as in section 2151.011 of the Revised Code.

(P) "Mandatory serious youthful offender" means a person who is eligible for a mandatory SYO and who is not transferred to adult court under a mandatory or discretionary transfer and

also includes, for purposes of imposition of a mandatory serious 2377
youthful dispositional sentence under section 2152.13 of the 2378
Revised Code, a person upon whom a juvenile court is required to 2379
impose such a sentence under division (B) (3) of section 2152.121 2380
of the Revised Code. 2381

(Q) "Mandatory SYO" means a case in which the juvenile 2382
court is required to impose a mandatory serious youthful 2383
offender disposition under section 2152.13 of the Revised Code. 2384

(R) "Mandatory transfer" means that a case is required to 2385
be transferred for criminal prosecution under division (A) of 2386
section 2152.12 of the Revised Code. 2387

(S) "Mental illness" has the same meaning as in section 2388
5122.01 of the Revised Code. 2389

(T) "Monitored time" and "repeat violent offender" have 2390
the same meanings as in section 2929.01 of the Revised Code. 2391

(U) "Of compulsory school age" has the same meaning as in 2392
section 3321.01 of the Revised Code. 2393

(V) "Public record" has the same meaning as in section 2394
149.43 of the Revised Code. 2395

(W) "Serious youthful offender" means a person who is 2396
eligible for a mandatory SYO or discretionary SYO but who is not 2397
transferred to adult court under a mandatory or discretionary 2398
transfer and also includes, for purposes of imposition of a 2399
mandatory serious youthful dispositional sentence under section 2400
2152.13 of the Revised Code, a person upon whom a juvenile court 2401
is required to impose such a sentence under division (B) (3) of 2402
section 2152.121 of the Revised Code. 2403

(X) "Sexually oriented offense," "juvenile offender 2404

registrant," "child-victim oriented offense," "tier I sex 2405
offender/child-victim offender," "tier II sex offender/child- 2406
victim offender," "tier III sex offender/child-victim offender," 2407
and "public registry-qualified juvenile offender registrant" 2408
have the same meanings as in section 2950.01 of the Revised 2409
Code. 2410

(Y) "Traditional juvenile" means a case that is not 2411
transferred to adult court under a mandatory or discretionary 2412
transfer, that is eligible for a disposition under sections 2413
2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and 2414
that is not eligible for a disposition under section 2152.13 of 2415
the Revised Code. 2416

(Z) "Transfer" means the transfer for criminal prosecution 2417
of a case involving the alleged commission by a child of an act 2418
that would be an offense if committed by an adult from the 2419
juvenile court to the appropriate court that has jurisdiction of 2420
the offense. 2421

(AA) "Category one offense" means any of the following: 2422

(1) A violation of section 2903.01 ~~or,~~ 2903.02, 2904.03, 2423
or 2904.04 of the Revised Code; 2424

(2) A violation of section 2923.02 of the Revised Code 2425
involving an attempt to commit aggravated murder ~~or,~~ murder, 2426
aggravated abortion murder, or abortion murder. 2427

(BB) "Category two offense" means any of the following: 2428

(1) A violation of section 2903.03, 2905.01, 2907.02, 2429
2909.02, 2911.01, or 2911.11 of the Revised Code; 2430

(2) A violation of section 2903.04 of the Revised Code 2431
that is a felony of the first degree; 2432

(3) A violation of section 2907.12 of the Revised Code as 2433
it existed prior to September 3, 1996. 2434

(CC) "Non-economic loss" means nonpecuniary harm suffered 2435
by a victim of a delinquent act or juvenile traffic offense as a 2436
result of or related to the delinquent act or juvenile traffic 2437
offense, including, but not limited to, pain and suffering; loss 2438
of society, consortium, companionship, care, assistance, 2439
attention, protection, advice, guidance, counsel, instruction, 2440
training, or education; mental anguish; and any other intangible 2441
loss. 2442

Sec. 2152.021. (A) (1) Subject to division (A) (2) of this 2443
section, any person having knowledge of a child who appears to 2444
be a juvenile traffic offender or to be a delinquent child may 2445
file a sworn complaint with respect to that child in the 2446
juvenile court of the county in which the child has a residence 2447
or legal settlement or in which the traffic offense or 2448
delinquent act allegedly occurred. The sworn complaint may be 2449
upon information and belief, and, in addition to the allegation 2450
that the child is a delinquent child or a juvenile traffic 2451
offender, the complaint shall allege the particular facts upon 2452
which the allegation that the child is a delinquent child or a 2453
juvenile traffic offender is based. 2454

If a child appears to be a delinquent child who is 2455
eligible for a serious youthful offender dispositional sentence 2456
under section 2152.11 of the Revised Code and if the prosecuting 2457
attorney desires to seek a serious youthful offender 2458
dispositional sentence under section 2152.13 of the Revised Code 2459
in regard to the child, the prosecuting attorney of the county 2460
in which the alleged delinquency occurs may initiate a case in 2461
the juvenile court of the county by presenting the case to a 2462

grand jury for indictment, by charging the child in a bill of 2463
information as a serious youthful offender pursuant to section 2464
2152.13 of the Revised Code, by requesting a serious youthful 2465
offender dispositional sentence in the original complaint 2466
alleging that the child is a delinquent child, or by filing with 2467
the juvenile court a written notice of intent to seek a serious 2468
youthful offender dispositional sentence. This paragraph does 2469
not apply regarding the imposition of a serious youthful 2470
offender dispositional sentence pursuant to section 2152.121 of 2471
the Revised Code. 2472

(2) Any person having knowledge of a child who appears to 2473
be a delinquent child for violating a court order regarding the 2474
child's adjudication as an unruly child for being an habitual 2475
truant, may file a sworn complaint with respect to that child, 2476
or with respect to that child and the parent, guardian, or other 2477
person having care of the child, in the juvenile court of the 2478
county in which the child has a residence or legal settlement or 2479
in which the child is supposed to attend public school. The 2480
sworn complaint may be upon information and belief and shall 2481
allege that the child is a delinquent child for violating a 2482
court order regarding the child's prior adjudication as an 2483
unruly child for being a habitual truant and, in addition, the 2484
particular facts upon which that allegation is based. If the 2485
complaint contains allegations regarding the child's parent, 2486
guardian, or other person having care of the child, the 2487
complaint additionally shall allege that the parent, guardian, 2488
or other person having care of the child has failed to cause the 2489
child's attendance at school in violation of section 3321.38 of 2490
the Revised Code and, in addition, the particular facts upon 2491
which that allegation is based. 2492

(B) Any person with standing under applicable law may file 2493

a complaint for the determination of any other matter over which 2494
the juvenile court is given jurisdiction by section 2151.23 of 2495
the Revised Code. The complaint shall be filed in the county in 2496
which the child who is the subject of the complaint is found or 2497
was last known to be found. 2498

(C) Within ten days after the filing of a complaint or the 2499
issuance of an indictment, the court shall give written notice 2500
of the filing of the complaint or the issuance of an indictment 2501
and of the substance of the complaint or indictment to the 2502
superintendent of a city, local, exempted village, or joint 2503
vocational school district if the complaint or indictment 2504
alleges that a child committed an act that would be a criminal 2505
offense if committed by an adult, that the child was sixteen 2506
years of age or older at the time of the commission of the 2507
alleged act, and that the alleged act is any of the following: 2508

(1) A violation of section 2923.122 of the Revised Code 2509
that relates to property owned or controlled by, or to an 2510
activity held under the auspices of, the board of education of 2511
that school district; 2512

(2) A violation of section 2923.12 of the Revised Code, of 2513
a substantially similar municipal ordinance, or of section 2514
2925.03 of the Revised Code that was committed on property owned 2515
or controlled by, or at an activity held under the auspices of, 2516
the board of education of that school district; 2517

(3) A violation of section 2925.11 of the Revised Code 2518
that was committed on property owned or controlled by, or at an 2519
activity held under the auspices of, the board of education of 2520
that school district, other than a violation of that section 2521
that would be a minor drug possession offense if committed by an 2522
adult; 2523

(4) A violation of section 2903.01, 2903.02, 2903.03, 2524
2903.04, 2903.11, 2903.12, 2904.03, 2904.04, 2907.02, or 2907.05 2525
of the Revised Code, or a violation of former section 2907.12 of 2526
the Revised Code, that was committed on property owned or 2527
controlled by, or at an activity held under the auspices of, the 2528
board of education of that school district, if the victim at the 2529
time of the commission of the alleged act was an employee of the 2530
board of education of that school district; 2531

(5) Complicity in any violation described in division (C) 2532
(1), (2), (3), or (4) of this section that was alleged to have 2533
been committed in the manner described in division (C) (1), (2), 2534
(3), or (4) of this section, regardless of whether the act of 2535
complicity was committed on property owned or controlled by, or 2536
at an activity held under the auspices of, the board of 2537
education of that school district. 2538

(D) A public children services agency, acting pursuant to 2539
a complaint or an action on a complaint filed under this 2540
section, is not subject to the requirements of section 3127.23 2541
of the Revised Code. 2542

(E) For purposes of the record to be maintained by the 2543
clerk under division (B) of section 2152.71 of the Revised Code, 2544
when a complaint is filed that alleges that a child is a 2545
delinquent child, the court shall determine if the victim of the 2546
alleged delinquent act was sixty-five years of age or older or 2547
permanently and totally disabled at the time of the alleged 2548
commission of the act. 2549

(F) (1) At any time after the filing of a complaint 2550
alleging that a child is a delinquent child and before 2551
adjudication, the court may hold a hearing to determine whether 2552
to hold the complaint in abeyance pending the child's successful 2553

completion of actions that constitute a method to divert the 2554
child from the juvenile court system if the child agrees to the 2555
hearing and either of the following applies: 2556

(a) The act charged would be a violation of section 2557
2907.24, 2907.241, or 2907.25 of the Revised Code if the child 2558
were an adult. 2559

(b) The court has reason to believe that the child is a 2560
victim of a violation of section 2905.32 of the Revised Code, 2561
regardless of whether any person has been convicted of a 2562
violation of that section or of any other section for 2563
victimizing the child, and the act charged is related to the 2564
child's victimization. 2565

(2) The prosecuting attorney has the right to participate 2566
in any hearing held under division (F) (1) of this section, to 2567
object to holding the complaint that is the subject of the 2568
hearing in abeyance, and to make recommendations related to 2569
diversion actions. No statement made by a child at a hearing 2570
held under division (F) (1) of this section is admissible in any 2571
subsequent proceeding against the child. 2572

(3) If either division (F) (1) (a) or (b) of this section 2573
applies, the court shall promptly appoint a guardian ad litem 2574
for the child. The court shall not appoint the child's attorney 2575
as guardian ad litem. If the court decides to hold the complaint 2576
in abeyance, the guardian ad litem shall make recommendations 2577
that are in the best interest of the child to the court. 2578

(4) If after a hearing the court decides to hold the 2579
complaint in abeyance, the court may make any orders regarding 2580
placement, services, supervision, diversion actions, and 2581
conditions of abeyance, including, but not limited to, 2582

engagement in trauma-based behavioral health services or 2583
education activities, that the court considers appropriate and 2584
in the best interest of the child. The court may hold the 2585
complaint in abeyance for up to ninety days while the child 2586
engages in diversion actions. If the child violates the 2587
conditions of abeyance or does not complete the diversion 2588
actions to the court's satisfaction within ninety days, the 2589
court may extend the period of abeyance for not more than two 2590
additional ninety-day periods. 2591

(5) If the court holds the complaint in abeyance and the 2592
child complies with the conditions of abeyance and completes the 2593
diversion actions to the court's satisfaction, the court shall 2594
dismiss the complaint and order that the records pertaining to 2595
the case be expunged immediately. If the child fails to complete 2596
the diversion actions to the court's satisfaction, the court 2597
shall proceed upon the complaint. 2598

Sec. 2152.11. (A) A child who is adjudicated a delinquent 2599
child for committing an act that would be a felony if committed 2600
by an adult is eligible for a particular type of disposition 2601
under this section if the child was not transferred under 2602
section 2152.12 of the Revised Code. If the complaint, 2603
indictment, or information charging the act includes one or more 2604
of the following factors, the act is considered to be enhanced, 2605
and the child is eligible for a more restrictive disposition 2606
under this section; 2607

(1) The act charged against the child would be an offense 2608
of violence if committed by an adult. 2609

(2) During the commission of the act charged, the child 2610
used a firearm, displayed a firearm, brandished a firearm, or 2611
indicated that the child possessed a firearm and actually 2612

possessed a firearm. 2613

(3) The child previously was admitted to a department of 2614
youth services facility for the commission of an act that would 2615
have been aggravated murder, murder, aggravated abortion murder, 2616
abortion murder, a felony of the first or second degree if 2617
committed by an adult, or an act that would have been a felony 2618
of the third degree and an offense of violence if committed by 2619
an adult. 2620

(B) If a child is adjudicated a delinquent child for 2621
committing an act that would be aggravated murder ~~or,~~ murder, 2622
aggravated abortion murder, or abortion murder if committed by 2623
an adult, the child is eligible for whichever of the following 2624
is appropriate: 2625

(1) Mandatory SYO, if the act allegedly was committed when 2626
the child was fourteen or fifteen years of age; 2627

(2) Discretionary SYO, if the act was committed when the 2628
child was ten, eleven, twelve, or thirteen years of age; 2629

(3) Traditional juvenile, if divisions (B)(1) and (2) of 2630
this section do not apply. 2631

(C) If a child is adjudicated a delinquent child for 2632
committing an act that would be attempted aggravated murder, ~~or~~ 2633
attempted murder, attempted aggravated abortion murder, or 2634
attempted abortion murder if committed by an adult, the child is 2635
eligible for whichever of the following is appropriate: 2636

(1) Mandatory SYO, if the act allegedly was committed when 2637
the child was fourteen or fifteen years of age; 2638

(2) Discretionary SYO, if the act was committed when the 2639
child was ten, eleven, twelve, or thirteen years of age; 2640

(3) Traditional juvenile, if divisions (C) (1) and (2) of 2641
this section do not apply. 2642

(D) If a child is adjudicated a delinquent child for 2643
committing an act that would be a felony of the first degree if 2644
committed by an adult, the child is eligible for whichever of 2645
the following is appropriate: 2646

(1) Mandatory SYO, if the act allegedly was committed when 2647
the child was sixteen or seventeen years of age, and the act is 2648
enhanced by the factors described in division (A) (1) and either 2649
division (A) (2) or (3) of this section; 2650

(2) Discretionary SYO, if any of the following applies: 2651

(a) The act was committed when the child was sixteen or 2652
seventeen years of age, and division (D) (1) of this section does 2653
not apply. 2654

(b) The act was committed when the child was fourteen or 2655
fifteen years of age. 2656

(c) The act was committed when the child was twelve or 2657
thirteen years of age, and the act is enhanced by any factor 2658
described in division (A) (1), (2), or (3) of this section. 2659

(d) The act was committed when the child was ten or eleven 2660
years of age, and the act is enhanced by the factors described 2661
in division (A) (1) and either division (A) (2) or (3) of this 2662
section. 2663

(3) Traditional juvenile, if divisions (D) (1) and (2) of 2664
this section do not apply. 2665

(E) If a child is adjudicated a delinquent child for 2666
committing an act that would be a felony of the second degree if 2667
committed by an adult, the child is eligible for whichever of 2668

the following is appropriate: 2669

(1) Discretionary SYO, if the act was committed when the 2670
child was fourteen, fifteen, sixteen, or seventeen years of age; 2671

(2) Discretionary SYO, if the act was committed when the 2672
child was twelve or thirteen years of age, and the act is 2673
enhanced by any factor described in division (A) (1), (2), or (3) 2674
of this section; 2675

(3) Traditional juvenile, if divisions (E) (1) and (2) of 2676
this section do not apply. 2677

(F) If a child is adjudicated a delinquent child for 2678
committing an act that would be a felony of the third degree if 2679
committed by an adult, the child is eligible for whichever of 2680
the following is appropriate: 2681

(1) Discretionary SYO, if the act was committed when the 2682
child was sixteen or seventeen years of age; 2683

(2) Discretionary SYO, if the act was committed when the 2684
child was fourteen or fifteen years of age, and the act is 2685
enhanced by any factor described in division (A) (1), (2), or (3) 2686
of this section; 2687

(3) Traditional juvenile, if divisions (F) (1) and (2) of 2688
this section do not apply. 2689

(G) If a child is adjudicated a delinquent child for 2690
committing an act that would be a felony of the fourth or fifth 2691
degree if committed by an adult, the child is eligible for 2692
whichever of the following dispositions is appropriate: 2693

(1) Discretionary SYO, if the act was committed when the 2694
child was sixteen or seventeen years of age, and the act is 2695
enhanced by any factor described in division (A) (1), (2), or (3) 2696

of this section; 2697

(2) Traditional juvenile, if division (G)(1) of this 2698
section does not apply. 2699

(H) The following table describes the dispositions that a 2700
juvenile court may impose on a delinquent child: 2701

2702

	1	2	3	4	5
A	OFFENSE CATEGORY	AGE	AGE	AGE	AGE
B	(Enhancement factors)	16 & 17	14 & 15	12 & 13	10 & 11
C	Murder/aggravated murder; <u>abortion</u> <u>murder/aggravated abortion murder</u>	N/A	MSYO, TJ	DSYO, TJ	DSYO, TJ
D	Attempted murder/attempted aggravated murder; <u>attempted</u> <u>abortion murder/attempted aggravated</u> <u>abortion murder</u>	N/A	MSYO, TJ	DSYO, TJ	DSYO, TJ
E	F1 (Enhanced by offense of violence factor and either disposition firearm factor or previous DYS admission factor)	MSYO, TJ	DSYO, TJ	DSYO, TJ	DSYO, TJ
F	F1 (Enhanced by any single or other combination of enhancement factors)	DSYO, TJ	DSYO, TJ	DSYO, TJ	TJ
G	F1 (Not enhanced)	DSYO, TJ	DSYO, TJ	TJ	TJ

H	F2 (Enhanced by any enhancement factor)	DSYO, TJ	DSYO, TJ	DSYO, TJ	TJ
I	F2 (Not enhanced)	DSYO, TJ	DSYO, TJ	TJ	TJ
J	F3 (Enhanced by any enhancement factor)	DSYO, TJ	DSYO, TJ	TJ	TJ
K	F3 (Not enhanced)	DSYO, TJ	TJ	TJ	TJ
L	F4 (Enhanced by any enhancement factor)	DSYO, TJ	TJ	TJ	TJ
M	F4 (Not enhanced)	TJ	TJ	TJ	TJ
N	F5 (Enhanced by any enhancement factor)	DSYO, TJ	TJ	TJ	TJ
O	F5 (Not enhanced)	TJ	TJ	TJ	TJ

(I) The table in division (H) of this section is for illustrative purposes only. If the table conflicts with any provision of divisions (A) to (G) of this section, divisions (A) to (G) of this section shall control. 2703
2704
2705
2706

(J) Key for table in division (H) of this section: 2707

(1) "Any enhancement factor" applies when the criteria described in division (A) (1), (2), or (3) of this section apply. 2708
2709

(2) The "disposition firearm factor" applies when the criteria described in division (A) (2) of this section apply. 2710
2711

(3) "DSYO" refers to discretionary serious youthful 2712

offender disposition.	2713
(4) "F1" refers to an act that would be a felony of the first degree if committed by an adult.	2714 2715
(5) "F2" refers to an act that would be a felony of the second degree if committed by an adult.	2716 2717
(6) "F3" refers to an act that would be a felony of the third degree if committed by an adult.	2718 2719
(7) "F4" refers to an act that would be a felony of the fourth degree if committed by an adult.	2720 2721
(8) "F5" refers to an act that would be a felony of the fifth degree if committed by an adult.	2722 2723
(9) "MSYO" refers to mandatory serious youthful offender disposition.	2724 2725
(10) The "offense of violence factor" applies when the criteria described in division (A) (1) of this section apply.	2726 2727
(11) The "previous DYS admission factor" applies when the criteria described in division (A) (3) of this section apply.	2728 2729
(12) "TJ" refers to traditional juvenile.	2730
Sec. 2152.12. (A) (1) (a) After a complaint has been filed alleging that a child is a delinquent child for committing an act that would be aggravated murder, murder, attempted aggravated murder, or attempted murder, <u>aggravated abortion murder, abortion murder, attempted aggravated abortion murder, or attempted abortion murder</u> if committed by an adult, the juvenile court at a hearing shall transfer the case if either of the following applies:	2731 2732 2733 2734 2735 2736 2737 2738
(i) The child was sixteen or seventeen years of age at the	2739

time of the act charged and there is probable cause to believe 2740
that the child committed the act charged. 2741

(ii) The child was fourteen or fifteen years of age at the 2742
time of the act charged, section 2152.10 of the Revised Code 2743
provides that the child is eligible for mandatory transfer, and 2744
there is probable cause to believe that the child committed the 2745
act charged. 2746

(b) After a complaint has been filed alleging that a child 2747
is a delinquent child by reason of committing a category two 2748
offense, the juvenile court at a hearing shall transfer the case 2749
if the child was sixteen or seventeen years of age at the time 2750
of the act charged and either of the following applies: 2751

(i) Division (A) (2) (a) of section 2152.10 of the Revised 2752
Code requires the mandatory transfer of the case, and there is 2753
probable cause to believe that the child committed the act 2754
charged. 2755

(ii) Division (A) (2) (b) of section 2152.10 of the Revised 2756
Code requires the mandatory transfer of the case, and there is 2757
probable cause to believe that the child committed the act 2758
charged. 2759

(2) The juvenile court also shall transfer a case in the 2760
circumstances described in division (C) (5) of section 2152.02 of 2761
the Revised Code or if either of the following applies: 2762

(a) A complaint is filed against a child who is eligible 2763
for a discretionary transfer under section 2152.10 of the 2764
Revised Code and who previously was convicted of or pleaded 2765
guilty to a felony in a case that was transferred to a criminal 2766
court. 2767

(b) A complaint is filed against a child who is domiciled 2768

in another state alleging that the child is a delinquent child 2769
for committing an act that would be a felony if committed by an 2770
adult, and, if the act charged had been committed in that other 2771
state, the child would be subject to criminal prosecution as an 2772
adult under the law of that other state without the need for a 2773
transfer of jurisdiction from a juvenile, family, or similar 2774
noncriminal court to a criminal court. 2775

(3) If a complaint is filed against a child alleging that 2776
the child is a delinquent child and the case is transferred 2777
pursuant to division (A) (1) (a) (i) or (A) (1) (b) (ii) of this 2778
section and if the child subsequently is convicted of or pleads 2779
guilty to an offense in that case, the sentence to be imposed or 2780
disposition to be made of the child shall be determined in 2781
accordance with section 2152.121 of the Revised Code. 2782

(B) Except as provided in division (A) of this section, 2783
after a complaint has been filed alleging that a child is a 2784
delinquent child for committing an act that would be a felony if 2785
committed by an adult, the juvenile court at a hearing may 2786
transfer the case if the court finds all of the following: 2787

(1) The child was fourteen years of age or older at the 2788
time of the act charged. 2789

(2) There is probable cause to believe that the child 2790
committed the act charged. 2791

(3) The child is not amenable to care or rehabilitation 2792
within the juvenile system, and the safety of the community may 2793
require that the child be subject to adult sanctions. In making 2794
its decision under this division, the court shall consider 2795
whether the applicable factors under division (D) of this 2796
section indicating that the case should be transferred outweigh 2797

the applicable factors under division (E) of this section 2798
indicating that the case should not be transferred. The record 2799
shall indicate the specific factors that were applicable and 2800
that the court weighed. 2801

(C) Before considering a transfer under division (B) of 2802
this section, the juvenile court shall order an investigation 2803
into the child's social history, education, family situation, 2804
and any other factor bearing on whether the child is amenable to 2805
juvenile rehabilitation, including a mental examination of the 2806
child by a public or private agency or a person qualified to 2807
make the examination. The investigation shall be completed and a 2808
report on the investigation shall be submitted to the court as 2809
soon as possible but not more than forty-five calendar days 2810
after the court orders the investigation. The court may grant 2811
one or more extensions for a reasonable length of time. The 2812
child may waive the examination required by this division if the 2813
court finds that the waiver is competently and intelligently 2814
made. Refusal to submit to a mental examination by the child 2815
constitutes a waiver of the examination. 2816

(D) In considering whether to transfer a child under 2817
division (B) of this section, the juvenile court shall consider 2818
the following relevant factors, and any other relevant factors, 2819
in favor of a transfer under that division: 2820

(1) The victim of the act charged suffered physical or 2821
psychological harm, or serious economic harm, as a result of the 2822
alleged act. 2823

(2) The physical or psychological harm suffered by the 2824
victim due to the alleged act of the child was exacerbated 2825
because of the physical or psychological vulnerability or the 2826
age of the victim. 2827

(3) The child's relationship with the victim facilitated the act charged.	2828 2829
(4) The child allegedly committed the act charged for hire or as a part of a gang or other organized criminal activity.	2830 2831
(5) The child had a firearm on or about the child's person or under the child's control at the time of the act charged, the act charged is not a violation of section 2923.12 of the Revised Code, and the child, during the commission of the act charged, allegedly used or displayed the firearm, brandished the firearm, or indicated that the child possessed a firearm.	2832 2833 2834 2835 2836 2837
(6) At the time of the act charged, the child was awaiting adjudication or disposition as a delinquent child, was under a community control sanction, or was on parole for a prior delinquent child adjudication or conviction.	2838 2839 2840 2841
(7) The results of any previous juvenile sanctions and programs indicate that rehabilitation of the child will not occur in the juvenile system.	2842 2843 2844
(8) The child is emotionally, physically, or psychologically mature enough for the transfer.	2845 2846
(9) There is not sufficient time to rehabilitate the child within the juvenile system.	2847 2848
(E) In considering whether to transfer a child under division (B) of this section, the juvenile court shall consider the following relevant factors, and any other relevant factors, against a transfer under that division:	2849 2850 2851 2852
(1) The victim induced or facilitated the act charged.	2853
(2) The child acted under provocation in allegedly committing the act charged.	2854 2855

(3) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person.

(4) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged.

(5) The child previously has not been adjudicated a delinquent child.

(6) The child is not emotionally, physically, or psychologically mature enough for the transfer.

(7) The child has a mental illness or intellectual disability.

(8) There is sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety.

(F) If one or more complaints are filed alleging that a child is a delinquent child for committing two or more acts that would be offenses if committed by an adult, if a motion is made alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred, and if a motion also is made requesting that the case or cases involving one or more of the acts charged be transferred pursuant to division (B) of this section, the juvenile court, in deciding the motions, shall proceed in the following manner:

(1) Initially, the court shall decide the motion alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be

transferred. 2885

(2) If the court determines that division (A) of this 2886
section applies and requires that the case or cases involving 2887
one or more of the acts charged be transferred, the court shall 2888
transfer the case or cases in accordance with that division. 2889
After the transfer pursuant to division (A) of this section, the 2890
court shall decide, in accordance with division (B) of this 2891
section, whether to grant the motion requesting that the case or 2892
cases involving one or more of the acts charged be transferred 2893
pursuant to that division. Notwithstanding division (B) of this 2894
section, prior to transferring a case pursuant to division (A) 2895
of this section, the court is not required to consider any 2896
factor specified in division (D) or (E) of this section or to 2897
conduct an investigation under division (C) of this section. 2898

(3) If the court determines that division (A) of this 2899
section does not require that the case or cases involving one or 2900
more of the acts charged be transferred, the court shall decide 2901
in accordance with division (B) of this section whether to grant 2902
the motion requesting that the case or cases involving one or 2903
more of the acts charged be transferred pursuant to that 2904
division. 2905

(4) No report on an investigation conducted pursuant to 2906
division (C) of this section shall include details of the 2907
alleged offense as reported by the child. 2908

(G) The court shall give notice in writing of the time, 2909
place, and purpose of any hearing held pursuant to division (A) 2910
or (B) of this section to the child's parents, guardian, or 2911
other custodian and to the child's counsel at least three days 2912
prior to the hearing. 2913

(H) No person, either before or after reaching eighteen 2914
years of age, shall be prosecuted as an adult for an offense 2915
committed prior to becoming eighteen years of age, unless the 2916
person has been transferred as provided in division (A) or (B) 2917
of this section or unless division (J) of this section applies. 2918
Any prosecution that is had in a criminal court on the mistaken 2919
belief that the person who is the subject of the case was 2920
eighteen years of age or older at the time of the commission of 2921
the offense shall be deemed a nullity, and the person shall not 2922
be considered to have been in jeopardy on the offense. 2923

(I) Upon the transfer of a case under division (A) or (B) 2924
of this section, the juvenile court shall state the reasons for 2925
the transfer on the record, and shall order the child to enter 2926
into a recognizance with good and sufficient surety for the 2927
child's appearance before the appropriate court for any 2928
disposition that the court is authorized to make for a similar 2929
act committed by an adult. The transfer abates the jurisdiction 2930
of the juvenile court with respect to the delinquent acts 2931
alleged in the complaint, and, upon the transfer, all further 2932
proceedings pertaining to the act charged shall be discontinued 2933
in the juvenile court, and the case then shall be within the 2934
jurisdiction of the court to which it is transferred as 2935
described in division (H) of section 2151.23 of the Revised 2936
Code. 2937

(J) If a person under eighteen years of age allegedly 2938
commits an act that would be a felony if committed by an adult 2939
and if the person is not taken into custody or apprehended for 2940
that act until after the person attains twenty-one years of age, 2941
the juvenile court does not have jurisdiction to hear or 2942
determine any portion of the case charging the person with 2943
committing that act. In those circumstances, divisions (A) and 2944

(B) of this section do not apply regarding the act, and the case charging the person with committing the act shall be a criminal prosecution commenced and heard in the appropriate court having jurisdiction of the offense as if the person had been eighteen years of age or older when the person committed the act. All proceedings pertaining to the act shall be within the jurisdiction of the court having jurisdiction of the offense, and that court has all the authority and duties in the case as it has in other criminal cases in that court.

Sec. 2152.16. (A) (1) If a child is adjudicated a delinquent child for committing an act that would be a felony if committed by an adult, the juvenile court may commit the child to the legal custody of the department of youth services for secure confinement as follows:

(a) For an act that would be aggravated murder ~~or,~~ murder, aggravated abortion murder, or abortion murder if committed by an adult, until the offender attains twenty-one years of age;

(b) For a violation of section 2923.02 of the Revised Code that involves an attempt to commit an act that would be aggravated murder ~~or,~~ murder, aggravated abortion murder, or abortion murder if committed by an adult, a minimum period of six to seven years as prescribed by the court and a maximum period not to exceed the child's attainment of twenty-one years of age;

(c) For a violation of section 2903.03, 2905.01, 2909.02, or 2911.01 or division (A) of section 2903.04 of the Revised Code or for a violation of any provision of section 2907.02 of the Revised Code other than division (A) (1) (b) of that section when the sexual conduct or insertion involved was consensual and

when the victim of the violation of division (A) (1) (b) of that 2975
section was older than the delinquent child, was the same age as 2976
the delinquent child, or was less than three years younger than 2977
the delinquent child, for an indefinite term consisting of a 2978
minimum period of one to three years, as prescribed by the 2979
court, and a maximum period not to exceed the child's attainment 2980
of twenty-one years of age; 2981

(d) If the child is adjudicated a delinquent child for 2982
committing an act that is not described in division (A) (1) (b) or 2983
(c) of this section and that would be a felony of the first or 2984
second degree if committed by an adult, for an indefinite term 2985
consisting of a minimum period of one year and a maximum period 2986
not to exceed the child's attainment of twenty-one years of age. 2987

(e) For committing an act that would be a felony of the 2988
third, fourth, or fifth degree if committed by an adult or for a 2989
violation of division (A) of section 2923.211 of the Revised 2990
Code, for an indefinite term consisting of a minimum period of 2991
six months and a maximum period not to exceed the child's 2992
attainment of twenty-one years of age. 2993

(2) In each case in which a court makes a disposition 2994
under this section, the court retains control over the 2995
commitment for the minimum period specified by the court in 2996
divisions (A) (1) (a) to (e) of this section. During the minimum 2997
period, the department of youth services shall not move the 2998
child to a nonsecure setting without the permission of the court 2999
that imposed the disposition. 3000

(B) (1) Subject to division (B) (2) of this section, if a 3001
delinquent child is committed to the department of youth 3002
services under this section, the department may release the 3003
child at any time after the minimum period specified by the 3004

court in division (A) (1) of this section ends. 3005

(2) A commitment under this section is subject to a 3006
supervised release or to a discharge of the child from the 3007
custody of the department for medical reasons pursuant to 3008
section 5139.54 of the Revised Code, but, during the minimum 3009
period specified by the court in division (A) (1) of this 3010
section, the department shall obtain court approval of a 3011
supervised release or discharge under that section. 3012

(C) If a child is adjudicated a delinquent child, at the 3013
dispositional hearing and prior to making any disposition 3014
pursuant to this section, the court shall determine whether the 3015
delinquent child previously has been adjudicated a delinquent 3016
child for a violation of a law or ordinance. If the delinquent 3017
child previously has been adjudicated a delinquent child for a 3018
violation of a law or ordinance, the court, for purposes of 3019
entering an order of disposition of the delinquent child under 3020
this section, shall consider the previous delinquent child 3021
adjudication as a conviction of a violation of the law or 3022
ordinance in determining the degree of the offense the current 3023
act would be had it been committed by an adult. This division 3024
also shall apply in relation to the imposition of any financial 3025
sanction under section 2152.19 of the Revised Code. 3026

Sec. 2152.17. (A) Subject to division (D) of this section, 3027
if a child is adjudicated a delinquent child for committing an 3028
act, other than a violation of section 2923.12 of the Revised 3029
Code, that would be a felony if committed by an adult and if the 3030
court determines that, if the child was an adult, the child 3031
would be guilty of a specification of the type set forth in 3032
section 2941.141, 2941.144, 2941.145, 2941.146, 2941.1412, 3033
2941.1414, or 2941.1415 of the Revised Code, in addition to any 3034

commitment or other disposition the court imposes for the 3035
underlying delinquent act, all of the following apply: 3036

(1) If the court determines that the child would be guilty 3037
of a specification of the type set forth in section 2941.141 of 3038
the Revised Code, the court may commit the child to the 3039
department of youth services for the specification for a 3040
definite period of up to one year. 3041

(2) If the court determines that the child would be guilty 3042
of a specification of the type set forth in section 2941.145 of 3043
the Revised Code or if the delinquent act is a violation of 3044
division (A) (1) or (2) of section 2903.06 of the Revised Code 3045
and the court determines that the child would be guilty of a 3046
specification of the type set forth in section 2941.1415 of the 3047
Revised Code, the court shall commit the child to the department 3048
of youth services for the specification for a definite period of 3049
not less than one and not more than three years, and the court 3050
also shall commit the child to the department for the underlying 3051
delinquent act under sections 2152.11 to 2152.16 of the Revised 3052
Code. 3053

(3) If the court determines that the child would be guilty 3054
of a specification of the type set forth in section 2941.144, 3055
2941.146, or 2941.1412 of the Revised Code or if the delinquent 3056
act is a violation of division (A) (1) or (2) of section 2903.06 3057
of the Revised Code and the court determines that the child 3058
would be guilty of a specification of the type set forth in 3059
section 2941.1414 of the Revised Code, the court shall commit 3060
the child to the department of youth services for the 3061
specification for a definite period of not less than one and not 3062
more than five years, and the court also shall commit the child 3063
to the department for the underlying delinquent act under 3064

sections 2152.11 to 2152.16 of the Revised Code. 3065

(B) (1) If a child is adjudicated a delinquent child for 3066
committing an act, other than a violation of section 2923.12 of 3067
the Revised Code, that would be a felony if committed by an 3068
adult, if the court determines that the child is complicit in 3069
another person's conduct that is of such a nature that the other 3070
person would be guilty of a specification of the type set forth 3071
in section 2941.141, 2941.144, 2941.145, or 2941.146 of the 3072
Revised Code if the other person was an adult, if the other 3073
person's conduct relates to the child's underlying delinquent 3074
act, and if the child did not furnish, use, or dispose of any 3075
firearm that was involved with the underlying delinquent act or 3076
with the other person's specification-related conduct, in 3077
addition to any other disposition the court imposes for the 3078
underlying delinquent act, the court may commit the child to the 3079
department of youth services for the specification for a 3080
definite period of not more than one year, subject to division 3081
(D) (2) of this section. 3082

(2) Except as provided in division (B) (1) of this section, 3083
division (A) of this section also applies to a child who is an 3084
accomplice regarding a specification of the type set forth in 3085
section 2941.1412, 2941.1414, or 2941.1415 of the Revised Code 3086
to the same extent the specifications would apply to an adult 3087
accomplice in a criminal proceeding. 3088

(C) If a child is adjudicated a delinquent child for 3089
committing an act that would be aggravated murder, murder, 3090
aggravated abortion murder, abortion murder, or a first, second, 3091
or third degree felony offense of violence if committed by an 3092
adult and if the court determines that, if the child was an 3093
adult, the child would be guilty of a specification of the type 3094

set forth in section 2941.142 of the Revised Code in relation to 3095
the act for which the child was adjudicated a delinquent child, 3096
the court shall commit the child for the specification to the 3097
legal custody of the department of youth services for 3098
institutionalization in a secure facility for a definite period 3099
of not less than one and not more than three years, subject to 3100
division (D) (2) of this section, and the court also shall commit 3101
the child to the department for the underlying delinquent act. 3102

(D) (1) If the child is adjudicated a delinquent child for 3103
committing an act that would be an offense of violence that is a 3104
felony if committed by an adult and is committed to the legal 3105
custody of the department of youth services pursuant to division 3106
(A) (1) of section 2152.16 of the Revised Code and if the court 3107
determines that the child, if the child was an adult, would be 3108
guilty of a specification of the type set forth in section 3109
2941.1411 of the Revised Code in relation to the act for which 3110
the child was adjudicated a delinquent child, the court may 3111
commit the child to the custody of the department of youth 3112
services for institutionalization in a secure facility for up to 3113
two years, subject to division (D) (2) of this section. 3114

(2) A court that imposes a period of commitment under 3115
division (A) of this section is not precluded from imposing an 3116
additional period of commitment under division (C) or (D) (1) of 3117
this section, a court that imposes a period of commitment under 3118
division (C) of this section is not precluded from imposing an 3119
additional period of commitment under division (A) or (D) (1) of 3120
this section, and a court that imposes a period of commitment 3121
under division (D) (1) of this section is not precluded from 3122
imposing an additional period of commitment under division (A) 3123
or (C) of this section. 3124

(E) The court shall not commit a child to the legal 3125
custody of the department of youth services for a specification 3126
pursuant to this section for a period that exceeds five years 3127
for any one delinquent act. Any commitment imposed pursuant to 3128
division (A), (B), (C), or (D) (1) of this section shall be in 3129
addition to, and shall be served consecutively with and prior 3130
to, a period of commitment ordered under this chapter for the 3131
underlying delinquent act, and each commitment imposed pursuant 3132
to division (A), (B), (C), or (D) (1) of this section shall be in 3133
addition to, and shall be served consecutively with, any other 3134
period of commitment imposed under those divisions. If a 3135
commitment is imposed under division (A) or (B) of this section 3136
and a commitment also is imposed under division (C) of this 3137
section, the period imposed under division (A) or (B) of this 3138
section shall be served prior to the period imposed under 3139
division (C) of this section. 3140

In each case in which a court makes a disposition under 3141
this section, the court retains control over the commitment for 3142
the entire period of the commitment. 3143

The total of all the periods of commitment imposed for any 3144
specification under this section and for the underlying offense 3145
shall not exceed the child's attainment of twenty-one years of 3146
age. 3147

(F) If a child is adjudicated a delinquent child for 3148
committing two or more acts that would be felonies if committed 3149
by an adult and if the court entering the delinquent child 3150
adjudication orders the commitment of the child for two or more 3151
of those acts to the legal custody of the department of youth 3152
services for institutionalization in a secure facility pursuant 3153
to section 2152.13 or 2152.16 of the Revised Code, the court may 3154

order that all of the periods of commitment imposed under those 3155
sections for those acts be served consecutively in the legal 3156
custody of the department of youth services, provided that those 3157
periods of commitment shall be in addition to and commence 3158
immediately following the expiration of a period of commitment 3159
that the court imposes pursuant to division (A), (B), (C), or 3160
(D) (1) of this section. A court shall not commit a delinquent 3161
child to the legal custody of the department of youth services 3162
under this division for a period that exceeds the child's 3163
attainment of twenty-one years of age. 3164

Sec. 2152.20. (A) If a child is adjudicated a delinquent 3165
child or a juvenile traffic offender, the court may order any of 3166
the following dispositions, in addition to any other disposition 3167
authorized or required by this chapter: 3168

(1) Impose a fine in accordance with the following 3169
schedule: 3170

(a) For an act that would be a minor misdemeanor or an 3171
unclassified misdemeanor if committed by an adult, a fine not to 3172
exceed fifty dollars; 3173

(b) For an act that would be a misdemeanor of the fourth 3174
degree if committed by an adult, a fine not to exceed one 3175
hundred dollars; 3176

(c) For an act that would be a misdemeanor of the third 3177
degree if committed by an adult, a fine not to exceed one 3178
hundred fifty dollars; 3179

(d) For an act that would be a misdemeanor of the second 3180
degree if committed by an adult, a fine not to exceed two 3181
hundred dollars; 3182

(e) For an act that would be a misdemeanor of the first 3183

degree if committed by an adult, a fine not to exceed two	3184
hundred fifty dollars;	3185
(f) For an act that would be a felony of the fifth degree	3186
or an unclassified felony if committed by an adult, a fine not	3187
to exceed three hundred dollars;	3188
(g) For an act that would be a felony of the fourth degree	3189
if committed by an adult, a fine not to exceed four hundred	3190
dollars;	3191
(h) For an act that would be a felony of the third degree	3192
if committed by an adult, a fine not to exceed seven hundred	3193
fifty dollars;	3194
(i) For an act that would be a felony of the second degree	3195
if committed by an adult, a fine not to exceed one thousand	3196
dollars;	3197
(j) For an act that would be a felony of the first degree	3198
if committed by an adult, a fine not to exceed one thousand five	3199
hundred dollars;	3200
(k) For an act that would be aggravated murder or, 	3201
<u>murder, aggravated abortion murder, or abortion murder</u> if	3202
committed by an adult, a fine not to exceed two thousand	3203
dollars.	3204
(2) Require the child to pay costs;	3205
(3) Unless the child's delinquent act or juvenile traffic	3206
offense would be a minor misdemeanor if committed by an adult or	3207
could be disposed of by the juvenile traffic violations bureau	3208
serving the court under Traffic Rule 13.1 if the court has	3209
established a juvenile traffic violations bureau, require the	3210
child to make restitution to the victim of the child's	3211

delinquent act or juvenile traffic offense or, if the victim is 3212
deceased, to a survivor of the victim in an amount based upon 3213
the victim's economic loss caused by or related to the 3214
delinquent act or juvenile traffic offense. The court may not 3215
require a child to make restitution pursuant to this division if 3216
the child's delinquent act or juvenile traffic offense would be 3217
a minor misdemeanor if committed by an adult or could be 3218
disposed of by the juvenile traffic violations bureau serving 3219
the court under Traffic Rule 13.1 if the court has established a 3220
juvenile traffic violations bureau. If the court requires 3221
restitution under this division, the restitution shall be made 3222
directly to the victim in open court or to the probation 3223
department that serves the jurisdiction or the clerk of courts 3224
on behalf of the victim. 3225

If the court requires restitution under this division, the 3226
restitution may be in the form of a cash reimbursement paid in a 3227
lump sum or in installments, the performance of repair work to 3228
restore any damaged property to its original condition, the 3229
performance of a reasonable amount of labor for the victim or 3230
survivor of the victim, the performance of community service 3231
work, any other form of restitution devised by the court, or any 3232
combination of the previously described forms of restitution. 3233

If the court requires restitution under this division, the 3234
court may base the restitution order on an amount recommended by 3235
the victim or survivor of the victim, the delinquent child, the 3236
juvenile traffic offender, a presentence investigation report, 3237
estimates or receipts indicating the cost of repairing or 3238
replacing property, and any other information, provided that the 3239
amount the court orders as restitution shall not exceed the 3240
amount of the economic loss suffered by the victim as a direct 3241
and proximate result of the delinquent act or juvenile traffic 3242

offense. If the court decides to order restitution under this 3243
division and the amount of the restitution is disputed by the 3244
victim or survivor or by the delinquent child or juvenile 3245
traffic offender, the court shall hold a hearing on the 3246
restitution. If the court requires restitution under this 3247
division, the court shall determine, or order the determination 3248
of, the amount of restitution to be paid by the delinquent child 3249
or juvenile traffic offender. All restitution payments shall be 3250
credited against any recovery of economic loss in a civil action 3251
brought by or on behalf of the victim against the delinquent 3252
child or juvenile traffic offender or the delinquent child's or 3253
juvenile traffic offender's parent, guardian, or other 3254
custodian. 3255

If the court requires restitution under this division, the 3256
court may order that the delinquent child or juvenile traffic 3257
offender pay a surcharge, in an amount not exceeding five per 3258
cent of the amount of restitution otherwise ordered under this 3259
division, to the entity responsible for collecting and 3260
processing the restitution payments. 3261

The victim or the survivor of the victim may request that 3262
the prosecuting authority file a motion, or the delinquent child 3263
or juvenile traffic offender may file a motion, for modification 3264
of the payment terms of any restitution ordered under this 3265
division. If the court grants the motion, it may modify the 3266
payment terms as it determines appropriate. 3267

(4) Require the child to reimburse any or all of the costs 3268
incurred for services or sanctions provided or imposed, 3269
including, but not limited to, the following: 3270

(a) All or part of the costs of implementing any community 3271
control imposed as a disposition under section 2152.19 of the 3272

Revised Code, including a supervision fee; 3273

(b) All or part of the costs of confinement in a 3274
residential facility described in section 2152.19 of the Revised 3275
Code or in a department of youth services institution, 3276
including, but not limited to, a per diem fee for room and 3277
board, the costs of medical and dental treatment provided, and 3278
the costs of repairing property the delinquent child damaged 3279
while so confined. The amount of reimbursement ordered for a 3280
child under this division shall not exceed the total amount of 3281
reimbursement the child is able to pay as determined at a 3282
hearing and shall not exceed the actual cost of the confinement. 3283
The court may collect any reimbursement ordered under this 3284
division. If the court does not order reimbursement under this 3285
division, confinement costs may be assessed pursuant to a 3286
repayment policy adopted under section 2929.37 of the Revised 3287
Code and division (D) of section 307.93, division (A) of section 3288
341.19, division (C) of section 341.23 or 753.16, division (C) 3289
of section 2301.56, or division (B) of section 341.14, 753.02, 3290
753.04, or 2947.19 of the Revised Code. 3291

(B) Chapter 2981. of the Revised Code applies to a child 3292
who is adjudicated a delinquent child for violating section 3293
2923.32 or 2923.42 of the Revised Code or for committing an act 3294
that, if committed by an adult, would be a felony drug abuse 3295
offense. 3296

(C) The court may hold a hearing if necessary to determine 3297
whether a child is able to pay a sanction under this section. 3298

(D) If a child who is adjudicated a delinquent child is 3299
indigent, the court shall consider imposing a term of community 3300
service under division (A) of section 2152.19 of the Revised 3301
Code in lieu of imposing a financial sanction under this 3302

section. If a child who is adjudicated a delinquent child is not 3303
indigent, the court may impose a term of community service under 3304
that division in lieu of, or in addition to, imposing a 3305
financial sanction under this section. The court may order 3306
community service for an act that if committed by an adult would 3307
be a minor misdemeanor. 3308

If a child fails to pay a financial sanction imposed under 3309
this section, the court may impose a term of community service 3310
in lieu of the sanction. 3311

(E) The clerk of the court, or another person authorized 3312
by law or by the court to collect a financial sanction imposed 3313
under this section, may do any of the following: 3314

(1) Enter into contracts with one or more public agencies 3315
or private vendors for the collection of the amounts due under 3316
the financial sanction, which amounts may include interest from 3317
the date of imposition of the financial sanction; 3318

(2) Permit payment of all, or any portion of, the 3319
financial sanction in installments, by credit or debit card, by 3320
another type of electronic transfer, or by any other reasonable 3321
method, within any period of time, and on any terms that the 3322
court considers just, except that the maximum time permitted for 3323
payment shall not exceed five years. The clerk may pay any fee 3324
associated with processing an electronic transfer out of public 3325
money and may charge the fee to the delinquent child. 3326

(3) To defray administrative costs, charge a reasonable 3327
fee to a child who elects a payment plan rather than a lump sum 3328
payment of a financial sanction. 3329

Sec. 2152.59. (A) If after a hearing held pursuant to 3330
section 2152.58 of the Revised Code the court determines that a 3331

child is competent, the court shall proceed with the delinquent 3332
child's proceeding as provided by law. No statement that a child 3333
makes during an evaluation or hearing conducted under sections 3334
2152.51 through 2152.59 of the Revised Code shall be used 3335
against the child on the issue of responsibility or guilt in any 3336
child or adult proceeding. 3337

(B) If after a hearing held pursuant to section 2152.58 of 3338
the Revised Code the court determines that the child is not 3339
competent and cannot attain competency within the period of time 3340
applicable under division (D)(2) of this section, the court 3341
shall dismiss the charges without prejudice, except that the 3342
court may delay dismissal for up to ninety calendar days and do 3343
either of the following: 3344

(1) Refer the matter to a public children services agency 3345
and request that agency determine whether to file an action in 3346
accordance with section 2151.27 of the Revised Code alleging 3347
that the child is a dependent, neglected, or abused child; 3348

(2) Assign court staff to refer the child or the child's 3349
family to the local family and children first council or an 3350
agency funded by the department of mental health and addiction 3351
services or department of developmental disabilities or 3352
otherwise secure services to reduce the potential that the child 3353
would engage in behavior that could result in delinquent child 3354
or other criminal charges. 3355

(C) If after a hearing held pursuant to section 2152.58 of 3356
the Revised Code the court determines that a child is not 3357
competent but could likely attain competency by participating in 3358
services specifically designed to help the child develop 3359
competency, the court may order the child to participate in 3360
services specifically designed to help the child develop 3361

competency at county expense. The court shall name a reliable 3362
provider to deliver the competency attainment services and shall 3363
order the child's parent, guardian, or custodian to contact that 3364
provider by a specified date to arrange for services. 3365

(D) The competency attainment services provided to a child 3366
shall be based on a competency attainment plan described in 3367
division (E)(2) of this section and approved by the court. 3368
Services are subject to the following conditions and time 3369
periods measured from the date the court approves the plan: 3370

(1) Services shall be provided in the least restrictive 3371
setting that is consistent with the child's ability to attain 3372
competency and the safety of both the child and the community. 3373
If the child has been released on temporary or interim orders 3374
and refuses or fails to cooperate with the service provider, the 3375
court may reassess the orders and amend them to require a more 3376
appropriate setting. 3377

(2) No child shall be required to participate in 3378
competency attainment services for longer than is required for 3379
the child to attain competency. The following maximum periods of 3380
participation apply: 3381

(a) If a child is ordered to participate in competency 3382
attainment services that are provided outside of a residential 3383
setting, the child shall not participate in those services for a 3384
period exceeding three months if the child is charged with an 3385
act that would be a misdemeanor if committed by an adult, six 3386
months if the child is charged with an act that would be a 3387
felony of the third, fourth, or fifth degree if committed by an 3388
adult, or one year if the child is charged with an act that 3389
would be a felony of the first or second degree, aggravated 3390
murder, ~~or~~ murder, aggravated abortion murder, or abortion 3391

murder if committed by an adult. 3392

(b) If a child is ordered to receive competency attainment 3393
services that are provided in a residential setting that is 3394
operated solely or in part for the purpose of providing 3395
competency attainment services, the child shall not participate 3396
in those services for a period exceeding forty-five calendar 3397
days if the child is charged with an act that would be a 3398
misdemeanor if committed by an adult, three months if the child 3399
is charged with an act that would be a felony of the third, 3400
fourth, or fifth degree if committed by an adult, six months if 3401
the child is charged with an act that would be a felony of the 3402
first or second degree if committed by an adult, or one year if 3403
the child is charged with an act that would be aggravated murder 3404
~~or~~, murder, aggravated abortion murder, or abortion murder if 3405
committed by an adult. 3406

(c) If a child is ordered into a residential, detention, 3407
or other secured setting for reasons other than to participate 3408
in competency attainment services and is also ordered to 3409
participate in competency attainment services concurrently, the 3410
child shall participate in the competency attainment services 3411
for not longer than the relevant period set forth in division 3412
(D) (2) (a) of this section. 3413

(d) If a child is ordered to participate in competency 3414
attainment services that require the child to live for some but 3415
not all of the duration of the services in a residential setting 3416
that is operated solely or in part for the purpose of providing 3417
competency attainment services, the child shall participate in 3418
the competency attainment services for not longer than the 3419
relevant period set forth in division (D) (2) (b) of this section. 3420
For the purpose of calculating a time period under division (D) 3421

(2) (d) of this section, two days of participation in a 3422
nonresidential setting shall equal one day of participation in a 3423
residential setting. 3424

(3) A child who receives competency attainment services in 3425
a residential setting that is operated solely or partly for the 3426
purpose of providing competency attainment services is in 3427
detention for purposes of section 2921.34 and division (B) of 3428
section 2152.18 of the Revised Code during the time that the 3429
child resides in the residential setting. 3430

(E) (1) Within ten business days after the court names the 3431
provider responsible for the child's competency attainment 3432
services under division (D) of this section, the court shall 3433
deliver to that provider a copy of each competency assessment 3434
report it has received for review. The provider shall return the 3435
copies of the reports to the court upon the termination of the 3436
services. 3437

(2) Not later than thirty calendar days after the child 3438
contacts the competency attainment services provider under 3439
division (C) of this section, the provider shall submit to the 3440
court a plan for the child to attain competency. The court shall 3441
provide copies of the plan to the prosecuting attorney, the 3442
child's attorney, the child's guardian ad litem, if any, and the 3443
child's parents, guardian, or custodian. 3444

(F) The provider that provides the child's competency 3445
attainment services pursuant to the competency attainment plan 3446
shall submit reports to the court on the following schedule: 3447

(1) A report on the child's progress every thirty calendar 3448
days and on the termination of services. The report shall not 3449
include any details of the alleged offense as reported by the 3450

child. 3451

(2) If the provider determines that the child is not 3452
cooperating to a degree that would allow the services to be 3453
effective to help the child attain competency, a report 3454
informing the court of the determination within three business 3455
days after making the determination; 3456

(3) If the provider determines that the current setting is 3457
no longer the least restrictive setting that is consistent with 3458
the child's ability to attain competency and the safety of both 3459
the child and the community, a report informing the court of the 3460
determination within three business days after making the 3461
determination; 3462

(4) If the provider determines that the child has achieved 3463
the goals of the plan and would be able to understand the nature 3464
and objectives of the proceeding against the child and to assist 3465
in the child's defense, with or without reasonable 3466
accommodations to meet the criteria set forth in division (B) of 3467
section 2152.56 of the Revised Code, a report informing the 3468
court of that determination within three business days after 3469
making the determination. If the provider believes that 3470
accommodations would be necessary or desirable, the report shall 3471
include recommendations for accommodations. 3472

(5) If the provider determines that the child will not 3473
achieve the goals of the plan within the applicable period of 3474
time under division (D) (2) of this section, a report informing 3475
the court of the determination within three business days after 3476
making the determination. The report shall include 3477
recommendations for services for the child that would support 3478
the safety of the child or the community. 3479

(G) The court shall provide copies of any report made 3480
under division (F) of this section to the prosecuting attorney, 3481
the child's attorney, and the child's guardian ad litem, if any. 3482
The court shall provide copies of any report made under division 3483
(F) of this section to the child's parents, guardian, or 3484
custodian unless the court finds that doing so is not in the 3485
best interest of the child. 3486

(H) (1) Within fifteen business days after receiving a 3487
report under division (F) of this section, the court may hold a 3488
hearing to determine if a new order is necessary. To assist in 3489
making a determination under division (H) of this section, the 3490
court may order a new competency evaluation in accordance with 3491
section 2152.53 of the Revised Code. Until a new order is issued 3492
or the required period of participation expires, the child shall 3493
continue to participate in competency attainment services. 3494

(2) If after a hearing held under division (H) (1) of this 3495
section the court determines that the child is not making 3496
progress toward competency or is so uncooperative that 3497
attainment services cannot be effective, the court may order a 3498
change in setting or services that would help the child attain 3499
competency within the relevant period of time under division (D) 3500
(2) of this section. 3501

(3) If after a hearing held under division (H) (1) of this 3502
section the court determines that the child has not or will not 3503
attain competency within the relevant period of time under 3504
division (D) (2) of this section, the court shall dismiss the 3505
delinquency complaint without prejudice, except that the court 3506
may delay dismissal for up to ninety calendar days and do either 3507
of the following: 3508

(a) Refer the matter to a public children services agency 3509

and request that agency determine whether to file an action in 3510
accordance with section 2151.27 of the Revised Code alleging 3511
that the child is a dependent, neglected, or abused child; 3512

(b) Assign court staff to refer the child or the child's 3513
family to the local family and children first council or an 3514
agency funded by the department of mental health and addiction 3515
services or department of developmental disabilities or 3516
otherwise secure services to reduce the potential that the child 3517
would engage in behavior that could result in delinquency or 3518
other criminal charges. 3519

(4) A dismissal under division (H)(3) of this section does 3520
not preclude a future delinquent child proceeding or criminal 3521
prosecution as provided under section 2151.23 of the Revised 3522
Code if the child eventually attains competency. 3523

(5) If after a hearing held under division (H)(1) of this 3524
section the court determines that the child has attained 3525
competency, the court shall proceed with the delinquent child's 3526
proceeding in accordance with division (A) of this section. 3527

(6) A dismissal under this section does not bar a civil 3528
action based on the acts or omissions that formed the basis of 3529
the complaint. 3530

Sec. 2152.72. (A) This section applies only to a child who 3531
is or previously has been adjudicated a delinquent child for an 3532
act to which any of the following applies: 3533

(1) The act is a violation of section 2903.01, 2903.02, 3534
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2904.03, 2904.04, 3535
2907.02, 2907.03, or 2907.05 of the Revised Code. 3536

(2) The act is a violation of section 2923.01 of the 3537
Revised Code and involved an attempt to commit aggravated murder 3538

~~or, murder, aggravated abortion murder, or abortion murder.~~ 3539

(3) The act would be a felony if committed by an adult, 3540
and the court determined that the child, if an adult, would be 3541
guilty of a specification found in section 2941.141, 2941.144, 3542
or 2941.145 of the Revised Code or in another section of the 3543
Revised Code that relates to the possession or use of a firearm 3544
during the commission of the act for which the child was 3545
adjudicated a delinquent child. 3546

(4) The act would be an offense of violence that is a 3547
felony if committed by an adult, and the court determined that 3548
the child, if an adult, would be guilty of a specification found 3549
in section 2941.1411 of the Revised Code or in another section 3550
of the Revised Code that relates to the wearing or carrying of 3551
body armor during the commission of the act for which the child 3552
was adjudicated a delinquent child. 3553

(B) (1) Except as provided in division (E) of this section, 3554
a public children services agency, private child placing agency, 3555
private noncustodial agency, or court, the department of youth 3556
services, or another private or government entity shall not 3557
place a child in a certified foster home or for adoption until 3558
it provides the foster caregivers or prospective adoptive 3559
parents with all of the following: 3560

(a) A written report describing the child's social 3561
history; 3562

(b) A written report describing all the acts committed by 3563
the child the entity knows of that resulted in the child being 3564
adjudicated a delinquent child and the disposition made by the 3565
court, unless the records pertaining to the acts have been 3566
sealed pursuant to section 2151.356 of the Revised Code; 3567

(c) A written report describing any other violent act 3568
committed by the child of which the entity is aware; 3569

(d) The substantial and material conclusions and 3570
recommendations of any psychiatric or psychological examination 3571
conducted on the child or, if no psychological or psychiatric 3572
examination of the child is available, the substantial and 3573
material conclusions and recommendations of an examination to 3574
detect mental and emotional disorders conducted in compliance 3575
with the requirements of Chapter 4757. of the Revised Code by an 3576
independent social worker, social worker, licensed professional 3577
clinical counselor, licensed professional counselor, independent 3578
marriage and family therapist, or marriage and family therapist 3579
licensed under that chapter. The entity shall not provide any 3580
part of a psychological, psychiatric, or mental and emotional 3581
disorder examination to the foster caregivers or prospective 3582
adoptive parents other than the substantial and material 3583
conclusions. 3584

(2) Notwithstanding sections 2151.356 to 2151.358 of the 3585
Revised Code, if records of an adjudication that a child is a 3586
delinquent child have been sealed pursuant to those sections and 3587
an entity knows the records have been sealed, the entity shall 3588
provide the foster caregivers or prospective adoptive parents a 3589
written statement that the records of a prior adjudication have 3590
been sealed. 3591

(C) (1) The entity that places the child in a certified 3592
foster home or for adoption shall conduct a psychological 3593
examination of the child unless either of the following applies: 3594

(a) An entity is not required to conduct the examination 3595
if an examination was conducted no more than one year prior to 3596
the child's placement, and division (C) (1) (b) of this section 3597

does not apply. 3598

(b) An entity is not required to conduct the examination 3599
if a foster caregiver seeks to adopt the foster caregiver's 3600
foster child, and an examination was conducted no more than two 3601
years prior to the date the foster caregiver seeks to adopt the 3602
child. 3603

(2) No later than sixty days after placing the child, the 3604
entity shall provide the foster caregiver or prospective 3605
adoptive parents a written report detailing the substantial and 3606
material conclusions and recommendations of the examination 3607
conducted pursuant to this division. 3608

(D) (1) Except as provided in divisions (D) (2) and (3) of 3609
this section, the expenses of conducting the examinations and 3610
preparing the reports and assessment required by division (B) or 3611
(C) of this section shall be paid by the entity that places the 3612
child in the certified foster home or for adoption. 3613

(2) When a juvenile court grants temporary or permanent 3614
custody of a child pursuant to any section of the Revised Code, 3615
including section 2151.33, 2151.353, 2151.354, or 2152.19 of the 3616
Revised Code, to a public children services agency or private 3617
child placing agency, the court shall provide the agency the 3618
information described in division (B) of this section, pay the 3619
expenses of preparing that information, and, if a new 3620
examination is required to be conducted, pay the expenses of 3621
conducting the examination described in division (C) of this 3622
section. On receipt of the information described in division (B) 3623
of this section, the agency shall provide to the court written 3624
acknowledgment that the agency received the information. The 3625
court shall keep the acknowledgment and provide a copy to the 3626
agency. On the motion of the agency, the court may terminate the 3627

order granting temporary or permanent custody of the child to 3628
that agency, if the court does not provide the information 3629
described in division (B) of this section. 3630

(3) If one of the following entities is placing a child in 3631
a certified foster home or for adoption with the assistance of 3632
or by contracting with a public children services agency, 3633
private child placing agency, or a private noncustodial agency, 3634
the entity shall provide the agency with the information 3635
described in division (B) of this section, pay the expenses of 3636
preparing that information, and, if a new examination is 3637
required to be conducted, pay the expenses of conducting the 3638
examination described in division (C) of this section: 3639

(a) The department of youth services if the placement is 3640
pursuant to any section of the Revised Code including section 3641
2152.22, 5139.06, 5139.07, 5139.38, or 5139.39 of the Revised 3642
Code; 3643

(b) A juvenile court with temporary or permanent custody 3644
of a child pursuant to section 2151.354 or 2152.19 of the 3645
Revised Code; 3646

(c) A public children services agency or private child 3647
placing agency with temporary or permanent custody of the child. 3648

The agency receiving the information described in division 3649
(B) of this section shall provide the entity described in 3650
divisions (D) (3) (a) to (c) of this section that sent the 3651
information written acknowledgment that the agency received the 3652
information and provided it to the foster caregivers or 3653
prospective adoptive parents. The entity shall keep the 3654
acknowledgment and provide a copy to the agency. An entity that 3655
places a child in a certified foster home or for adoption with 3656

the assistance of or by contracting with an agency remains 3657
responsible to provide the information described in division (B) 3658
of this section to the foster caregivers or prospective adoptive 3659
parents unless the entity receives written acknowledgment that 3660
the agency provided the information. 3661

(E) If a child is placed in a certified foster home as a 3662
result of an emergency removal of the child from home pursuant 3663
to division (D) of section 2151.31 of the Revised Code, an 3664
emergency change in the child's case plan pursuant to division 3665
(F) (3) of section 2151.412 of the Revised Code, or an emergency 3666
placement by the department of youth services pursuant to this 3667
chapter or Chapter 5139. of the Revised Code, the entity that 3668
places the child in the certified foster home shall provide the 3669
information described in division (B) of this section no later 3670
than ninety-six hours after the child is placed in the certified 3671
foster home. 3672

(F) On receipt of the information described in divisions 3673
(B) and (C) of this section, the foster caregiver or prospective 3674
adoptive parents shall provide to the entity that places the 3675
child in the foster caregiver's or prospective adoptive parents' 3676
home a written acknowledgment that the foster caregiver or 3677
prospective adoptive parents received the information. The 3678
entity shall keep the acknowledgment and provide a copy to the 3679
foster caregiver or prospective adoptive parents. 3680

(G) No person employed by an entity subject to this 3681
section and made responsible by that entity for the child's 3682
placement in a certified foster home or for adoption shall fail 3683
to provide the foster caregivers or prospective adoptive parents 3684
with the information required by divisions (B) and (C) of this 3685
section. 3686

(H) It is not a violation of any duty of confidentiality 3687
provided for in the Revised Code or a code of professional 3688
responsibility for a person or government entity to provide the 3689
substantial and material conclusions and recommendations of a 3690
psychiatric or psychological examination, or an examination to 3691
detect mental and emotional disorders, in accordance with 3692
division (B) (1) (d) or (C) of this section. 3693

(I) As used in this section: 3694

(1) "Body armor" has the same meaning as in section 3695
2941.1411 of the Revised Code. 3696

(2) "Firearm" has the same meaning as in section 2923.11 3697
of the Revised Code. 3698

Sec. 2152.74. (A) As used in this section, "DNA analysis" 3699
and "DNA specimen" have the same meanings as in section 109.573 3700
of the Revised Code. 3701

(B) (1) A child who is adjudicated a delinquent child for 3702
committing an act listed in division (D) of this section and who 3703
is committed to the custody of the department of youth services, 3704
placed in a detention facility or district detention facility 3705
pursuant to division (A) (3) of section 2152.19 of the Revised 3706
Code, or placed in a school, camp, institution, or other 3707
facility for delinquent children described in division (A) (2) of 3708
section 2152.19 of the Revised Code shall submit to a DNA 3709
specimen collection procedure administered by the director of 3710
youth services if committed to the department or by the chief 3711
administrative officer of the detention facility, district 3712
detention facility, school, camp, institution, or other facility 3713
for delinquent children to which the child was committed or in 3714
which the child was placed. If the court commits the child to 3715

the department of youth services, the director of youth services 3716
shall cause the DNA specimen to be collected from the child 3717
during the intake process at an institution operated by or under 3718
the control of the department. If the court commits the child to 3719
or places the child in a detention facility, district detention 3720
facility, school, camp, institution, or other facility for 3721
delinquent children, the chief administrative officer of the 3722
detention facility, district detention facility, school, camp, 3723
institution, or facility to which the child is committed or in 3724
which the child is placed shall cause the DNA specimen to be 3725
collected from the child during the intake process for the 3726
detention facility, district detention facility, school, camp, 3727
institution, or facility. The DNA specimen shall be collected 3728
from the child in accordance with division (C) of this section. 3729

(2) If a child is adjudicated a delinquent child for 3730
committing an act listed in division (D) of this section, is 3731
committed to or placed in the department of youth services, a 3732
detention facility or district detention facility, or a school, 3733
camp, institution, or other facility for delinquent children, 3734
and does not submit to a DNA specimen collection procedure 3735
pursuant to division (B)(1) of this section, prior to the 3736
child's release from the custody of the department of youth 3737
services, from the custody of the detention facility or district 3738
detention facility, or from the custody of the school, camp, 3739
institution, or facility, the child shall submit to, and the 3740
director of youth services or the chief administrator of the 3741
detention facility, district detention facility, school, camp, 3742
institution, or facility to which the child is committed or in 3743
which the child was placed shall administer, a DNA specimen 3744
collection procedure at the institution operated by or under the 3745
control of the department of youth services or at the detention 3746

facility, district detention facility, school, camp, 3747
institution, or facility to which the child is committed or in 3748
which the child was placed. The DNA specimen shall be collected 3749
in accordance with division (C) of this section. 3750

(3) If a child is adjudicated a delinquent child for 3751
committing an act listed in division (D) of this section, is not 3752
committed to or placed in the department of youth services, a 3753
detention facility or district detention facility, or a school, 3754
camp, institution, or other facility for delinquent children 3755
described in division (A) (2) or (3) of section 2152.19 of the 3756
Revised Code, and does not provide a DNA specimen pursuant to 3757
division (B) (1) or (2) of this section, the juvenile court shall 3758
order the child to report to the county probation department 3759
immediately after disposition to submit to a DNA specimen 3760
collection procedure administered by the chief administrative 3761
officer of the county probation department. The DNA specimen 3762
shall be collected from the child in accordance with division 3763
(C) of this section. 3764

(C) If the DNA specimen is collected by withdrawing blood 3765
from the child or a similarly invasive procedure, a physician, 3766
registered nurse, licensed practical nurse, duly licensed 3767
clinical laboratory technician, or other qualified medical 3768
practitioner shall collect in a medically approved manner the 3769
DNA specimen required to be collected pursuant to division (B) 3770
of this section. If the DNA specimen is collected by swabbing 3771
for buccal cells or a similarly noninvasive procedure, this 3772
section does not require that the DNA specimen be collected by a 3773
qualified medical practitioner of that nature. No later than 3774
fifteen days after the date of the collection of the DNA 3775
specimen, the director of youth services or the chief 3776
administrative officer of the detention facility, district 3777

detention facility, school, camp, institution, or other facility 3778
for delinquent children to which the child is committed or in 3779
which the child was placed shall cause the DNA specimen to be 3780
forwarded to the bureau of criminal identification and 3781
investigation in accordance with procedures established by the 3782
superintendent of the bureau under division (H) of section 3783
109.573 of the Revised Code. The bureau shall provide the 3784
specimen vials, mailing tubes, labels, postage, and instruction 3785
needed for the collection and forwarding of the DNA specimen to 3786
the bureau. 3787

(D) The director of youth services and the chief 3788
administrative officer of a detention facility, district 3789
detention facility, school, camp, institution, or other facility 3790
for delinquent children shall cause a DNA specimen to be 3791
collected in accordance with divisions (B) and (C) of this 3792
section from each child in its custody who is adjudicated a 3793
delinquent child for committing any of the following acts: 3794

(1) An act that would be a felony if committed by an 3795
adult; 3796

(2) A violation of any law that would be a misdemeanor if 3797
committed by an adult and that arose out of the same facts and 3798
circumstances and same act as did a charge against the child of 3799
a violation of section 2903.01, 2903.02, 2904.03, 2904.04, 3800
2905.01, 2907.02, 2907.03, 2907.05, or 2911.11 of the Revised 3801
Code that previously was dismissed or amended or as did a charge 3802
against the child of a violation of section 2907.12 of the 3803
Revised Code as it existed prior to September 3, 1996, that 3804
previously was dismissed or amended; 3805

(3) A violation of section 2919.23 of the Revised Code 3806
that would be a misdemeanor if committed by an adult and that 3807

would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(4) A violation of section 2923.03 of the Revised Code involving complicity in committing a violation of section 2907.04 of the Revised Code that would be a misdemeanor if committed by an adult.

Sec. 2152.86. (A) (1) The court that, on or after January 1, 2008, adjudicates a child a delinquent child for committing an act shall issue as part of the dispositional order an order that classifies the child a juvenile offender registrant, specifies that the child has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code, and additionally classifies the child a public registry-qualified juvenile offender registrant if the child was fourteen, fifteen, sixteen, or seventeen years of age at the time of committing the act, the court imposed on the child a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code, and the child is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing any of the following acts:

(a) A violation of section 2907.02 of the Revised Code, division (B) of section 2907.05 of the Revised Code, or section 2907.03 of the Revised Code if the victim of the violation was less than twelve years of age;

(b) A violation of section 2903.01, 2903.02, 2904.03, 2904.04, or 2905.01 of the Revised Code that was committed with a purpose to gratify the sexual needs or desires of the child;

(c) A violation of division (B) of section 2903.03 of the

Revised Code. 3837

(2) Upon a child's release, on or after January 1, 2008, 3838
from the department of youth services, the court shall issue an 3839
order that classifies the child a juvenile offender registrant, 3840
specifies that the child has a duty to comply with sections 3841
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code, and 3842
additionally classifies the child a public registry-qualified 3843
juvenile offender registrant if all of the following apply: 3844

(a) The child was adjudicated a delinquent child, and a 3845
juvenile court imposed on the child a serious youthful offender 3846
dispositional sentence under section 2152.13 of the Revised Code 3847
for committing one of the acts described in division (A) (1) (a) 3848
or (b) of this section or for committing on or after ~~the~~ 3849
~~effective date of this amendment~~ March 22, 2013, a violation of 3850
division (B) of section 2903.03 of the Revised Code. 3851

(b) The child was fourteen, fifteen, sixteen, or seventeen 3852
years of age at the time of committing the act. 3853

(c) The court did not issue an order classifying the child 3854
as both a juvenile offender registrant and a public registry- 3855
qualified juvenile offender registrant pursuant to division (A) 3856
(1) of this section. 3857

(3) If a court issued an order classifying a child a 3858
juvenile offender registrant pursuant to section 2152.82 or 3859
2152.83 of the Revised Code prior to January 1, 2008, not later 3860
than February 1, 2008, the court shall issue a new order that 3861
reclassifies the child as a juvenile offender registrant, 3862
specifies that the child has a duty to comply with sections 3863
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code, and 3864
additionally classifies the child a public registry-qualified 3865

juvenile offender registrant if all of the following apply: 3866

(a) The sexually oriented offense that was the basis of 3867
the previous order that classified the child a juvenile offender 3868
registrant was an act described in division (A)(1)(a) or (b) of 3869
this section. 3870

(b) The child was fourteen, fifteen, sixteen, or seventeen 3871
years of age at the time of committing the act. 3872

(c) The court imposed on the child a serious youthful 3873
offender dispositional sentence under section 2152.13 of the 3874
Revised Code for the act described in division (A)(1)(a) or (b) 3875
of this section. 3876

(B)(1) If an order is issued under division (A)(1), (2), 3877
or (3) of this section, the classification of tier III sex 3878
offender/child-victim offender automatically applies to the 3879
delinquent child based on the sexually oriented offense the 3880
child committed, subject to a possible reclassification pursuant 3881
to division (D) of this section for a child whose delinquent act 3882
was committed prior to January 1, 2008. If an order is issued 3883
under division (A)(2) of this section regarding a child whose 3884
delinquent act described in division (A)(1)(a) or (b) of this 3885
section was committed prior to January 1, 2008, or if an order 3886
is issued under division (A)(3) of this section regarding a 3887
delinquent child, the order shall inform the child and the 3888
child's parent, guardian, or custodian, that the child has a 3889
right to a hearing as described in division (D) of this section 3890
and inform the child and the child's parent, guardian, or 3891
custodian of the procedures for requesting the hearing and the 3892
period of time within which the request for the hearing must be 3893
made. Section 2152.831 of the Revised Code does not apply 3894
regarding an order issued under division (A)(1), (2), or (3) of 3895

this section. 3896

(2) The judge that issues an order under division (A) (1), 3897
(2), or (3) of this section shall provide to the delinquent 3898
child who is the subject of the order and to the delinquent 3899
child's parent, guardian, or custodian the notice required under 3900
divisions (A) and (B) of section 2950.03 of the Revised Code and 3901
shall provide as part of that notice a copy of the order 3902
required under division (A) (1), (2), or (3) of this section. The 3903
judge shall include the order in the delinquent child's 3904
dispositional order and shall specify in the dispositional order 3905
that the order issued under division (A) (1), (2), or (3) of this 3906
section was made pursuant to this section. 3907

(C) An order issued under division (A) (1), (2), or (3) of 3908
this section shall remain in effect for the period of time 3909
specified in section 2950.07 of the Revised Code as it exists on 3910
and after January 1, 2008, subject to a judicial termination of 3911
that period of time as provided in section 2950.15 of the 3912
Revised Code, subject to a possible reclassification of the 3913
child pursuant to division (D) of this section if the child's 3914
delinquent act was committed prior to January 1, 2008. If an 3915
order is issued under division (A) (1), (2), or (3) of this 3916
section, the child's attainment of eighteen or twenty-one years 3917
of age does not affect or terminate the order, and the order 3918
remains in effect for the period of time described in this 3919
division. If an order is issued under division (A) (3) of this 3920
section, the duty to comply with sections 2950.04, 2950.041, 3921
2950.05, and 2950.06 of the Revised Code based upon that order 3922
shall be considered, for purposes of section 2950.07 of the 3923
Revised Code and for all other purposes, to be a continuation of 3924
the duty to comply with those sections imposed upon the child 3925
prior to January 1, 2008, under the order issued under section 3926

2152.82, 2152.83, 2152.84, or 2152.85 and Chapter 2950. of the 3927
Revised Code. 3928

(D) (1) If an order is issued under division (A) (2) of this 3929
section regarding a delinquent child whose delinquent act 3930
described in division (A) (1) (a) or (b) of this section was 3931
committed prior to January 1, 2008, or if an order is issued 3932
under division (A) (3) of this section regarding a delinquent 3933
child, except as otherwise provided in this division, the child 3934
may request as a matter of right a court hearing to contest the 3935
court's classification in the order of the child as a public 3936
registry-qualified juvenile offender registrant. To request the 3937
hearing, not later than the date that is sixty days after the 3938
delinquent child is provided with the copy of the order, the 3939
delinquent child shall file a petition with the juvenile court 3940
that issued the order. 3941

If the delinquent child requests a hearing by timely 3942
filing a petition with the juvenile court, the delinquent child 3943
shall serve a copy of the petition on the prosecutor who handled 3944
the case in which the delinquent child was adjudicated a 3945
delinquent child for committing the sexually oriented offense or 3946
child-victim oriented offense that resulted in the delinquent 3947
child's registration duty under section 2950.04 or 2950.041 of 3948
the Revised Code. The prosecutor shall represent the interest of 3949
the state in the hearing. In any hearing under this division, 3950
the Rules of Juvenile Procedure apply except to the extent that 3951
those Rules would by their nature be clearly inapplicable. The 3952
court shall schedule a hearing and shall provide notice to the 3953
delinquent child and the delinquent child's parent, guardian, or 3954
custodian and to the prosecutor of the date, time, and place of 3955
the hearing. 3956

If the delinquent child requests a hearing in accordance 3957
with this division, until the court issues its decision at or 3958
subsequent to the hearing, the delinquent child shall comply 3959
with Chapter 2950. of the Revised Code as it exists on and after 3960
January 1, 2008. If a delinquent child requests a hearing in 3961
accordance with this division, at the hearing, all parties are 3962
entitled to be heard, and the court shall consider all relevant 3963
information and testimony presented relative to the issue of 3964
whether the child should be classified a public registry- 3965
qualified juvenile offender registrant. Notwithstanding the 3966
court's classification of the delinquent child as a public 3967
registry-qualified juvenile offender registrant, the court may 3968
terminate that classification if it determines by clear and 3969
convincing evidence that the classification is in error. 3970

If the court decides to terminate the court's 3971
classification of the delinquent child as a public registry- 3972
qualified juvenile offender registrant, the court shall issue an 3973
order that specifies that it has determined that the child is 3974
not a public registry-qualified juvenile offender registrant and 3975
that it has terminated the court's classification of the 3976
delinquent child as a public registry-qualified juvenile 3977
offender registrant. The court promptly shall serve a copy of 3978
the order upon the sheriff with whom the delinquent child most 3979
recently registered under section 2950.04 or 2950.041 of the 3980
Revised Code and upon the bureau of criminal identification and 3981
investigation. The delinquent child and the prosecutor have the 3982
right to appeal the decision of the court issued under this 3983
division. 3984

If the delinquent child fails to request a hearing in 3985
accordance with this division within the applicable sixty-day 3986
period specified in this division, the failure constitutes a 3987

waiver by the delinquent child of the delinquent child's right 3988
to a hearing under this division, and the delinquent child is 3989
bound by the court's classification of the delinquent child as a 3990
public registry-qualified juvenile offender registrant. 3991

(2) An order issued under division (D)(1) of this section 3992
is independent of any order of a type described in division (F) 3993
of section 2950.031 of the Revised Code or division (E) of 3994
section 2950.032 of the Revised Code, and the court may issue an 3995
order under both division (D)(1) of this section and an order of 3996
a type described in division (F) of section 2950.031 of the 3997
Revised Code or division (E) of section 2950.032 of the Revised 3998
Code. A court that conducts a hearing under division (D)(1) of 3999
this section may consolidate that hearing with a hearing 4000
conducted for the same delinquent child under division (F) of 4001
section 2950.031 of the Revised Code or division (E) of section 4002
2950.032 of the Revised Code. 4003

Sec. 2317.02. The following persons shall not testify in 4004
certain respects: 4005

(A)(1) An attorney, concerning a communication made to the 4006
attorney by a client in that relation or concerning the 4007
attorney's advice to a client, except that the attorney may 4008
testify by express consent of the client or, if the client is 4009
deceased, by the express consent of the surviving spouse or the 4010
executor or administrator of the estate of the deceased client. 4011
However, if the client voluntarily reveals the substance of 4012
attorney-client communications in a nonprivileged context or is 4013
deemed by section 2151.421 of the Revised Code to have waived 4014
any testimonial privilege under this division, the attorney may 4015
be compelled to testify on the same subject. 4016

The testimonial privilege established under this division 4017

does not apply concerning either of the following: 4018

(a) A communication between a client in a capital case, as 4019
defined in section 2901.02 of the Revised Code, and the client's 4020
attorney if the communication is relevant to a subsequent 4021
ineffective assistance of counsel claim by the client alleging 4022
that the attorney did not effectively represent the client in 4023
the case; 4024

(b) A communication between a client who has since died 4025
and the deceased client's attorney if the communication is 4026
relevant to a dispute between parties who claim through that 4027
deceased client, regardless of whether the claims are by testate 4028
or intestate succession or by inter vivos transaction, and the 4029
dispute addresses the competency of the deceased client when the 4030
deceased client executed a document that is the basis of the 4031
dispute or whether the deceased client was a victim of fraud, 4032
undue influence, or duress when the deceased client executed a 4033
document that is the basis of the dispute. 4034

(2) An attorney, concerning a communication made to the 4035
attorney by a client in that relationship or the attorney's 4036
advice to a client, except that if the client is an insurance 4037
company, the attorney may be compelled to testify, subject to an 4038
in camera inspection by a court, about communications made by 4039
the client to the attorney or by the attorney to the client that 4040
are related to the attorney's aiding or furthering an ongoing or 4041
future commission of bad faith by the client, if the party 4042
seeking disclosure of the communications has made a prima-facie 4043
showing of bad faith, fraud, or criminal misconduct by the 4044
client. 4045

(B) (1) A physician, advanced practice registered nurse, or 4046
dentist concerning a communication made to the physician, 4047

advanced practice registered nurse, or dentist by a patient in 4048
that relation or the advice of a physician, advanced practice 4049
registered nurse, or dentist given to a patient, except as 4050
otherwise provided in this division, division (B) (2), and 4051
division (B) (3) of this section, and except that, if the patient 4052
is deemed by section 2151.421 of the Revised Code to have waived 4053
any testimonial privilege under this division, the physician or 4054
advanced practice registered nurse may be compelled to testify 4055
on the same subject. 4056

The testimonial privilege established under this division 4057
does not apply, and a physician, advanced practice registered 4058
nurse, or dentist may testify or may be compelled to testify, in 4059
any of the following circumstances: 4060

(a) In any civil action, in accordance with the discovery 4061
provisions of the Rules of Civil Procedure in connection with a 4062
civil action, or in connection with a claim under Chapter 4123. 4063
of the Revised Code, under any of the following circumstances: 4064

(i) If the patient or the guardian or other legal 4065
representative of the patient gives express consent; 4066

(ii) If the patient is deceased, the spouse of the patient 4067
or the executor or administrator of the patient's estate gives 4068
express consent; 4069

(iii) If a medical claim, dental claim, chiropractic 4070
claim, or optometric claim, as defined in section 2305.113 of 4071
the Revised Code, an action for wrongful death, any other type 4072
of civil action, or a claim under Chapter 4123. of the Revised 4073
Code is filed by the patient, the personal representative of the 4074
estate of the patient if deceased, or the patient's guardian or 4075
other legal representative. 4076

(b) In any civil action concerning court-ordered treatment 4077
or services received by a patient, if the court-ordered 4078
treatment or services were ordered as part of a case plan 4079
journalized under section 2151.412 of the Revised Code or the 4080
court-ordered treatment or services are necessary or relevant to 4081
dependency, neglect, or abuse or temporary or permanent custody 4082
proceedings under Chapter 2151. of the Revised Code. 4083

(c) In any criminal action concerning any test or the 4084
results of any test that determines the presence or 4085
concentration of alcohol, a drug of abuse, a combination of 4086
them, a controlled substance, or a metabolite of a controlled 4087
substance in the patient's whole blood, blood serum or plasma, 4088
breath, urine, or other bodily substance at any time relevant to 4089
the criminal offense in question. 4090

(d) In any criminal action against a physician, advanced 4091
practice registered nurse, or dentist. In such an action, the 4092
testimonial privilege established under this division does not 4093
prohibit the admission into evidence, in accordance with the 4094
Rules of Evidence, of a patient's medical or dental records or 4095
other communications between a patient and the physician, 4096
advanced practice registered nurse, or dentist that are related 4097
to the action and obtained by subpoena, search warrant, or other 4098
lawful means. A court that permits or compels a physician, 4099
advanced practice registered nurse, or dentist to testify in 4100
such an action or permits the introduction into evidence of 4101
patient records or other communications in such an action shall 4102
require that appropriate measures be taken to ensure that the 4103
confidentiality of any patient named or otherwise identified in 4104
the records is maintained. Measures to ensure confidentiality 4105
that may be taken by the court include sealing its records or 4106
deleting specific information from its records. 4107

(e) (i) If the communication was between a patient who has 4108
since died and the deceased patient's physician, advanced 4109
practice registered nurse, or dentist, the communication is 4110
relevant to a dispute between parties who claim through that 4111
deceased patient, regardless of whether the claims are by 4112
testate or intestate succession or by inter vivos transaction, 4113
and the dispute addresses the competency of the deceased patient 4114
when the deceased patient executed a document that is the basis 4115
of the dispute or whether the deceased patient was a victim of 4116
fraud, undue influence, or duress when the deceased patient 4117
executed a document that is the basis of the dispute. 4118

(ii) If neither the spouse of a patient nor the executor 4119
or administrator of that patient's estate gives consent under 4120
division (B) (1) (a) (ii) of this section, testimony or the 4121
disclosure of the patient's medical records by a physician, 4122
advanced practice registered nurse, dentist, or other health 4123
care provider under division (B) (1) (e) (i) of this section is a 4124
permitted use or disclosure of protected health information, as 4125
defined in 45 C.F.R. 160.103, and an authorization or 4126
opportunity to be heard shall not be required. 4127

(iii) Division (B) (1) (e) (i) of this section does not 4128
require a mental health professional to disclose psychotherapy 4129
notes, as defined in 45 C.F.R. 164.501. 4130

(iv) An interested person who objects to testimony or 4131
disclosure under division (B) (1) (e) (i) of this section may seek 4132
a protective order pursuant to Civil Rule 26. 4133

(v) A person to whom protected health information is 4134
disclosed under division (B) (1) (e) (i) of this section shall not 4135
use or disclose the protected health information for any purpose 4136
other than the litigation or proceeding for which the 4137

information was requested and shall return the protected health 4138
information to the covered entity or destroy the protected 4139
health information, including all copies made, at the conclusion 4140
of the litigation or proceeding. 4141

(2) (a) If any law enforcement officer submits a written 4142
statement to a health care provider that states that an official 4143
criminal investigation has begun regarding a specified person or 4144
that a criminal action or proceeding has been commenced against 4145
a specified person, that requests the provider to supply to the 4146
officer copies of any records the provider possesses that 4147
pertain to any test or the results of any test administered to 4148
the specified person to determine the presence or concentration 4149
of alcohol, a drug of abuse, a combination of them, a controlled 4150
substance, or a metabolite of a controlled substance in the 4151
person's whole blood, blood serum or plasma, breath, or urine at 4152
any time relevant to the criminal offense in question, and that 4153
conforms to section 2317.022 of the Revised Code, the provider, 4154
except to the extent specifically prohibited by any law of this 4155
state or of the United States, shall supply to the officer a 4156
copy of any of the requested records the provider possesses. If 4157
the health care provider does not possess any of the requested 4158
records, the provider shall give the officer a written statement 4159
that indicates that the provider does not possess any of the 4160
requested records. 4161

(b) If a health care provider possesses any records of the 4162
type described in division (B) (2) (a) of this section regarding 4163
the person in question at any time relevant to the criminal 4164
offense in question, in lieu of personally testifying as to the 4165
results of the test in question, the custodian of the records 4166
may submit a certified copy of the records, and, upon its 4167
submission, the certified copy is qualified as authentic 4168

evidence and may be admitted as evidence in accordance with the 4169
Rules of Evidence. Division (A) of section 2317.422 of the 4170
Revised Code does not apply to any certified copy of records 4171
submitted in accordance with this division. Nothing in this 4172
division shall be construed to limit the right of any party to 4173
call as a witness the person who administered the test to which 4174
the records pertain, the person under whose supervision the test 4175
was administered, the custodian of the records, the person who 4176
made the records, or the person under whose supervision the 4177
records were made. 4178

(3) (a) If the testimonial privilege described in division 4179
(B) (1) of this section does not apply as provided in division 4180
(B) (1) (a) (iii) of this section, a physician, advanced practice 4181
registered nurse, or dentist may be compelled to testify or to 4182
submit to discovery under the Rules of Civil Procedure only as 4183
to a communication made to the physician, advanced practice 4184
registered nurse, or dentist by the patient in question in that 4185
relation, or the advice of the physician, advanced practice 4186
registered nurse, or dentist given to the patient in question, 4187
that related causally or historically to physical or mental 4188
injuries that are relevant to issues in the medical claim, 4189
dental claim, chiropractic claim, or optometric claim, action 4190
for wrongful death, other civil action, or claim under Chapter 4191
4123. of the Revised Code. 4192

(b) If the testimonial privilege described in division (B) 4193
(1) of this section does not apply to a physician, advanced 4194
practice registered nurse, or dentist as provided in division 4195
(B) (1) (c) of this section, the physician, advanced practice 4196
registered nurse, or dentist, in lieu of personally testifying 4197
as to the results of the test in question, may submit a 4198
certified copy of those results, and, upon its submission, the 4199

certified copy is qualified as authentic evidence and may be 4200
admitted as evidence in accordance with the Rules of Evidence. 4201
Division (A) of section 2317.422 of the Revised Code does not 4202
apply to any certified copy of results submitted in accordance 4203
with this division. Nothing in this division shall be construed 4204
to limit the right of any party to call as a witness the person 4205
who administered the test in question, the person under whose 4206
supervision the test was administered, the custodian of the 4207
results of the test, the person who compiled the results, or the 4208
person under whose supervision the results were compiled. 4209

(4) The testimonial privilege described in division (B) (1) 4210
of this section is not waived when a communication is made by a 4211
physician or advanced practice registered nurse to a pharmacist 4212
or when there is communication between a patient and a 4213
pharmacist in furtherance of the physician-patient or advanced 4214
practice registered nurse-patient relation. 4215

(5) (a) As used in divisions (B) (1) to (4) of this section, 4216
"communication" means acquiring, recording, or transmitting any 4217
information, in any manner, concerning any facts, opinions, or 4218
statements necessary to enable a physician, advanced practice 4219
registered nurse, or dentist to diagnose, treat, prescribe, or 4220
act for a patient. A "communication" may include, but is not 4221
limited to, any medical or dental, office, or hospital 4222
communication such as a record, chart, letter, memorandum, 4223
laboratory test and results, x-ray, photograph, financial 4224
statement, diagnosis, or prognosis. 4225

(b) As used in division (B) (2) of this section, "health 4226
care provider" means a hospital, ambulatory care facility, long- 4227
term care facility, pharmacy, emergency facility, or health care 4228
practitioner. 4229

- (c) As used in division (B) (5) (b) of this section: 4230
- (i) "Ambulatory care facility" means a facility that 4231
provides medical, diagnostic, or surgical treatment to patients 4232
who do not require hospitalization, including a dialysis center, 4233
ambulatory surgical facility, cardiac catheterization facility, 4234
diagnostic imaging center, extracorporeal shock wave lithotripsy 4235
center, home health agency, inpatient hospice, birthing center, 4236
radiation therapy center, emergency facility, and an urgent care 4237
center. "Ambulatory health care facility" does not include the 4238
private office of a physician, advanced practice registered 4239
nurse, or dentist, whether the office is for an individual or 4240
group practice. 4241
- (ii) "Emergency facility" means a hospital emergency 4242
department or any other facility that provides emergency medical 4243
services. 4244
- (iii) "Health care practitioner" has the same meaning as 4245
in section 4769.01 of the Revised Code. 4246
- (iv) "Hospital" has the same meaning as in section 3727.01 4247
of the Revised Code. 4248
- (v) "Long-term care facility" means a nursing home, 4249
residential care facility, or home for the aging, as those terms 4250
are defined in section 3721.01 of the Revised Code; a 4251
residential facility licensed under section 5119.34 of the 4252
Revised Code that provides accommodations, supervision, and 4253
personal care services for three to sixteen unrelated adults; a 4254
nursing facility, as defined in section 5165.01 of the Revised 4255
Code; a skilled nursing facility, as defined in section 5165.01 4256
of the Revised Code; and an intermediate care facility for 4257
individuals with intellectual disabilities, as defined in 4258

section 5124.01 of the Revised Code. 4259

(vi) "Pharmacy" has the same meaning as in section 4729.01 4260
of the Revised Code. 4261

(d) As used in divisions (B) (1) and (2) of this section, 4262
"drug of abuse" has the same meaning as in section 4506.01 of 4263
the Revised Code. 4264

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 4265
section apply to doctors of medicine, doctors of osteopathic 4266
medicine, doctors of podiatry, advanced practice registered 4267
nurses, and dentists. 4268

(7) Nothing in divisions (B) (1) to (6) of this section 4269
affects, or shall be construed as affecting, the immunity from 4270
civil liability conferred by section 307.628 of the Revised Code 4271
or the immunity from civil liability conferred by section 4272
2305.33 of the Revised Code upon physicians or advanced practice 4273
registered nurses who report an employee's use of a drug of 4274
abuse, or a condition of an employee other than one involving 4275
the use of a drug of abuse, to the employer of the employee in 4276
accordance with division (B) of that section. As used in 4277
division (B) (7) of this section, "employee," "employer," and 4278
"physician" have the same meanings as in section 2305.33 of the 4279
Revised Code and "advanced practice registered nurse" has the 4280
same meaning as in section 4723.01 of the Revised Code. 4281

(C) (1) A cleric, when the cleric remains accountable to 4282
the authority of that cleric's church, denomination, or sect, 4283
concerning a confession made, or any information confidentially 4284
communicated, to the cleric for a religious counseling purpose 4285
in the cleric's professional character. The cleric may testify 4286
by express consent of the person making the communication, 4287

except when the disclosure of the information is in violation of 4288
a sacred trust and except that, if the person voluntarily 4289
testifies or is deemed by division (A) (4) (c) of section 2151.421 4290
of the Revised Code to have waived any testimonial privilege 4291
under this division, the cleric may be compelled to testify on 4292
the same subject except when disclosure of the information is in 4293
violation of a sacred trust. 4294

(2) As used in division (C) of this section: 4295

(a) "Cleric" means a member of the clergy, rabbi, priest, 4296
Christian Science practitioner, or regularly ordained, 4297
accredited, or licensed minister of an established and legally 4298
cognizable church, denomination, or sect. 4299

(b) "Sacred trust" means a confession or confidential 4300
communication made to a cleric in the cleric's ecclesiastical 4301
capacity in the course of discipline enjoined by the church to 4302
which the cleric belongs, including, but not limited to, the 4303
Catholic Church, if both of the following apply: 4304

(i) The confession or confidential communication was made 4305
directly to the cleric. 4306

(ii) The confession or confidential communication was made 4307
in the manner and context that places the cleric specifically 4308
and strictly under a level of confidentiality that is considered 4309
inviolable by canon law or church doctrine. 4310

(D) Husband or wife, concerning any communication made by 4311
one to the other, or an act done by either in the presence of 4312
the other, during coverture, unless the communication was made, 4313
or act done, in the known presence or hearing of a third person 4314
competent to be a witness; and such rule is the same if the 4315
marital relation has ceased to exist; 4316

(E) A person who assigns a claim or interest, concerning 4317
any matter in respect to which the person would not, if a party, 4318
be permitted to testify; 4319

(F) A person who, if a party, would be restricted under 4320
section 2317.03 of the Revised Code, when the property or thing 4321
is sold or transferred by an executor, administrator, guardian, 4322
trustee, heir, devisee, or legatee, shall be restricted in the 4323
same manner in any action or proceeding concerning the property 4324
or thing. 4325

(G) (1) A school guidance counselor who holds a valid 4326
educator license from the state board of education as provided 4327
for in section 3319.22 of the Revised Code, a person licensed 4328
under Chapter 4757. of the Revised Code as a licensed 4329
professional clinical counselor, licensed professional 4330
counselor, social worker, independent social worker, marriage 4331
and family therapist or independent marriage and family 4332
therapist, or registered under Chapter 4757. of the Revised Code 4333
as a social work assistant concerning a confidential 4334
communication received from a client in that relation or the 4335
person's advice to a client unless any of the following applies: 4336

(a) The communication or advice indicates clear and 4337
present danger to the client or other persons. For the purposes 4338
of this division, cases in which there are indications of 4339
present or past child abuse or neglect of the client constitute 4340
a clear and present danger. 4341

(b) The client gives express consent to the testimony. 4342

(c) If the client is deceased, the surviving spouse or the 4343
executor or administrator of the estate of the deceased client 4344
gives express consent. 4345

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

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

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

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

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

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

action or proceeding, other than a criminal, delinquency, child 4375
abuse, child neglect, or dependent child action or proceeding, 4376
that is brought by or against either parent who takes part in 4377
mediation in accordance with the order and that pertains to the 4378
mediation process, to any information discussed or presented in 4379
the mediation process, to the allocation of parental rights and 4380
responsibilities for the care of the parents' children, or to 4381
the awarding of parenting time rights in relation to their 4382
children; 4383

(I) A communications assistant, acting within the scope of 4384
the communication assistant's authority, when providing 4385
telecommunications relay service pursuant to section 4931.06 of 4386
the Revised Code or Title II of the "Communications Act of 4387
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 4388
communication made through a telecommunications relay service. 4389
Nothing in this section shall limit the obligation of a 4390
communications assistant to divulge information or testify when 4391
mandated by federal law or regulation or pursuant to subpoena in 4392
a criminal proceeding. 4393

Nothing in this section shall limit any immunity or 4394
privilege granted under federal law or regulation. 4395

(J) (1) A chiropractor in a civil proceeding concerning a 4396
communication made to the chiropractor by a patient in that 4397
relation or the chiropractor's advice to a patient, except as 4398
otherwise provided in this division. The testimonial privilege 4399
established under this division does not apply, and a 4400
chiropractor may testify or may be compelled to testify, in any 4401
civil action, in accordance with the discovery provisions of the 4402
Rules of Civil Procedure in connection with a civil action, or 4403
in connection with a claim under Chapter 4123. of the Revised 4404

Code, under any of the following circumstances: 4405

(a) If the patient or the guardian or other legal 4406
representative of the patient gives express consent. 4407

(b) If the patient is deceased, the spouse of the patient 4408
or the executor or administrator of the patient's estate gives 4409
express consent. 4410

(c) If a medical claim, dental claim, chiropractic claim, 4411
or optometric claim, as defined in section 2305.113 of the 4412
Revised Code, an action for wrongful death, any other type of 4413
civil action, or a claim under Chapter 4123. of the Revised Code 4414
is filed by the patient, the personal representative of the 4415
estate of the patient if deceased, or the patient's guardian or 4416
other legal representative. 4417

(2) If the testimonial privilege described in division (J) 4418
(1) of this section does not apply as provided in division (J) 4419
(1)(c) of this section, a chiropractor may be compelled to 4420
testify or to submit to discovery under the Rules of Civil 4421
Procedure only as to a communication made to the chiropractor by 4422
the patient in question in that relation, or the chiropractor's 4423
advice to the patient in question, that related causally or 4424
historically to physical or mental injuries that are relevant to 4425
issues in the medical claim, dental claim, chiropractic claim, 4426
or optometric claim, action for wrongful death, other civil 4427
action, or claim under Chapter 4123. of the Revised Code. 4428

(3) The testimonial privilege established under this 4429
division does not apply, and a chiropractor may testify or be 4430
compelled to testify, in any criminal action or administrative 4431
proceeding. 4432

(4) As used in this division, "communication" means 4433

acquiring, recording, or transmitting any information, in any 4434
manner, concerning any facts, opinions, or statements necessary 4435
to enable a chiropractor to diagnose, treat, or act for a 4436
patient. A communication may include, but is not limited to, any 4437
chiropractic, office, or hospital communication such as a 4438
record, chart, letter, memorandum, laboratory test and results, 4439
x-ray, photograph, financial statement, diagnosis, or prognosis. 4440

(K) (1) Except as provided under division (K) (2) of this 4441
section, a critical incident stress management team member 4442
concerning a communication received from an individual who 4443
receives crisis response services from the team member, or the 4444
team member's advice to the individual, during a debriefing 4445
session. 4446

(2) The testimonial privilege established under division 4447
(K) (1) of this section does not apply if any of the following 4448
are true: 4449

(a) The communication or advice indicates clear and 4450
present danger to the individual who receives crisis response 4451
services or to other persons. For purposes of this division, 4452
cases in which there are indications of present or past child 4453
abuse or neglect of the individual constitute a clear and 4454
present danger. 4455

(b) The individual who received crisis response services 4456
gives express consent to the testimony. 4457

(c) If the individual who received crisis response 4458
services is deceased, the surviving spouse or the executor or 4459
administrator of the estate of the deceased individual gives 4460
express consent. 4461

(d) The individual who received crisis response services 4462

voluntarily testifies, in which case the team member may be 4463
compelled to testify on the same subject. 4464

(e) The court in camera determines that the information 4465
communicated by the individual who received crisis response 4466
services is not germane to the relationship between the 4467
individual and the team member. 4468

(f) The communication or advice pertains or is related to 4469
any criminal act. 4470

(3) As used in division (K) of this section: 4471

(a) "Crisis response services" means consultation, risk 4472
assessment, referral, and on-site crisis intervention services 4473
provided by a critical incident stress management team to 4474
individuals affected by crisis or disaster. 4475

(b) "Critical incident stress management team member" or 4476
"team member" means an individual specially trained to provide 4477
crisis response services as a member of an organized community 4478
or local crisis response team that holds membership in the Ohio 4479
critical incident stress management network. 4480

(c) "Debriefing session" means a session at which crisis 4481
response services are rendered by a critical incident stress 4482
management team member during or after a crisis or disaster. 4483

(L) (1) Subject to division (L) (2) of this section and 4484
except as provided in division (L) (3) of this section, an 4485
employee assistance professional, concerning a communication 4486
made to the employee assistance professional by a client in the 4487
employee assistance professional's official capacity as an 4488
employee assistance professional. 4489

(2) Division (L) (1) of this section applies to an employee 4490

assistance professional who meets either or both of the 4491
following requirements: 4492

(a) Is certified by the employee assistance certification 4493
commission to engage in the employee assistance profession; 4494

(b) Has education, training, and experience in all of the 4495
following: 4496

(i) Providing workplace-based services designed to address 4497
employer and employee productivity issues; 4498

(ii) Providing assistance to employees and employees' 4499
dependents in identifying and finding the means to resolve 4500
personal problems that affect the employees or the employees' 4501
performance; 4502

(iii) Identifying and resolving productivity problems 4503
associated with an employee's concerns about any of the 4504
following matters: health, marriage, family, finances, substance 4505
abuse or other addiction, workplace, law, and emotional issues; 4506

(iv) Selecting and evaluating available community 4507
resources; 4508

(v) Making appropriate referrals; 4509

(vi) Local and national employee assistance agreements; 4510

(vii) Client confidentiality. 4511

(3) Division (L)(1) of this section does not apply to any 4512
of the following: 4513

(a) A criminal action or proceeding involving an offense 4514
under sections 2903.01 to 2903.06, or section 2904.03 or 2904.04 4515
of the Revised Code if the employee assistance professional's 4516
disclosure or testimony relates directly to the facts or 4517

immediate circumstances of the offense; 4518

(b) A communication made by a client to an employee 4519
assistance professional that reveals the contemplation or 4520
commission of a crime or serious, harmful act; 4521

(c) A communication that is made by a client who is an 4522
unemancipated minor or an adult adjudicated to be incompetent 4523
and indicates that the client was the victim of a crime or 4524
abuse; 4525

(d) A civil proceeding to determine an individual's mental 4526
competency or a criminal action in which a plea of not guilty by 4527
reason of insanity is entered; 4528

(e) A civil or criminal malpractice action brought against 4529
the employee assistance professional; 4530

(f) When the employee assistance professional has the 4531
express consent of the client or, if the client is deceased or 4532
disabled, the client's legal representative; 4533

(g) When the testimonial privilege otherwise provided by 4534
division (L)(1) of this section is abrogated under law. 4535

Sec. 2901.01. (A) As used in the Revised Code: 4536

(1) "Force" means any violence, compulsion, or constraint 4537
physically exerted by any means upon or against a person or 4538
thing. 4539

(2) "Deadly force" means any force that carries a 4540
substantial risk that it will proximately result in the death of 4541
any person. 4542

(3) "Physical harm to persons" means any injury, illness, 4543
or other physiological impairment, regardless of its gravity or 4544

duration. 4545

(4) "Physical harm to property" means any tangible or 4546
intangible damage to property that, in any degree, results in 4547
loss to its value or interferes with its use or enjoyment. 4548
"Physical harm to property" does not include wear and tear 4549
occasioned by normal use. 4550

(5) "Serious physical harm to persons" means any of the 4551
following: 4552

(a) Any mental illness or condition of such gravity as 4553
would normally require hospitalization or prolonged psychiatric 4554
treatment; 4555

(b) Any physical harm that carries a substantial risk of 4556
death; 4557

(c) Any physical harm that involves some permanent 4558
incapacity, whether partial or total, or that involves some 4559
temporary, substantial incapacity; 4560

(d) Any physical harm that involves some permanent 4561
disfigurement or that involves some temporary, serious 4562
disfigurement; 4563

(e) Any physical harm that involves acute pain of such 4564
duration as to result in substantial suffering or that involves 4565
any degree of prolonged or intractable pain. 4566

(6) "Serious physical harm to property" means any physical 4567
harm to property that does either of the following: 4568

(a) Results in substantial loss to the value of the 4569
property or requires a substantial amount of time, effort, or 4570
money to repair or replace; 4571

(b) Temporarily prevents the use or enjoyment of the 4572
property or substantially interferes with its use or enjoyment 4573
for an extended period of time. 4574

(7) "Risk" means a significant possibility, as contrasted 4575
with a remote possibility, that a certain result may occur or 4576
that certain circumstances may exist. 4577

(8) "Substantial risk" means a strong possibility, as 4578
contrasted with a remote or significant possibility, that a 4579
certain result may occur or that certain circumstances may 4580
exist. 4581

(9) "Offense of violence" means any of the following: 4582

(a) A violation of section 2903.01, 2903.02, 2903.03, 4583
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 4584
2903.22, 2904.03, 2904.04, 2905.01, 2905.02, 2905.11, 2905.32, 4585
2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 4586
2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 4587
2921.03, 2921.04, 2921.34, or 2923.161, of division (A) (1) of 4588
section 2903.34, of division (A) (1), (2), or (3) of section 4589
2911.12, or of division (B) (1), (2), (3), or (4) of section 4590
2919.22 of the Revised Code or felonious sexual penetration in 4591
violation of former section 2907.12 of the Revised Code; 4592

(b) A violation of an existing or former municipal 4593
ordinance or law of this or any other state or the United 4594
States, substantially equivalent to any section, division, or 4595
offense listed in division (A) (9) (a) of this section; 4596

(c) An offense, other than a traffic offense, under an 4597
existing or former municipal ordinance or law of this or any 4598
other state or the United States, committed purposely or 4599
knowingly, and involving physical harm to persons or a risk of 4600

serious physical harm to persons; 4601

(d) A conspiracy or attempt to commit, or complicity in 4602
committing, any offense under division (A) (9) (a), (b), or (c) of 4603
this section. 4604

(10) (a) "Property" means any property, real or personal, 4605
tangible or intangible, and any interest or license in that 4606
property. "Property" includes, but is not limited to, cable 4607
television service, other telecommunications service, 4608
telecommunications devices, information service, computers, 4609
data, computer software, financial instruments associated with 4610
computers, other documents associated with computers, or copies 4611
of the documents, whether in machine or human readable form, 4612
trade secrets, trademarks, copyrights, patents, and property 4613
protected by a trademark, copyright, or patent. "Financial 4614
instruments associated with computers" include, but are not 4615
limited to, checks, drafts, warrants, money orders, notes of 4616
indebtedness, certificates of deposit, letters of credit, bills 4617
of credit or debit cards, financial transaction authorization 4618
mechanisms, marketable securities, or any computer system 4619
representations of any of them. 4620

(b) As used in division (A) (10) of this section, "trade 4621
secret" has the same meaning as in section 1333.61 of the 4622
Revised Code, and "telecommunications service" and "information 4623
service" have the same meanings as in section 2913.01 of the 4624
Revised Code. 4625

(c) As used in divisions (A) (10) and (13) of this section, 4626
"cable television service," "computer," "computer software," 4627
"computer system," "computer network," "data," and 4628
"telecommunications device" have the same meanings as in section 4629
2913.01 of the Revised Code. 4630

- (11) "Law enforcement officer" means any of the following: 4631
- (a) A sheriff, deputy sheriff, constable, police officer 4632
of a township or joint police district, marshal, deputy marshal, 4633
municipal police officer, member of a police force employed by a 4634
metropolitan housing authority under division (D) of section 4635
3735.31 of the Revised Code, or state highway patrol trooper; 4636
- (b) An officer, agent, or employee of the state or any of 4637
its agencies, instrumentalities, or political subdivisions, upon 4638
whom, by statute, a duty to conserve the peace or to enforce all 4639
or certain laws is imposed and the authority to arrest violators 4640
is conferred, within the limits of that statutory duty and 4641
authority; 4642
- (c) A mayor, in the mayor's capacity as chief conservator 4643
of the peace within the mayor's municipal corporation; 4644
- (d) A member of an auxiliary police force organized by 4645
county, township, or municipal law enforcement authorities, 4646
within the scope of the member's appointment or commission; 4647
- (e) A person lawfully called pursuant to section 311.07 of 4648
the Revised Code to aid a sheriff in keeping the peace, for the 4649
purposes and during the time when the person is called; 4650
- (f) A person appointed by a mayor pursuant to section 4651
737.01 of the Revised Code as a special patrolling officer 4652
during riot or emergency, for the purposes and during the time 4653
when the person is appointed; 4654
- (g) A member of the organized militia of this state or the 4655
armed forces of the United States, lawfully called to duty to 4656
aid civil authorities in keeping the peace or protect against 4657
domestic violence; 4658

(h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor; 4659
4660

(i) A veterans' home police officer appointed under section 5907.02 of the Revised Code; 4661
4662

(j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code; 4663
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(k) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code; 4666
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(l) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E) (1) of section 101.311 of the Revised Code and an assistant house of representatives sergeant at arms; 4668
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(m) The senate sergeant at arms and an assistant senate sergeant at arms; 4672
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(n) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended. 4674
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(12) "Privilege" means an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity. 4684
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(13) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:

(a) Any controlled substance, as defined in section 3719.01 of the Revised Code, or any device or paraphernalia;

(b) Any unlawful gambling device or paraphernalia;

(c) Any dangerous ordnance or obscene material.

(14) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in section 2901.05 of the Revised Code, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.

(B) (1) (a) Subject to division (B) (2) of this section, as used in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense, "person" includes all of the following:

(i) An individual, corporation, business trust, estate, trust, partnership, and association;

(ii) An unborn human who is viable.

(b) As used in any section contained in Title XXIX of the Revised Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

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

(i) "Unborn human" means an individual organism of the species Homo sapiens from fertilization until live birth.

(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (B) (1) (a) of this section, in no case shall the portion of the definition of the term "person" that is set forth in division (B) (1) (a) (ii) of this section be applied or construed in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (B) (2) (a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12, division (B) of section 2919.13, or section 2919.15, 2919.151, 2919.17, or 2919.18 of the Revised Code, may be punished as a violation of section 2919.12, division (B) of section 2919.13, or section 2919.15, 2919.151, 2919.17, or

2919.18 of the Revised Code, as applicable. Consent is 4746
sufficient under this division if it is of the type otherwise 4747
adequate to permit medical treatment to the pregnant woman, even 4748
if it does not comply with section 2919.12 of the Revised Code. 4749

(b) In a manner so that the offense is applied or is 4750
construed as applying to a woman based on an act or omission of 4751
the woman that occurs while she is or was pregnant and that 4752
results in any of the following: 4753

(i) Her delivery of a stillborn baby; 4754

(ii) Her causing, in any other manner, the death in utero 4755
of a viable, unborn human that she is carrying; 4756

(iii) Her causing the death of her child who is born alive 4757
but who dies from one or more injuries that are sustained while 4758
the child is a viable, unborn human; 4759

(iv) Her causing her child who is born alive to sustain 4760
one or more injuries while the child is a viable, unborn human; 4761

(v) Her causing, threatening to cause, or attempting to 4762
cause, in any other manner, an injury, illness, or other 4763
physiological impairment, regardless of its duration or gravity, 4764
or a mental illness or condition, regardless of its duration or 4765
gravity, to a viable, unborn human that she is carrying. 4766

(C) As used in Title XXIX of the Revised Code: 4767

(1) "School safety zone" consists of a school, school 4768
building, school premises, school activity, and school bus. 4769

(2) "School," "school building," and "school premises" 4770
have the same meanings as in section 2925.01 of the Revised 4771
Code. 4772

(3) "School activity" means any activity held under the 4773
auspices of a board of education of a city, local, exempted 4774
village, joint vocational, or cooperative education school 4775
district; a governing authority of a community school 4776
established under Chapter 3314. of the Revised Code; a governing 4777
board of an educational service center, or the governing body of 4778
a school for which the state board of education prescribes 4779
minimum standards under section 3301.07 of the Revised Code. 4780

(4) "School bus" has the same meaning as in section 4781
4511.01 of the Revised Code. 4782

Sec. 2901.02. As used in the Revised Code: 4783

(A) Offenses include aggravated murder, murder, aggravated 4784
abortion murder, abortion murder, felonies of the first, second, 4785
third, fourth, and fifth degree, misdemeanors of the first, 4786
second, third, and fourth degree, minor misdemeanors, and 4787
offenses not specifically classified. 4788

(B) Aggravated murder and aggravated abortion murder when 4789
the indictment or the count in the indictment charging 4790
aggravated murder or aggravated abortion murder contains one or 4791
more specifications of aggravating circumstances listed in 4792
division (A) of section 2929.04 of the Revised Code, and any 4793
other offense for which death may be imposed as a penalty, is a 4794
capital offense. 4795

(C) Aggravated murder ~~and~~, murder, aggravated abortion 4796
murder, and abortion murder are felonies. 4797

(D) Regardless of the penalty that may be imposed, any 4798
offense specifically classified as a felony is a felony, and any 4799
offense specifically classified as a misdemeanor is a 4800
misdemeanor. 4801

(E) Any offense not specifically classified is a felony if imprisonment for more than one year may be imposed as a penalty. 4802
4803

(F) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty. 4804
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4806

(G) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following: 4807
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(1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars; 4810
4811

(2) For an offense committed on or after January 1, 2004, a fine not exceeding one hundred fifty dollars, community service under division (D) of section 2929.27 of the Revised Code, or a financial sanction other than a fine under section 2929.28 of the Revised Code. 4812
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Sec. 2901.07. (A) As used in this section: 4817

(1) "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code. 4818
4819

(2) "Jail" and "community-based correctional facility" have the same meanings as in section 2929.01 of the Revised Code. 4820
4821
4822

(3) "Post-release control" has the same meaning as in section 2967.01 of the Revised Code. 4823
4824

(4) "Head of the arresting law enforcement agency" means whichever of the following is applicable regarding the arrest in question: 4825
4826
4827

(a) If the arrest was made by a sheriff or a deputy 4828

sheriff, the sheriff who made the arrest or who employs the 4829
deputy sheriff who made the arrest; 4830

(b) If the arrest was made by a law enforcement officer of 4831
a law enforcement agency of a municipal corporation, the chief 4832
of police, marshal, or other chief law enforcement officer of 4833
the agency that employs the officer who made the arrest; 4834

(c) If the arrest was made by a constable or a law 4835
enforcement officer of a township police department or police 4836
district police force, the constable who made the arrest or the 4837
chief law enforcement officer of the department or agency that 4838
employs the officer who made the arrest; 4839

(d) If the arrest was made by the superintendent or a 4840
trooper of the state highway patrol, the superintendent of the 4841
state highway patrol; 4842

(e) If the arrest was made by a law enforcement officer 4843
not identified in division (A) (4) (a), (b), (c), or (d) of this 4844
section, the chief law enforcement officer of the law 4845
enforcement agency that employs the officer who made the arrest. 4846

(5) "Detention facility" has the same meaning as in 4847
section 2921.01 of the Revised Code. 4848

(B) (1) (a) On and after July 1, 2011, a person who is 4849
eighteen years of age or older and who is arrested on or after 4850
July 1, 2011, for a felony offense shall submit to a DNA 4851
specimen collection procedure administered by the head of the 4852
arresting law enforcement agency. The head of the arresting law 4853
enforcement agency shall cause the DNA specimen to be collected 4854
from the person during the intake process at the jail, 4855
community-based correctional facility, detention facility, or 4856
law enforcement agency office or station to which the arrested 4857

person is taken after the arrest. The head of the arresting law 4858
enforcement agency shall cause the DNA specimen to be collected 4859
in accordance with division (C) of this section. 4860

(b) If a person who is charged with a felony on or after 4861
July 1, 2011, has not been arrested and first appears before a 4862
court or magistrate in response to a summons, or if the head of 4863
the arresting law enforcement agency has not administered a DNA 4864
specimen collection procedure upon the person arrested for a 4865
felony in accordance with division (B) (1) (a) of this section by 4866
the time of the arraignment or first appearance of the person, 4867
the court shall order the person to appear before the sheriff or 4868
chief of police of the county or municipal corporation within 4869
twenty-four hours to submit to a DNA specimen collection 4870
procedure administered by the sheriff or chief of police. The 4871
sheriff or chief of police shall cause the DNA specimen to be 4872
collected from the person in accordance with division (C) of 4873
this section. 4874

(c) Every court with jurisdiction over a case involving a 4875
person with respect to whom division (B) (1) (a) or (b) of this 4876
section requires the head of a law enforcement agency or a 4877
sheriff or chief of police to administer a DNA specimen 4878
collection procedure upon the person shall inquire at the time 4879
of the person's sentencing whether or not the person has 4880
submitted to a DNA specimen collection procedure pursuant to 4881
division (B) (1) (a) or (b) of this section for the original 4882
arrest or court appearance upon which the sentence is based. If 4883
the person has not submitted to a DNA specimen collection 4884
procedure for the original arrest or court appearance upon which 4885
the sentence is based, the court shall order the person to 4886
appear before the sheriff or chief of police of the county or 4887
municipal corporation within twenty-four hours to submit to a 4888

DNA specimen collection procedure administered by the sheriff or 4889
chief of police. The sheriff or chief of police shall cause the 4890
DNA specimen to be collected in accordance with division (C) of 4891
this section. 4892

(d) If a person is in the custody of a law enforcement 4893
agency or a detention facility, if the chief law enforcement 4894
officer or chief administrative officer of the detention 4895
facility discovers that a warrant has been issued or a bill of 4896
information has been filed alleging the person to have committed 4897
an offense other than the offense for which the person is in 4898
custody, and if the other alleged offense is one for which a DNA 4899
specimen is to be collected from the person pursuant to division 4900
(B) (1) (a) or (b) of this section, the chief law enforcement 4901
officer or chief administrative officer shall cause a DNA 4902
specimen to be collected from the person in accordance with 4903
division (C) of this section. 4904

(2) Regardless of when the conviction occurred or the 4905
guilty plea was entered, a person who has been convicted of, is 4906
convicted of, has pleaded guilty to, or pleads guilty to a 4907
felony offense, who is sentenced to a prison term or to a 4908
community residential sanction in a jail or community-based 4909
correctional facility for that offense pursuant to section 4910
2929.16 of the Revised Code, and who does not provide a DNA 4911
specimen pursuant to division (B) (1) of this section, and a 4912
person who has been convicted of, is convicted of, has pleaded 4913
guilty to, or pleads guilty to a misdemeanor offense listed in 4914
division (D) of this section, who is sentenced to a term of 4915
imprisonment for that offense, and who does not provide a DNA 4916
specimen pursuant to division (B) (1) of this section, shall 4917
submit to a DNA specimen collection procedure administered by 4918
the director of rehabilitation and correction or the chief 4919

administrative officer of the jail or other detention facility 4920
in which the person is serving the term of imprisonment. If the 4921
person serves the prison term in a state correctional 4922
institution, the director of rehabilitation and correction shall 4923
cause the DNA specimen to be collected from the person during 4924
the intake process at the reception facility designated by the 4925
director. If the person serves the community residential 4926
sanction or term of imprisonment in a jail, a community-based 4927
correctional facility, or another county, multicounty, 4928
municipal, municipal-county, or multicounty-municipal detention 4929
facility, the chief administrative officer of the jail, 4930
community-based correctional facility, or detention facility 4931
shall cause the DNA specimen to be collected from the person 4932
during the intake process at the jail, community-based 4933
correctional facility, or detention facility. The DNA specimen 4934
shall be collected in accordance with division (C) of this 4935
section. 4936

(3) Regardless of when the conviction occurred or the 4937
guilty plea was entered, if a person has been convicted of, is 4938
convicted of, has pleaded guilty to, or pleads guilty to a 4939
felony offense or a misdemeanor offense listed in division (D) 4940
of this section, is serving a prison term, community residential 4941
sanction, or term of imprisonment for that offense, and does not 4942
provide a DNA specimen pursuant to division (B) (1) or (2) of 4943
this section, prior to the person's release from the prison 4944
term, community residential sanction, or imprisonment, the 4945
person shall submit to, and the director of rehabilitation and 4946
correction or the chief administrative officer of the jail, 4947
community-based correctional facility, or detention facility in 4948
which the person is serving the prison term, community 4949
residential sanction, or term of imprisonment shall administer, 4950

a DNA specimen collection procedure at the state correctional 4951
institution, jail, community-based correctional facility, or 4952
detention facility in which the person is serving the prison 4953
term, community residential sanction, or term of imprisonment. 4954
The DNA specimen shall be collected in accordance with division 4955
(C) of this section. 4956

(4) (a) Regardless of when the conviction occurred or the 4957
guilty plea was entered, if a person has been convicted of, is 4958
convicted of, has pleaded guilty to, or pleads guilty to a 4959
felony offense or a misdemeanor offense listed in division (D) 4960
of this section and the person is on probation, released on 4961
parole, under transitional control, on community control, on 4962
post-release control, or under any other type of supervised 4963
release under the supervision of a probation department or the 4964
adult parole authority for that offense, and did not provide a 4965
DNA specimen pursuant to division (B) (1), (2), or (3) of this 4966
section, the person shall submit to a DNA specimen collection 4967
procedure administered by the chief administrative officer of 4968
the probation department or the adult parole authority. The DNA 4969
specimen shall be collected in accordance with division (C) of 4970
this section. If the person refuses to submit to a DNA specimen 4971
collection procedure as provided in this division, the person 4972
may be subject to the provisions of section 2967.15 of the 4973
Revised Code. 4974

(b) If a person to whom division (B) (4) (a) of this section 4975
applies is sent to jail or is returned to a jail, community- 4976
based correctional facility, or state correctional institution 4977
for a violation of the terms and conditions of the probation, 4978
parole, transitional control, other release, or post-release 4979
control, if the person was or will be serving a term of 4980
imprisonment, prison term, or community residential sanction for 4981

committing a felony offense or for committing a misdemeanor 4982
offense listed in division (D) of this section, and if the 4983
person did not provide a DNA specimen pursuant to division (B) 4984
(1), (2), (3), or (4)(a) of this section, the person shall 4985
submit to, and the director of rehabilitation and correction or 4986
the chief administrative officer of the jail or community-based 4987
correctional facility shall administer, a DNA specimen 4988
collection procedure at the jail, community-based correctional 4989
facility, or state correctional institution in which the person 4990
is serving the term of imprisonment, prison term, or community 4991
residential sanction. The DNA specimen shall be collected from 4992
the person in accordance with division (C) of this section. 4993

(5) Regardless of when the conviction occurred or the 4994
guilty plea was entered, if a person has been convicted of, is 4995
convicted of, has pleaded guilty to, or pleads guilty to a 4996
felony offense or a misdemeanor offense listed in division (D) 4997
of this section, the person is not sentenced to a prison term, a 4998
community residential sanction in a jail or community-based 4999
correctional facility, a term of imprisonment, or any type of 5000
supervised release under the supervision of a probation 5001
department or the adult parole authority, and the person does 5002
not provide a DNA specimen pursuant to division (B)(1), (2), 5003
(3), (4)(a), or (4)(b) of this section, the sentencing court 5004
shall order the person to report to the county probation 5005
department immediately after sentencing to submit to a DNA 5006
specimen collection procedure administered by the chief 5007
administrative officer of the county probation office. If the 5008
person is incarcerated at the time of sentencing, the person 5009
shall submit to a DNA specimen collection procedure administered 5010
by the director of rehabilitation and correction or the chief 5011
administrative officer of the jail or other detention facility 5012

in which the person is incarcerated. The DNA specimen shall be 5013
collected in accordance with division (C) of this section. 5014

(C) If the DNA specimen is collected by withdrawing blood 5015
from the person or a similarly invasive procedure, a physician, 5016
registered nurse, licensed practical nurse, duly licensed 5017
clinical laboratory technician, or other qualified medical 5018
practitioner shall collect in a medically approved manner the 5019
DNA specimen required to be collected pursuant to division (B) 5020
of this section. If the DNA specimen is collected by swabbing 5021
for buccal cells or a similarly noninvasive procedure, this 5022
section does not require that the DNA specimen be collected by a 5023
qualified medical practitioner of that nature. No later than 5024
fifteen days after the date of the collection of the DNA 5025
specimen, the head of the arresting law enforcement agency, the 5026
sheriff or chief of police, the chief law enforcement officer, 5027
or the chief administrative officer of the detention facility 5028
regarding a DNA specimen taken pursuant to division (B) (1) of 5029
this section, the director of rehabilitation and correction or 5030
the chief administrative officer of the detention facility 5031
regarding a DNA specimen taken pursuant to division (B) (2), (3), 5032
or (4) (b) of this section, the chief administrative officer of 5033
the probation department or the adult parole authority regarding 5034
a DNA specimen taken pursuant to division (B) (4) (a) of this 5035
section, or the chief administrative officer of the county 5036
probation office, the director of rehabilitation and correction, 5037
or the chief administrative officer of the detention facility 5038
regarding a DNA specimen taken pursuant to division (B) (5) of 5039
this section, whichever is applicable, shall cause the DNA 5040
specimen to be forwarded to the bureau of criminal 5041
identification and investigation in accordance with procedures 5042
established by the superintendent of the bureau under division 5043

(H) of section 109.573 of the Revised Code. The bureau shall 5044
provide the specimen vials, mailing tubes, labels, postage, and 5045
instructions needed for the collection and forwarding of the DNA 5046
specimen to the bureau. 5047

(D) The DNA specimen collection duty set forth in division 5048
(B) (1) of this section applies to any person who is eighteen 5049
years of age or older and who on or after July 1, 2011, is 5050
arrested for or charged with any felony offense or is in any 5051
other circumstance described in that division. The DNA specimen 5052
collection duties set forth in divisions (B) (2), (3), (4) (a), 5053
(4) (b), and (5) of this section apply to any person who has been 5054
convicted of, is convicted of, has pleaded guilty to, or pleads 5055
guilty to any felony offense or any of the following misdemeanor 5056
offenses: 5057

(1) A misdemeanor violation, an attempt to commit a 5058
misdemeanor violation, or complicity in committing a misdemeanor 5059
violation of section 2907.04 of the Revised Code; 5060

(2) A misdemeanor violation of any law that arose out of 5061
the same facts and circumstances and same act as did a charge 5062
against the person of a violation of section 2903.01, 2903.02, 5063
2904.03, 2904.04, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 5064
or 2911.11 of the Revised Code that previously was dismissed or 5065
amended or as did a charge against the person of a violation of 5066
section 2907.12 of the Revised Code as it existed prior to 5067
September 3, 1996, that previously was dismissed or amended; 5068

(3) A misdemeanor violation of section 2919.23 of the 5069
Revised Code that would have been a violation of section 2905.04 5070
of the Revised Code as it existed prior to July 1, 1996, had it 5071
been committed prior to that date; 5072

(4) A sexually oriented offense or a child-victim oriented offense, both as defined in section 2950.01 of the Revised Code, that is a misdemeanor, if, in relation to that offense, the offender is a tier III sex offender/child-victim offender, as defined in section 2950.01 of the Revised Code.

(E) The director of rehabilitation and correction may prescribe rules in accordance with Chapter 119. of the Revised Code to collect a DNA specimen, as provided in this section, from an offender whose supervision is transferred from another state to this state in accordance with the interstate compact for adult offender supervision described in section 5149.21 of the Revised Code.

Sec. 2901.13. (A) (1) Except as provided in division (A) (2), (3), or (4) of this section or as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

(a) For a felony, six years;

(b) For a misdemeanor other than a minor misdemeanor, two years;

(c) For a minor misdemeanor, six months.

(2) There is no period of limitation for the prosecution of a violation of section 2903.01 ~~or~~, 2903.02, 2904.03, or 2904.04 of the Revised Code.

(3) Except as otherwise provided in divisions (B) to (J) of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within twenty years after the offense is committed:

(a) A violation of section 2903.03, 2903.04, 2905.01, 5101
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 5102
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 5103
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 5104
section 2903.11 or 2903.12 of the Revised Code if the victim is 5105
a peace officer, a violation of section 2903.13 of the Revised 5106
Code that is a felony, or a violation of former section 2907.12 5107
of the Revised Code; 5108

(b) A conspiracy to commit, attempt to commit, or 5109
complicity in committing a violation set forth in division (A) 5110
(3)(a) of this section. 5111

(4) Except as otherwise provided in divisions (D) to (L) 5112
of this section, a prosecution of a violation of section 2907.02 5113
or 2907.03 of the Revised Code or a conspiracy to commit, 5114
attempt to commit, or complicity in committing a violation of 5115
either section shall be barred unless it is commenced within 5116
twenty-five years after the offense is committed. 5117

(B)(1) Except as otherwise provided in division (B)(2) of 5118
this section, if the period of limitation provided in division 5119
(A)(1) or (3) of this section has expired, prosecution shall be 5120
commenced for an offense of which an element is fraud or breach 5121
of a fiduciary duty, within one year after discovery of the 5122
offense either by an aggrieved person, or by the aggrieved 5123
person's legal representative who is not a party to the offense. 5124

(2) If the period of limitation provided in division (A) 5125
(1) or (3) of this section has expired, prosecution for a 5126
violation of section 2913.49 of the Revised Code shall be 5127
commenced within five years after discovery of the offense 5128
either by an aggrieved person or the aggrieved person's legal 5129
representative who is not a party to the offense. 5130

(C) (1) If the period of limitation provided in division 5131
(A) (1) or (3) of this section has expired, prosecution shall be 5132
commenced for the following offenses during the following 5133
specified periods of time: 5134

(a) For an offense involving misconduct in office by a 5135
public servant, at any time while the accused remains a public 5136
servant, or within two years thereafter; 5137

(b) For an offense by a person who is not a public servant 5138
but whose offense is directly related to the misconduct in 5139
office of a public servant, at any time while that public 5140
servant remains a public servant, or within two years 5141
thereafter. 5142

(2) As used in this division: 5143

(a) An "offense is directly related to the misconduct in 5144
office of a public servant" includes, but is not limited to, a 5145
violation of section 101.71, 101.91, 121.61 or 2921.13, division 5146
(F) or (H) of section 102.03, division (A) of section 2921.02, 5147
division (A) or (B) of section 2921.43, or division (F) or (G) 5148
of section 3517.13 of the Revised Code, that is directly related 5149
to an offense involving misconduct in office of a public 5150
servant. 5151

(b) "Public servant" has the same meaning as in section 5152
2921.01 of the Revised Code. 5153

(D) (1) If a DNA record made in connection with the 5154
criminal investigation of the commission of a violation of 5155
section 2907.02 or 2907.03 of the Revised Code is determined to 5156
match another DNA record that is of an identifiable person and 5157
if the time of the determination is later than twenty-five years 5158
after the offense is committed, prosecution of that person for a 5159

violation of the section may be commenced within five years 5160
after the determination is complete. 5161

(2) If a DNA record made in connection with the criminal 5162
investigation of the commission of a violation of section 5163
2907.02 or 2907.03 of the Revised Code is determined to match 5164
another DNA record that is of an identifiable person and if the 5165
time of the determination is within twenty-five years after the 5166
offense is committed, prosecution of that person for a violation 5167
of the section may be commenced within the longer of twenty-five 5168
years after the offense is committed or five years after the 5169
determination is complete. 5170

(3) As used in this division, "DNA record" has the same 5171
meaning as in section 109.573 of the Revised Code. 5172

(E) An offense is committed when every element of the 5173
offense occurs. In the case of an offense of which an element is 5174
a continuing course of conduct, the period of limitation does 5175
not begin to run until such course of conduct or the accused's 5176
accountability for it terminates, whichever occurs first. 5177

(F) A prosecution is commenced on the date an indictment 5178
is returned or an information filed, or on the date a lawful 5179
arrest without a warrant is made, or on the date a warrant, 5180
summons, citation, or other process is issued, whichever occurs 5181
first. A prosecution is not commenced by the return of an 5182
indictment or the filing of an information unless reasonable 5183
diligence is exercised to issue and execute process on the same. 5184
A prosecution is not commenced upon issuance of a warrant, 5185
summons, citation, or other process, unless reasonable diligence 5186
is exercised to execute the same. 5187

(G) The period of limitation shall not run during any time 5188

when the corpus delicti remains undiscovered. 5189

(H) The period of limitation shall not run during any time 5190
when the accused purposely avoids prosecution. Proof that the 5191
accused departed this state or concealed the accused's identity 5192
or whereabouts is prima-facie evidence of the accused's purpose 5193
to avoid prosecution. 5194

(I) The period of limitation shall not run during any time 5195
a prosecution against the accused based on the same conduct is 5196
pending in this state, even though the indictment, information, 5197
or process that commenced the prosecution is quashed or the 5198
proceedings on the indictment, information, or process are set 5199
aside or reversed on appeal. 5200

(J) The period of limitation for a violation of any 5201
provision of Title XXIX of the Revised Code that involves a 5202
physical or mental wound, injury, disability, or condition of a 5203
nature that reasonably indicates abuse or neglect of a child 5204
under eighteen years of age or of a child with a developmental 5205
disability or physical impairment under twenty-one years of age 5206
shall not begin to run until either of the following occurs: 5207

(1) The victim of the offense reaches the age of majority. 5208

(2) A public children services agency, or a municipal or 5209
county peace officer that is not the parent or guardian of the 5210
child, in the county in which the child resides or in which the 5211
abuse or neglect is occurring or has occurred has been notified 5212
that abuse or neglect is known, suspected, or believed to have 5213
occurred. 5214

(K) As used in this section, "peace officer" has the same 5215
meaning as in section 2935.01 of the Revised Code. 5216

(L) The amendments to divisions (A) and (D) of this 5217

section apply to a violation of section 2907.02 or 2907.03 of 5218
the Revised Code committed on and after July 16, 2015, and apply 5219
to a violation of either of those sections committed prior to 5220
July 16, 2015, if prosecution for that violation was not barred 5221
under this section as it existed on the day prior to July 16, 5222
2015. 5223

Sec. 2903.41. As used in sections 2903.41 to 2903.44 of 5224
the Revised Code: 5225

(A) "Violent offender" means any of the following: 5226

(1) A person who on or after the effective date of this 5227
section is convicted of or pleads guilty to any of the 5228
following: 5229

(a) A violation of section 2903.01, 2903.02, 2903.03, 5230
2904.03, 2904.04, or 2905.01 of the Revised Code or a violation 5231
of section 2905.02 of the Revised Code that is a felony of the 5232
second degree; 5233

(b) Any attempt to commit, conspiracy to commit, or 5234
complicity in committing any offense listed in division (A)(1) 5235
(a) of this section. 5236

(2) A person who on the effective date of this section has 5237
been convicted of or pleaded guilty to an offense listed in 5238
division (A)(1) of this section and is confined in a jail, 5239
workhouse, state correctional institution, or other institution, 5240
serving a prison term, term of imprisonment, or other term of 5241
confinement for the offense. 5242

(B) "Community control sanction," "jail," and "prison" 5243
have the same meanings as in section 2929.01 of the Revised 5244
Code. 5245

(C) "Out-of-state violent offender" means a person who is 5246
convicted of, pleads guilty to, has been convicted of, or has 5247
pleaded guilty to a violation of any existing or former 5248
municipal ordinance or law of another state or the United 5249
States, or any existing or former law applicable in a military 5250
court or in an Indian tribal court, that is or was substantially 5251
equivalent to any offense listed in division (A) (1) of this 5252
section. 5253

(D) "Qualifying out-of-state violent offender" means an 5254
out-of-state violent offender who is aware of the existence of 5255
the violent offender database. 5256

(E) "Post-release control sanction" and "supervised 5257
release" have the same meanings as in section 2950.01 of the 5258
Revised Code. 5259

(F) "Change of address" means a change to a violent 5260
offender's or out-of-state violent offender's residence address, 5261
employment address, or school or institution of higher education 5262
address. 5263

(G) "Violent offender database" means the database of 5264
violent offenders and out-of-state violent offenders that is 5265
established and maintained by the bureau of criminal 5266
identification and investigation under division (F) (2) of 5267
section 2903.43 of the Revised Code, that is operated by 5268
sheriffs under sections 2903.42 and 2903.43 of the Revised Code, 5269
and for which sheriffs obtain information from violent offenders 5270
and out-of-state violent offenders pursuant to sections 2903.42 5271
and 2903.43 of the Revised Code. 5272

(H) "Violent offender database duties" and "VOD duties" 5273
mean the duty to enroll, duty to re-enroll, and duty to provide 5274

notice of a change of address imposed on a violent offender or a 5275
qualifying out-of-state violent offender under section 2903.42, 5276
2903.421, 2903.43, or 2903.44 of the Revised Code. 5277

(I) "Ten-year enrollment period" means, for a violent 5278
offender who has violent offender database duties pursuant to 5279
section 2903.42 of the Revised Code or a qualifying out-of-state 5280
violent offender who has violent offender database duties 5281
pursuant to section 2903.421 of the Revised Code, ten years from 5282
the date on which the offender initially enrolls in the violent 5283
offender database. 5284

(J) "Extended enrollment period" means, for a violent 5285
offender who has violent offender database duties pursuant to 5286
section 2903.42 of the Revised Code or a qualifying out-of-state 5287
violent offender who has violent offender database duties 5288
pursuant to section 2903.421 of the Revised Code, the offender's 5289
enrollment period as extended pursuant to division (D) (2) of 5290
section 2903.43 of the Revised Code. 5291

(K) "Prosecutor" means one of the following: 5292

(1) As used in section 2903.42 of the Revised Code, the 5293
office of the prosecuting attorney who handled a violent 5294
offender's underlying case or the office of that prosecutor's 5295
successor. 5296

(2) As used in sections 2903.421, 2903.43, and 2903.44 of 5297
the Revised Code, the office of the prosecuting attorney of the 5298
county in which a violent offender resides or of the county in 5299
which an out-of-state violent offender resides or occupies a 5300
dwelling. 5301

Sec. 2904.01. This chapter supersedes all conflicting 5302
provisions of the Revised Code regarding abortion. 5303

No state funds shall be disbursed that would support a violation of this chapter. No contract shall be enforced, if that enforcement would require or support a violation of this chapter. 5304
5305
5306
5307

Sec. 2904.02. As used in this chapter: 5308

(A) "Fatal condition" means a disease or injury that will lead to a patient's death, and does not include either (1) a condition related to the patient's mental health; or (2) pregnancy itself. 5309
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5311
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(B) "Physician" has the same meaning as in section 2305.113 of the Revised Code. 5313
5314

(C) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved. 5315
5316
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5318

(D) "Unborn child" means an individual organism of the species homo sapiens from fertilization until live birth. 5319
5320

(E) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing life outside the womb with or without temporary artificial life-sustaining support. 5321
5322
5323
5324

Sec. 2904.03. (A) No person shall purposely, and with prior calculation and design, perform or have an abortion. 5325
5326

(B) No person shall purposely perform an abortion while committing or attempting to commit kidnapping, rape, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, trespass in a habitation when a person is present or likely to be present, terrorism, or escape. 5327
5328
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(C) No person who is under detention as a result of having 5332
been found guilty of or having pleaded guilty to a felony or who 5333
breaks that detention shall purposely perform or have an 5334
abortion. 5335

(D) Whoever violates this section is guilty of aggravated 5336
abortion murder and shall be punished as provided in section 5337
2929.02 of the Revised Code. 5338

Sec. 2904.04. (A) No person shall purposely perform or 5339
have an abortion. 5340

(B) No person shall cause an abortion as a proximate 5341
result of the offender's committing or attempting to commit an 5342
offense of violence that is a felony of the first or second 5343
degree and that is not a violation of section 2904.03 of the 5344
Revised Code. 5345

(C) Division (B) of this section does not apply to an 5346
offense that becomes a felony of the first or second degree only 5347
if the offender previously has been convicted of that offense or 5348
another specified offense. 5349

(D) Whoever violates this section is guilty of abortion 5350
murder and shall be punished as provided in section 2929.02 of 5351
the Revised Code. 5352

Sec. 2904.20. A court shall regard the unborn child victim 5353
of an aggravated abortion murder or abortion murder as a person 5354
who is less than thirteen years of age. 5355

Sec. 2904.30. It is an affirmative defense to a charge 5356
under this chapter, for the woman upon whom an abortion was 5357
performed or attempted to be performed, if both of the following 5358
apply: 5359

(A) She was compelled by force, fear, duress, 5360
intimidation, or fraud to have the abortion. 5361

(B) She has filed a report with a law enforcement agency, 5362
with the requisite jurisdiction, certifying in writing that she 5363
was compelled to have the abortion. 5364

Sec. 2904.35. A physician who does all of the following is 5365
not subject to criminal prosecution, damages in any civil 5366
action, or professional disciplinary action, for a violation of 5367
this chapter: 5368

(A) Using reasonable medical judgment, believes it is 5369
highly probable that the pregnant woman will die from a certain 5370
fatal condition before her unborn child is viable; 5371

(B) Performs a surgery, before the unborn child is viable, 5372
for the sole purpose of treating the pregnant woman's fatal 5373
condition; 5374

(C) Takes all possible steps to preserve the life of the 5375
unborn child, while preserving the life of the woman. Such steps 5376
include, if applicable, attempting to reimplant an ectopic 5377
pregnancy into the woman's uterus. 5378

Sec. 2909.24. (A) No person shall commit a specified 5379
offense with purpose to do any of the following: 5380

(1) Intimidate or coerce a civilian population; 5381

(2) Influence the policy of any government by intimidation 5382
or coercion; 5383

(3) Affect the conduct of any government by the specified 5384
offense. 5385

(B) (1) Whoever violates this section is guilty of 5386

terrorism. 5387

(2) Except as otherwise provided in divisions (B) (3) and 5388
(4) of this section, terrorism is an offense one degree higher 5389
than the most serious underlying specified offense the defendant 5390
committed. 5391

(3) If the most serious underlying specified offense the 5392
defendant committed is a felony of the first degree ~~or~~, murder, 5393
or abortion murder, the person shall be sentenced to life 5394
imprisonment without parole. 5395

(4) If the most serious underlying specified offense the 5396
defendant committed is aggravated murder or aggravated abortion 5397
murder, the offender shall be sentenced to life imprisonment 5398
without parole or death pursuant to sections 2929.02 to 2929.06 5399
of the Revised Code. 5400

(5) Section 2909.25 of the Revised Code applies regarding 5401
an offender who is convicted of or pleads guilty to a violation 5402
of this section. 5403

Sec. 2921.32. (A) No person, with purpose to hinder the 5404
discovery, apprehension, prosecution, conviction, or punishment 5405
of another for crime or to assist another to benefit from the 5406
commission of a crime, and no person, with purpose to hinder the 5407
discovery, apprehension, prosecution, adjudication as a 5408
delinquent child, or disposition of a child for an act that if 5409
committed by an adult would be a crime or to assist a child to 5410
benefit from the commission of an act that if committed by an 5411
adult would be a crime, shall do any of the following: 5412

(1) Harbor or conceal the other person or child; 5413

(2) Provide the other person or child with money, 5414
transportation, a weapon, a disguise, or other means of avoiding 5415

discovery or apprehension;	5416
(3) Warn the other person or child of impending discovery or apprehension;	5417 5418
(4) Destroy or conceal physical evidence of the crime or act, or induce any person to withhold testimony or information or to elude legal process summoning the person to testify or supply evidence;	5419 5420 5421 5422
(5) Communicate false information to any person;	5423
(6) Prevent or obstruct any person, by means of force, intimidation, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person or child.	5424 5425 5426 5427
(B) A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of division (A) of this section regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under division (C) of this section in determining the penalty for the violation of division (A) of this section, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.	5428 5429 5430 5431 5432 5433 5434 5435 5436 5437 5438 5439 5440
(C) (1) Whoever violates this section is guilty of obstructing justice.	5441 5442
(2) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be	5443 5444

a misdemeanor if committed by an adult, obstructing justice is a 5445
misdemeanor of the same degree as the crime committed by the 5446
person aided or a misdemeanor of the same degree that the act 5447
committed by the child aided would be if committed by an adult. 5448

(3) Except as otherwise provided in divisions (C) (4), (5), 5449
and (6) of this section, if the crime committed by the person 5450
aided is a felony or if the act committed by the child aided 5451
would be a felony if committed by an adult, obstructing justice 5452
is a felony of the fifth degree. 5453

(4) Except as otherwise provided in division (C) (6) of 5454
this section, if the crime committed by the person aided is 5455
aggravated murder, murder, aggravated abortion murder, or 5456
abortion murder, or a felony of the first or second degree or if 5457
the act committed by the child aided would be one of those 5458
offenses if committed by an adult and if the offender knows or 5459
has reason to believe that the crime committed by the person 5460
aided is one of those offenses or that the act committed by the 5461
child aided would be one of those offenses if committed by an 5462
adult, obstructing justice is a felony of the third degree. 5463

(5) If the crime or act committed by the person or child 5464
aided is an act of terrorism, obstructing justice is one of the 5465
following: 5466

(a) Except as provided in division (C) (5) (b) of this 5467
section, a felony of the second degree; 5468

(b) If the act of terrorism resulted in the death of a 5469
person who was not a participant in the act of terrorism, a 5470
felony of the first degree. 5471

(6) If the crime committed by the person is trafficking in 5472
persons or if the act committed by the child aided would be 5473

trafficking in persons if committed by an adult, obstructing 5474
justice is a felony of the second degree. 5475

(D) As used in this section: 5476

(1) "Adult" and "child" have the same meanings as in 5477
section 2151.011 of the Revised Code. 5478

(2) "Delinquent child" has the same meaning as in section 5479
2152.02 of the Revised Code. 5480

(3) "Act of terrorism" has the same meaning as in section 5481
2909.21 of the Revised Code. 5482

Sec. 2921.34. (A) (1) No person, knowing the person is 5483
under detention, other than supervised release detention, or 5484
being reckless in that regard, shall purposely break or attempt 5485
to break the detention, or purposely fail to return to 5486
detention, either following temporary leave granted for a 5487
specific purpose or limited period, or at the time required when 5488
serving a sentence in intermittent confinement. 5489

(2) (a) Division (A) (2) (b) of this section applies to any 5490
person who is sentenced to a prison term pursuant to division 5491
(A) (3) or (B) of section 2971.03 of the Revised Code. 5492

(b) No person to whom this division applies, for whom the 5493
requirement that the entire prison term imposed upon the person 5494
pursuant to division (A) (3) or (B) of section 2971.03 of the 5495
Revised Code be served in a state correctional institution has 5496
been modified pursuant to section 2971.05 of the Revised Code, 5497
and who, pursuant to that modification, is restricted to a 5498
geographic area, knowing that the person is under a geographic 5499
restriction or being reckless in that regard, shall purposely 5500
leave the geographic area to which the restriction applies or 5501
purposely fail to return to that geographic area following a 5502

temporary leave granted for a specific purpose or for a limited 5503
period of time. 5504

(3) No person, knowing the person is under supervised 5505
release detention or being reckless in that regard, shall 5506
purposely break or attempt to break the supervised release 5507
detention or purposely fail to return to the supervised release 5508
detention, either following temporary leave granted for a 5509
specific purpose or limited period, or at the time required when 5510
serving a sentence in intermittent confinement. 5511

(B) Irregularity in bringing about or maintaining 5512
detention, or lack of jurisdiction of the committing or 5513
detaining authority, is not a defense to a charge under this 5514
section if the detention is pursuant to judicial order or in a 5515
detention facility. In the case of any other detention, 5516
irregularity or lack of jurisdiction is an affirmative defense 5517
only if either of the following occurs: 5518

(1) The escape involved no substantial risk of harm to the 5519
person or property of another. 5520

(2) The detaining authority knew or should have known 5521
there was no legal basis or authority for the detention. 5522

(C) Whoever violates this section is guilty of escape. 5523

(1) If the offender violates division (A)(1) or (2) of 5524
this section, if the offender, at the time of the commission of 5525
the offense, was under detention as an alleged or adjudicated 5526
delinquent child or unruly child, and if the act for which the 5527
offender was under detention would not be a felony if committed 5528
by an adult, escape is a misdemeanor of the first degree. 5529

(2) If the offender violates division (A)(1) or (2) of 5530
this section and if either the offender, at the time of the 5531

commission of the offense, was under detention in any other 5532
manner or the offender is a person for whom the requirement that 5533
the entire prison term imposed upon the person pursuant to 5534
division (A) (3) or (B) of section 2971.03 of the Revised Code be 5535
served in a state correctional institution has been modified 5536
pursuant to section 2971.05 of the Revised Code, escape is one 5537
of the following: 5538

(a) A felony of the second degree, when the most serious 5539
offense for which the person was under detention or for which 5540
the person had been sentenced to the prison term under division 5541
(A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) 5542
(3) (a), (b), (c), or (d) of section 2971.03 of the Revised Code 5543
is aggravated murder, murder, aggravated abortion murder, 5544
abortion murder, or a felony of the first or second degree or, 5545
if the person was under detention as an alleged or adjudicated 5546
delinquent child, when the most serious act for which the person 5547
was under detention would be aggravated murder, murder, 5548
aggravated abortion murder, or abortion murder, or a felony of 5549
the first or second degree if committed by an adult; 5550

(b) A felony of the third degree, when the most serious 5551
offense for which the person was under detention or for which 5552
the person had been sentenced to the prison term under division 5553
(A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) 5554
(3) (a), (b), (c), or (d) of section 2971.03 of the Revised Code 5555
is a felony of the third, fourth, or fifth degree or an 5556
unclassified felony or, if the person was under detention as an 5557
alleged or adjudicated delinquent child, when the most serious 5558
act for which the person was under detention would be a felony 5559
of the third, fourth, or fifth degree or an unclassified felony 5560
if committed by an adult; 5561

(c) A felony of the fifth degree, when any of the 5562
following applies: 5563

(i) The most serious offense for which the person was 5564
under detention is a misdemeanor. 5565

(ii) The person was found not guilty by reason of 5566
insanity, and the person's detention consisted of 5567
hospitalization, institutionalization, or confinement in a 5568
facility under an order made pursuant to or under authority of 5569
section 2945.40, 2945.401, or 2945.402 of the Revised Code. 5570

(d) A misdemeanor of the first degree, when the most 5571
serious offense for which the person was under detention is a 5572
misdemeanor and when the person fails to return to detention at 5573
a specified time following temporary leave granted for a 5574
specific purpose or limited period or at the time required when 5575
serving a sentence in intermittent confinement. 5576

(3) If the offender violates division (A) (3) of this 5577
section, except as otherwise provided in this division, escape 5578
is a felony of the fifth degree. If the offender violates 5579
division (A) (3) of this section and if, at the time of the 5580
commission of the offense, the most serious offense for which 5581
the offender was under supervised release detention was 5582
aggravated murder, murder, aggravated abortion murder, abortion 5583
murder, any other offense for which a sentence of life 5584
imprisonment was imposed, or a felony of the first or second 5585
degree, escape is a felony of the fourth degree. 5586

(D) As used in this section, "supervised release 5587
detention" means detention that is supervision of a person by an 5588
employee of the department of rehabilitation and correction 5589
while the person is on any type of release from a state 5590

correctional institution, other than transitional control under 5591
section 2967.26 of the Revised Code or placement in a community- 5592
based correctional facility by the parole board under section 5593
2967.28 of the Revised Code. 5594

Sec. 2923.01. (A) No person, with purpose to commit or to 5595
promote or facilitate the commission of aggravated murder, 5596
murder, aggravated abortion murder, abortion murder, kidnapping, 5597
abduction, compelling prostitution, promoting prostitution, 5598
trafficking in persons, aggravated arson, arson, aggravated 5599
robbery, robbery, aggravated burglary, burglary, trespassing in 5600
a habitation when a person is present or likely to be present, 5601
engaging in a pattern of corrupt activity, corrupting another 5602
with drugs, a felony drug trafficking, manufacturing, 5603
processing, or possession offense, theft of drugs, or illegal 5604
processing of drug documents, the commission of a felony offense 5605
of unauthorized use of a vehicle, illegally transmitting 5606
multiple commercial electronic mail messages or unauthorized 5607
access of a computer in violation of section 2923.421 of the 5608
Revised Code, or the commission of a violation of any provision 5609
of Chapter 3734. of the Revised Code, other than section 3734.18 5610
of the Revised Code, that relates to hazardous wastes, shall do 5611
either of the following: 5612

(1) With another person or persons, plan or aid in 5613
planning the commission of any of the specified offenses; 5614

(2) Agree with another person or persons that one or more 5615
of them will engage in conduct that facilitates the commission 5616
of any of the specified offenses. 5617

(B) No person shall be convicted of conspiracy unless a 5618
substantial overt act in furtherance of the conspiracy is 5619
alleged and proved to have been done by the accused or a person 5620

with whom the accused conspired, subsequent to the accused's 5621
entrance into the conspiracy. For purposes of this section, an 5622
overt act is substantial when it is of a character that 5623
manifests a purpose on the part of the actor that the object of 5624
the conspiracy should be completed. 5625

(C) When the offender knows or has reasonable cause to 5626
believe that a person with whom the offender conspires also has 5627
conspired or is conspiring with another to commit the same 5628
offense, the offender is guilty of conspiring with that other 5629
person, even though the other person's identity may be unknown 5630
to the offender. 5631

(D) It is no defense to a charge under this section that, 5632
in retrospect, commission of the offense that was the object of 5633
the conspiracy was impossible under the circumstances. 5634

(E) A conspiracy terminates when the offense or offenses 5635
that are its objects are committed or when it is abandoned by 5636
all conspirators. In the absence of abandonment, it is no 5637
defense to a charge under this section that no offense that was 5638
the object of the conspiracy was committed. 5639

(F) A person who conspires to commit more than one offense 5640
is guilty of only one conspiracy, when the offenses are the 5641
object of the same agreement or continuous conspiratorial 5642
relationship. 5643

(G) When a person is convicted of committing or attempting 5644
to commit a specific offense or of complicity in the commission 5645
of or attempt to commit the specific offense, the person shall 5646
not be convicted of conspiracy involving the same offense. 5647

(H) (1) No person shall be convicted of conspiracy upon the 5648
testimony of a person with whom the defendant conspired, 5649

unsupported by other evidence. 5650

(2) If a person with whom the defendant allegedly has 5651
conspired testifies against the defendant in a case in which the 5652
defendant is charged with conspiracy and if the testimony is 5653
supported by other evidence, the court, when it charges the 5654
jury, shall state substantially the following: 5655

"The testimony of an accomplice that is supported by other 5656
evidence does not become inadmissible because of the 5657
accomplice's complicity, moral turpitude, or self-interest, but 5658
the admitted or claimed complicity of a witness may affect the 5659
witness' credibility and make the witness' testimony subject to 5660
grave suspicion, and require that it be weighed with great 5661
caution. 5662

It is for you, as jurors, in the light of all the facts 5663
presented to you from the witness stand, to evaluate such 5664
testimony and to determine its quality and worth or its lack of 5665
quality and worth." 5666

(3) "Conspiracy," as used in division (H)(1) of this 5667
section, does not include any conspiracy that results in an 5668
attempt to commit an offense or in the commission of an offense. 5669

(I) The following are affirmative defenses to a charge of 5670
conspiracy: 5671

(1) After conspiring to commit an offense, the actor 5672
thwarted the success of the conspiracy under circumstances 5673
manifesting a complete and voluntary renunciation of the actor's 5674
criminal purpose. 5675

(2) After conspiring to commit an offense, the actor 5676
abandoned the conspiracy prior to the commission of or attempt 5677
to commit any offense that was the object of the conspiracy, 5678

either by advising all other conspirators of the actor's 5679
abandonment, or by informing any law enforcement authority of 5680
the existence of the conspiracy and of the actor's participation 5681
in the conspiracy. 5682

(J) Whoever violates this section is guilty of conspiracy, 5683
which is one of the following: 5684

(1) A felony of the first degree, when one of the objects 5685
of the conspiracy is aggravated murder, murder, aggravated 5686
abortion murder, abortion murder, or an offense for which the 5687
maximum penalty is imprisonment for life; 5688

(2) A felony of the next lesser degree than the most 5689
serious offense that is the object of the conspiracy, when the 5690
most serious offense that is the object of the conspiracy is a 5691
felony of the first, second, third, or fourth degree; 5692

(3) A felony punishable by a fine of not more than twenty- 5693
five thousand dollars or imprisonment for not more than eighteen 5694
months, or both, when the offense that is the object of the 5695
conspiracy is a violation of any provision of Chapter 3734. of 5696
the Revised Code, other than section 3734.18 of the Revised 5697
Code, that relates to hazardous wastes; 5698

(4) A misdemeanor of the first degree, when the most 5699
serious offense that is the object of the conspiracy is a felony 5700
of the fifth degree. 5701

(K) This section does not define a separate conspiracy 5702
offense or penalty where conspiracy is defined as an offense by 5703
one or more sections of the Revised Code, other than this 5704
section. In such a case, however: 5705

(1) With respect to the offense specified as the object of 5706
the conspiracy in the other section or sections, division (A) of 5707

this section defines the voluntary act or acts and culpable 5708
mental state necessary to constitute the conspiracy; 5709

(2) Divisions (B) to (I) of this section are incorporated 5710
by reference in the conspiracy offense defined by the other 5711
section or sections of the Revised Code. 5712

(L) (1) In addition to the penalties that otherwise are 5713
imposed for conspiracy, a person who is found guilty of 5714
conspiracy to engage in a pattern of corrupt activity is subject 5715
to divisions (B) (2) and (3) of section 2923.32, division (A) of 5716
section 2981.04, and division (D) of section 2981.06 of the 5717
Revised Code. 5718

(2) If a person is convicted of or pleads guilty to 5719
conspiracy and if the most serious offense that is the object of 5720
the conspiracy is a felony drug trafficking, manufacturing, 5721
processing, or possession offense, in addition to the penalties 5722
or sanctions that may be imposed for the conspiracy under 5723
division (J) (2) or (4) of this section and Chapter 2929. of the 5724
Revised Code, both of the following apply: 5725

(a) The provisions of divisions (D), (F), and (G) of 5726
section 2925.03, division (D) of section 2925.04, division (D) 5727
of section 2925.05, division (D) of section 2925.06, and 5728
division (E) of section 2925.11 of the Revised Code that pertain 5729
to mandatory and additional fines, driver's or commercial 5730
driver's license or permit suspensions, and professionally 5731
licensed persons and that would apply under the appropriate 5732
provisions of those divisions to a person who is convicted of or 5733
pleads guilty to the felony drug trafficking, manufacturing, 5734
processing, or possession offense that is the most serious 5735
offense that is the basis of the conspiracy shall apply to the 5736
person who is convicted of or pleads guilty to the conspiracy as 5737

if the person had been convicted of or pleaded guilty to the 5738
felony drug trafficking, manufacturing, processing, or 5739
possession offense that is the most serious offense that is the 5740
basis of the conspiracy. 5741

(b) The court that imposes sentence upon the person who is 5742
convicted of or pleads guilty to the conspiracy shall comply 5743
with the provisions identified as being applicable under 5744
division (L) (2) of this section, in addition to any other 5745
penalty or sanction that it imposes for the conspiracy under 5746
division (J) (2) or (4) of this section and Chapter 2929. of the 5747
Revised Code. 5748

(M) As used in this section: 5749

(1) "Felony drug trafficking, manufacturing, processing, 5750
or possession offense" means any of the following that is a 5751
felony: 5752

(a) A violation of section 2925.03, 2925.04, 2925.05, or 5753
2925.06 of the Revised Code; 5754

(b) A violation of section 2925.11 of the Revised Code 5755
that is not a minor drug possession offense. 5756

(2) "Minor drug possession offense" has the same meaning 5757
as in section 2925.01 of the Revised Code. 5758

Sec. 2923.02. (A) No person, purposely or knowingly, and 5759
when purpose or knowledge is sufficient culpability for the 5760
commission of an offense, shall engage in conduct that, if 5761
successful, would constitute or result in the offense. 5762

(B) It is no defense to a charge under this section that, 5763
in retrospect, commission of the offense that was the object of 5764
the attempt was either factually or legally impossible under the 5765

attendant circumstances, if that offense could have been 5766
committed had the attendant circumstances been as the actor 5767
believed them to be. 5768

(C) No person who is convicted of committing a specific 5769
offense, of complicity in the commission of an offense, or of 5770
conspiracy to commit an offense shall be convicted of an attempt 5771
to commit the same offense in violation of this section. 5772

(D) It is an affirmative defense to a charge under this 5773
section that the actor abandoned the actor's effort to commit 5774
the offense or otherwise prevented its commission, under 5775
circumstances manifesting a complete and voluntary renunciation 5776
of the actor's criminal purpose. 5777

(E) (1) Whoever violates this section is guilty of an 5778
attempt to commit an offense. An attempt to commit aggravated 5779
murder, murder, aggravated abortion murder, abortion murder, or 5780
an offense for which the maximum penalty is imprisonment for 5781
life is a felony of the first degree. An attempt to commit a 5782
drug abuse offense for which the penalty is determined by the 5783
amount or number of unit doses of the controlled substance 5784
involved in the drug abuse offense is an offense of the same 5785
degree as the drug abuse offense attempted would be if that drug 5786
abuse offense had been committed and had involved an amount or 5787
number of unit doses of the controlled substance that is within 5788
the next lower range of controlled substance amounts than was 5789
involved in the attempt. An attempt to commit any other offense 5790
is an offense of the next lesser degree than the offense 5791
attempted. In the case of an attempt to commit an offense other 5792
than a violation of Chapter 3734. of the Revised Code that is 5793
not specifically classified, an attempt is a misdemeanor of the 5794
first degree if the offense attempted is a felony, and a 5795

misdemeanor of the fourth degree if the offense attempted is a 5796
misdemeanor. In the case of an attempt to commit a violation of 5797
any provision of Chapter 3734. of the Revised Code, other than 5798
section 3734.18 of the Revised Code, that relates to hazardous 5799
wastes, an attempt is a felony punishable by a fine of not more 5800
than twenty-five thousand dollars or imprisonment for not more 5801
than eighteen months, or both. An attempt to commit a minor 5802
misdemeanor, or to engage in conspiracy, is not an offense under 5803
this section. 5804

(2) If a person is convicted of or pleads guilty to 5805
attempted rape and also is convicted of or pleads guilty to a 5806
specification of the type described in section 2941.1418, 5807
2941.1419, or 2941.1420 of the Revised Code, the offender shall 5808
be sentenced to a prison term or term of life imprisonment 5809
pursuant to section 2971.03 of the Revised Code. 5810

(3) In addition to any other sanctions imposed pursuant to 5811
division (E)(1) of this section for an attempt to commit 5812
aggravated murder or murder in violation of division (A) of this 5813
section, if the offender used a motor vehicle as the means to 5814
attempt to commit the offense, the court shall impose upon the 5815
offender a class two suspension of the offender's driver's 5816
license, commercial driver's license, temporary instruction 5817
permit, probationary license, or nonresident operating privilege 5818
as specified in division (A)(2) of section 4510.02 of the 5819
Revised Code. 5820

(4) If a person is convicted of or found guilty of an 5821
attempt to commit aggravated murder of the type described in 5822
division (E) or (F) of section 2903.01 of the Revised Code, the 5823
court shall impose as a mandatory prison term one of the prison 5824
terms prescribed for a felony of the first degree. 5825

(F) As used in this section:	5826
(1) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.	5827 5828
(2) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.	5829 5830
Sec. 2923.131. (A) "Detention" and "detention facility" have the same meanings as in section 2921.01 of the Revised Code.	5831 5832 5833
(B) No person under detention at a detention facility shall possess a deadly weapon.	5834 5835
(C) Whoever violates this section is guilty of possession of a deadly weapon while under detention.	5836 5837
(1) If the offender, at the time of the commission of the offense, was under detention as an alleged or adjudicated delinquent child or unruly child and if at the time the offender commits the act for which the offender was under detention it would not be a felony if committed by an adult, possession of a deadly weapon while under detention is a misdemeanor of the first degree.	5838 5839 5840 5841 5842 5843 5844
(2) If the offender, at the time of the commission of the offense, was under detention in any other manner, possession of a deadly weapon while under detention is one of the following:	5845 5846 5847
(a) A felony of the first degree, when the most serious offense for which the person was under detention is <u>aggravated murder</u> or, murder, aggravated abortion murder, or abortion murder and regardless of when the aggravated murder or murder <u>offense</u> occurred or, if the person was under detention as an alleged or adjudicated delinquent child, when the most serious	5848 5849 5850 5851 5852 5853

act for which the person was under detention would be aggravated 5854
~~murder or~~, murder, aggravated abortion murder, or abortion 5855
murder if committed by an adult and regardless of when that act 5856
occurred; 5857

(b) A felony of the second degree if any of the following 5858
applies: 5859

(i) The most serious offense for which the person was 5860
under detention is a felony of the first degree committed on or 5861
after July 1, 1996, or an aggravated felony of the first degree 5862
committed prior to July 1, 1996. 5863

(ii) If the person was under detention as an alleged or 5864
adjudicated delinquent child, the most serious act for which the 5865
person was under detention was committed on or after July 1, 5866
1996, and would be a felony of the first degree if committed by 5867
an adult, or was committed prior to July 1, 1996, and would have 5868
been an aggravated felony of the first degree if committed by an 5869
adult. 5870

(c) A felony of the third degree if any of the following 5871
applies: 5872

(i) The most serious offense for which the person was 5873
under detention is a felony of the second degree committed on or 5874
after July 1, 1996, or is an aggravated felony of the second 5875
degree or a felony of the first degree committed prior to July 5876
1, 1996. 5877

(ii) If the person was under detention as an alleged or 5878
adjudicated delinquent child, the most serious act for which the 5879
person was under detention was committed on or after July 1, 5880
1996, and would be a felony of the second degree if committed by 5881
an adult, or was committed prior to July 1, 1996, and would have 5882

been an aggravated felony of the second degree or a felony of 5883
the first degree if committed by an adult. 5884

(d) A felony of the fourth degree if any of the following 5885
applies: 5886

(i) The most serious offense for which the person was 5887
under detention is a felony of the third degree committed on or 5888
after July 1, 1996, is an aggravated felony of the third degree 5889
or a felony of the second degree committed prior to July 1, 5890
1996, or is a felony of the third degree committed prior to July 5891
1, 1996, that, if it had been committed on or after July 1, 5892
1996, also would be a felony of the third degree. 5893

(ii) If the person was under detention as an alleged or 5894
adjudicated delinquent child, the most serious act for which the 5895
person was under detention was committed on or after July 1, 5896
1996, and would be a felony of the third degree if committed by 5897
an adult, was committed prior to July 1, 1996, and would have 5898
been an aggravated felony of the third degree or a felony of the 5899
second degree if committed by an adult, or was committed prior 5900
to July 1, 1996, would have been a felony of the third degree if 5901
committed by an adult, and, if it had been committed on or after 5902
July 1, 1996, also would be a felony of the third degree if 5903
committed by an adult. 5904

(e) A felony of the fifth degree if any of the following 5905
applies: 5906

(i) The most serious offense for which the person was 5907
under detention is a felony of the fourth or fifth degree 5908
committed on or after July 1, 1996, is a felony of the third 5909
degree committed prior to July 1, 1996, that, if committed on or 5910
after July 1, 1996, would be a felony of the fourth degree, is a 5911

felony of the fourth degree committed prior to July 1, 1996, or 5912
is an unclassified felony or a misdemeanor regardless of when 5913
the unclassified felony or misdemeanor is committed. 5914

(ii) If the person was under detention as an alleged or 5915
adjudicated delinquent child, the most serious act for which the 5916
person was under detention was committed on or after July 1, 5917
1996, and would be a felony of the fourth or fifth degree if 5918
committed by an adult, was committed prior to July 1, 1996, 5919
would have been a felony of the third degree if committed by an 5920
adult, and, if it had been committed on or after July 1, 1996, 5921
would be a felony of the fourth degree if committed by an adult, 5922
was committed prior to July 1, 1996, and would have been a 5923
felony of the fourth degree if committed by an adult, or would 5924
be an unclassified felony if committed by an adult regardless of 5925
when the act is committed. 5926

Sec. 2923.132. (A) As used in this section: 5927

(1) (a) "Violent career criminal" means a person who within 5928
the preceding eight years, subject to extension as provided in 5929
division (A) (1) (b) of this section, has been convicted of or 5930
pleaded guilty to two or more violent felony offenses that are 5931
separated by intervening sentences and are not so closely 5932
related to each other and connected in time and place that they 5933
constitute a course of criminal conduct. 5934

(b) Except as provided in division (A) (1) (c) of this 5935
section, the eight-year period described in division (A) (1) (a) 5936
of this section shall be extended by a period of time equal to 5937
any period of time during which the person, within that eight- 5938
year period, was confined as a result of having been accused of 5939
an offense, having been convicted of or pleaded guilty to an 5940
offense, or having been accused of violating or found to have 5941

violated any community control sanction, post-release control 5942
sanction, or term or condition of supervised release. 5943

(c) Division (A) (1) (b) of this section shall not apply to 5944
extend the eight-year period described in division (A) (1) (a) of 5945
this section by any period of time during which a person is 5946
confined if the person is acquitted of the charges or the 5947
charges are dismissed in final disposition of the case or during 5948
which a person is confined as a result of having been accused of 5949
violating any sanction, term, or condition described in division 5950
(A) (1) (b) of this section if the person subsequently is not 5951
found to have violated that sanction, term, or condition. 5952

(2) "Violent felony offense" means any of the following: 5953

(a) A violation of section 2903.01, 2903.02, 2903.03, 5954
2903.04, 2903.11, 2903.12, 2904.03, 2904.04, 2905.01, 2905.02, 5955
2909.02, 2909.23, 2911.01, 2911.02, or 2911.11 of the Revised 5956
Code; 5957

(b) A violation of division (A) (1) or (2) of section 5958
2911.12 of the Revised Code; 5959

(c) A felony violation of section 2907.02, 2907.03, 5960
2907.04, or 2907.05 of the Revised Code; 5961

(d) A felony violation of section 2909.24 of the Revised 5962
Code or a violation of section 2919.25 of the Revised Code that 5963
is a felony of the third degree; 5964

(e) A felony violation of any existing or former ordinance 5965
or law of this state, another state, or the United States that 5966
is or was substantially equivalent to any offense listed or 5967
described in divisions (A) (2) (a) to (e) of this section; 5968

(f) A conspiracy or attempt to commit, or complicity in 5969

committing, any of the offenses listed or described in divisions 5970
(A) (2) (a) to (e) of this section, if the conspiracy, attempt, or 5971
complicity is a felony of the first or second degree. 5972

(3) "Dangerous ordnance" and "firearm" have the same 5973
meanings as in section 2923.11 of the Revised Code. 5974

(4) "Community control sanction" has the same meaning as 5975
in section 2929.01 of the Revised Code. 5976

(5) "Post-release control sanction" has the same meaning 5977
as in section 2967.01 of the Revised Code. 5978

(6) "Supervised release" has the same meaning as in 5979
section 2950.01 of the Revised Code. 5980

(B) No violent career criminal shall knowingly use any 5981
firearm or dangerous ordnance. 5982

(C) Whoever violates this section is guilty of unlawful 5983
use of a weapon by a violent career criminal, a felony of the 5984
first degree. For an offense committed prior to ~~the effective~~ 5985
~~date of this amendment~~ March 22, 2019, notwithstanding the range 5986
of definite prison terms set forth in division (A) (1) (b) of 5987
section 2929.14 of the Revised Code, the court shall impose upon 5988
the offender a mandatory prison term that is a definite prison 5989
term of two, three, four, five, six, seven, eight, nine, ten, or 5990
eleven years. For an offense committed on or after ~~the effective~~ 5991
~~date of this amendment~~ March 22, 2019, notwithstanding the range 5992
of minimum prison terms set forth in division (A) (1) (a) of 5993
section 2929.14 of the Revised Code, the court shall impose upon 5994
the offender an indefinite prison term pursuant to that 5995
division, with a minimum term under that sentence that is a 5996
mandatory prison term of two, three, four, five, six, seven, 5997
eight, nine, ten, or eleven years. 5998

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of 5999
the Revised Code: 6000

(A) "Beneficial interest" means any of the following: 6001

(1) The interest of a person as a beneficiary under a 6002
trust in which the trustee holds title to personal or real 6003
property; 6004

(2) The interest of a person as a beneficiary under any 6005
other trust arrangement under which any other person holds title 6006
to personal or real property for the benefit of such person; 6007

(3) The interest of a person under any other form of 6008
express fiduciary arrangement under which any other person holds 6009
title to personal or real property for the benefit of such 6010
person. 6011

"Beneficial interest" does not include the interest of a 6012
stockholder in a corporation or the interest of a partner in 6013
either a general or limited partnership. 6014

(B) "Costs of investigation and prosecution" and "costs of 6015
investigation and litigation" mean all of the costs incurred by 6016
the state or a county or municipal corporation under sections 6017
2923.31 to 2923.36 of the Revised Code in the prosecution and 6018
investigation of any criminal action or in the litigation and 6019
investigation of any civil action, and includes, but is not 6020
limited to, the costs of resources and personnel. 6021

(C) "Enterprise" includes any individual, sole 6022
proprietorship, partnership, limited partnership, corporation, 6023
trust, union, government agency, or other legal entity, or any 6024
organization, association, or group of persons associated in 6025
fact although not a legal entity. "Enterprise" includes illicit 6026
as well as licit enterprises. 6027

(D) "Innocent person" includes any bona fide purchaser of property that is allegedly involved in a violation of section 2923.32 of the Revised Code, including any person who establishes a valid claim to or interest in the property in accordance with division (E) of section 2981.04 of the Revised Code, and any victim of an alleged violation of that section or of any underlying offense involved in an alleged violation of that section.

(E) "Pattern of corrupt activity" means two or more incidents of corrupt activity, whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event.

At least one of the incidents forming the pattern shall occur on or after January 1, 1986. Unless any incident was an aggravated murder ~~or, murder, aggravated abortion murder, or abortion murder,~~ the last of the incidents forming the pattern shall occur within six years after the commission of any prior incident forming the pattern, excluding any period of imprisonment served by any person engaging in the corrupt activity.

For the purposes of the criminal penalties that may be imposed pursuant to section 2923.32 of the Revised Code, at least one of the incidents forming the pattern shall constitute a felony under the laws of this state in existence at the time it was committed or, if committed in violation of the laws of the United States or of any other state, shall constitute a felony under the law of the United States or the other state and would be a criminal offense under the law of this state if

committed in this state. 6058

(F) "Pecuniary value" means money, a negotiable 6059
instrument, a commercial interest, or anything of value, as 6060
defined in section 1.03 of the Revised Code, or any other 6061
property or service that has a value in excess of one hundred 6062
dollars. 6063

(G) "Person" means any person, as defined in section 1.59 6064
of the Revised Code, and any governmental officer, employee, or 6065
entity. 6066

(H) "Personal property" means any personal property, any 6067
interest in personal property, or any right, including, but not 6068
limited to, bank accounts, debts, corporate stocks, patents, or 6069
copyrights. Personal property and any beneficial interest in 6070
personal property are deemed to be located where the trustee of 6071
the property, the personal property, or the instrument 6072
evidencing the right is located. 6073

(I) "Corrupt activity" means engaging in, attempting to 6074
engage in, conspiring to engage in, or soliciting, coercing, or 6075
intimidating another person to engage in any of the following: 6076

(1) Conduct defined as "racketeering activity" under the 6077
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 6078
1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended; 6079

(2) Conduct constituting any of the following: 6080

(a) A violation of section 1315.55, 1322.07, 2903.01, 6081
2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2904.03, 2904.04, 6082
2905.01, 2905.02, 2905.11, 2905.22, 2905.32 as specified in 6083
division (I)(2)(g) of this section, 2907.321, 2907.322, 6084
2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 6085
2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 6086

2911.13, 2911.31, 2913.05, 2913.06, 2913.30, 2921.02, 2921.03, 6087
2921.04, 2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 6088
2923.12, or 2923.17; division (F) (1) (a), (b), or (c) of section 6089
1315.53; division (A) (1) or (2) of section 1707.042; division 6090
(B), (C) (4), (D), (E), or (F) of section 1707.44; division (A) 6091
(1) or (2) of section 2923.20; division (E) or (G) of section 6092
3772.99; division (J) (1) of section 4712.02; section 4719.02, 6093
4719.05, or 4719.06; division (C), (D), or (E) of section 6094
4719.07; section 4719.08; or division (A) of section 4719.09 of 6095
the Revised Code. 6096

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 6097
3769.19 of the Revised Code as it existed prior to July 1, 1996, 6098
any violation of section 2915.02 of the Revised Code that occurs 6099
on or after July 1, 1996, and that, had it occurred prior to 6100
that date, would have been a violation of section 3769.11 of the 6101
Revised Code as it existed prior to that date, or any violation 6102
of section 2915.05 of the Revised Code that occurs on or after 6103
July 1, 1996, and that, had it occurred prior to that date, 6104
would have been a violation of section 3769.15, 3769.16, or 6105
3769.19 of the Revised Code as it existed prior to that date. 6106

(c) Any violation of section 2907.21, 2907.22, 2907.31, 6107
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 6108
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 6109
of the Revised Code, any violation of section 2925.11 of the 6110
Revised Code that is a felony of the first, second, third, or 6111
fourth degree and that occurs on or after July 1, 1996, any 6112
violation of section 2915.02 of the Revised Code that occurred 6113
prior to July 1, 1996, any violation of section 2915.02 of the 6114
Revised Code that occurs on or after July 1, 1996, and that, had 6115
it occurred prior to that date, would not have been a violation 6116
of section 3769.11 of the Revised Code as it existed prior to 6117

that date, any violation of section 2915.06 of the Revised Code 6118
as it existed prior to July 1, 1996, or any violation of 6119
division (B) of section 2915.05 of the Revised Code as it exists 6120
on and after July 1, 1996, when the proceeds of the violation, 6121
the payments made in the violation, the amount of a claim for 6122
payment or for any other benefit that is false or deceptive and 6123
that is involved in the violation, or the value of the 6124
contraband or other property illegally possessed, sold, or 6125
purchased in the violation exceeds one thousand dollars, or any 6126
combination of violations described in division (I) (2) (c) of 6127
this section when the total proceeds of the combination of 6128
violations, payments made in the combination of violations, 6129
amount of the claims for payment or for other benefits that is 6130
false or deceptive and that is involved in the combination of 6131
violations, or value of the contraband or other property 6132
illegally possessed, sold, or purchased in the combination of 6133
violations exceeds one thousand dollars; 6134

(d) Any violation of section 5743.112 of the Revised Code 6135
when the amount of unpaid tax exceeds one hundred dollars; 6136

(e) Any violation or combination of violations of section 6137
2907.32 of the Revised Code involving any material or 6138
performance containing a display of bestiality or of sexual 6139
conduct, as defined in section 2907.01 of the Revised Code, that 6140
is explicit and depicted with clearly visible penetration of the 6141
genitals or clearly visible penetration by the penis of any 6142
orifice when the total proceeds of the violation or combination 6143
of violations, the payments made in the violation or combination 6144
of violations, or the value of the contraband or other property 6145
illegally possessed, sold, or purchased in the violation or 6146
combination of violations exceeds one thousand dollars; 6147

(f) Any combination of violations described in division 6148
(I) (2) (c) of this section and violations of section 2907.32 of 6149
the Revised Code involving any material or performance 6150
containing a display of bestiality or of sexual conduct, as 6151
defined in section 2907.01 of the Revised Code, that is explicit 6152
and depicted with clearly visible penetration of the genitals or 6153
clearly visible penetration by the penis of any orifice when the 6154
total proceeds of the combination of violations, payments made 6155
in the combination of violations, amount of the claims for 6156
payment or for other benefits that is false or deceptive and 6157
that is involved in the combination of violations, or value of 6158
the contraband or other property illegally possessed, sold, or 6159
purchased in the combination of violations exceeds one thousand 6160
dollars; 6161

(g) Any violation of section 2905.32 of the Revised Code 6162
to the extent the violation is not based solely on the same 6163
conduct that constitutes corrupt activity pursuant to division 6164
(I) (2) (c) of this section due to the conduct being in violation 6165
of section 2907.21 of the Revised Code. 6166

(3) Conduct constituting a violation of any law of any 6167
state other than this state that is substantially similar to the 6168
conduct described in division (I) (2) of this section, provided 6169
the defendant was convicted of the conduct in a criminal 6170
proceeding in the other state; 6171

(4) Animal or ecological terrorism; 6172

(5) (a) Conduct constituting any of the following: 6173

(i) Organized retail theft; 6174

(ii) Conduct that constitutes one or more violations of 6175
any law of any state other than this state, that is 6176

substantially similar to organized retail theft, and that if 6177
committed in this state would be organized retail theft, if the 6178
defendant was convicted of or pleaded guilty to the conduct in a 6179
criminal proceeding in the other state. 6180

(b) By enacting division (I) (5) (a) of this section, it is 6181
the intent of the general assembly to add organized retail theft 6182
and the conduct described in division (I) (5) (a) (ii) of this 6183
section as conduct constituting corrupt activity. The enactment 6184
of division (I) (5) (a) of this section and the addition by 6185
division (I) (5) (a) of this section of organized retail theft and 6186
the conduct described in division (I) (5) (a) (ii) of this section 6187
as conduct constituting corrupt activity does not limit or 6188
preclude, and shall not be construed as limiting or precluding, 6189
any prosecution for a violation of section 2923.32 of the 6190
Revised Code that is based on one or more violations of section 6191
2913.02 or 2913.51 of the Revised Code, one or more similar 6192
offenses under the laws of this state or any other state, or any 6193
combination of any of those violations or similar offenses, even 6194
though the conduct constituting the basis for those violations 6195
or offenses could be construed as also constituting organized 6196
retail theft or conduct of the type described in division (I) (5) 6197
(a) (ii) of this section. 6198

(J) "Real property" means any real property or any 6199
interest in real property, including, but not limited to, any 6200
lease of, or mortgage upon, real property. Real property and any 6201
beneficial interest in it is deemed to be located where the real 6202
property is located. 6203

(K) "Trustee" means any of the following: 6204

(1) Any person acting as trustee under a trust in which 6205
the trustee holds title to personal or real property; 6206

(2) Any person who holds title to personal or real 6207
property for which any other person has a beneficial interest; 6208

(3) Any successor trustee. 6209

"Trustee" does not include an assignee or trustee for an 6210
insolvent debtor or an executor, administrator, administrator 6211
with the will annexed, testamentary trustee, guardian, or 6212
committee, appointed by, under the control of, or accountable to 6213
a court. 6214

(L) "Unlawful debt" means any money or other thing of 6215
value constituting principal or interest of a debt that is 6216
legally unenforceable in this state in whole or in part because 6217
the debt was incurred or contracted in violation of any federal 6218
or state law relating to the business of gambling activity or 6219
relating to the business of lending money at an usurious rate 6220
unless the creditor proves, by a preponderance of the evidence, 6221
that the usurious rate was not intentionally set and that it 6222
resulted from a good faith error by the creditor, 6223
notwithstanding the maintenance of procedures that were adopted 6224
by the creditor to avoid an error of that nature. 6225

(M) "Animal activity" means any activity that involves the 6226
use of animals or animal parts, including, but not limited to, 6227
hunting, fishing, trapping, traveling, camping, the production, 6228
preparation, or processing of food or food products, clothing or 6229
garment manufacturing, medical research, other research, 6230
entertainment, recreation, agriculture, biotechnology, or 6231
service activity that involves the use of animals or animal 6232
parts. 6233

(N) "Animal facility" means a vehicle, building, 6234
structure, nature preserve, or other premises in which an animal 6235

is lawfully kept, handled, housed, exhibited, bred, or offered 6236
for sale, including, but not limited to, a zoo, rodeo, circus, 6237
amusement park, hunting preserve, or premises in which a horse 6238
or dog event is held. 6239

(O) "Animal or ecological terrorism" means the commission 6240
of any felony that involves causing or creating a substantial 6241
risk of physical harm to any property of another, the use of a 6242
deadly weapon or dangerous ordnance, or purposely, knowingly, or 6243
recklessly causing serious physical harm to property and that 6244
involves an intent to obstruct, impede, or deter any person from 6245
participating in a lawful animal activity, from mining, 6246
forestry, harvesting, gathering, or processing natural 6247
resources, or from being lawfully present in or on an animal 6248
facility or research facility. 6249

(P) "Research facility" means a place, laboratory, 6250
institution, medical care facility, government facility, or 6251
public or private educational institution in which a scientific 6252
test, experiment, or investigation involving the use of animals 6253
or other living organisms is lawfully carried out, conducted, or 6254
attempted. 6255

(Q) "Organized retail theft" means the theft of retail 6256
property with a retail value of one thousand dollars or more 6257
from one or more retail establishments with the intent to sell, 6258
deliver, or transfer that property to a retail property fence. 6259

(R) "Retail property" means any tangible personal property 6260
displayed, held, stored, or offered for sale in or by a retail 6261
establishment. 6262

(S) "Retail property fence" means a person who possesses, 6263
procures, receives, or conceals retail property that was 6264

represented to the person as being stolen or that the person 6265
knows or believes to be stolen. 6266

(T) "Retail value" means the full retail value of the 6267
retail property. In determining whether the retail value of 6268
retail property equals or exceeds one thousand dollars, the 6269
value of all retail property stolen from the retail 6270
establishment or retail establishments by the same person or 6271
persons within any one-hundred-eighty-day period shall be 6272
aggregated. 6273

Sec. 2923.32. (A) (1) No person employed by, or associated 6274
with, any enterprise shall conduct or participate in, directly 6275
or indirectly, the affairs of the enterprise through a pattern 6276
of corrupt activity or the collection of an unlawful debt. 6277

(2) No person, through a pattern of corrupt activity or 6278
the collection of an unlawful debt, shall acquire or maintain, 6279
directly or indirectly, any interest in, or control of, any 6280
enterprise or real property. 6281

(3) No person, who knowingly has received any proceeds 6282
derived, directly or indirectly, from a pattern of corrupt 6283
activity or the collection of any unlawful debt, shall use or 6284
invest, directly or indirectly, any part of those proceeds, or 6285
any proceeds derived from the use or investment of any of those 6286
proceeds, in the acquisition of any title to, or any right, 6287
interest, or equity in, real property or in the establishment or 6288
operation of any enterprise. 6289

A purchase of securities on the open market with intent to 6290
make an investment, without intent to control or participate in 6291
the control of the issuer, and without intent to assist another 6292
to do so is not a violation of this division, if the securities 6293

of the issuer held after the purchase by the purchaser, the 6294
members of the purchaser's immediate family, and the purchaser's 6295
or the immediate family members' accomplices in any pattern of 6296
corrupt activity or the collection of an unlawful debt do not 6297
aggregate one per cent of the outstanding securities of any one 6298
class of the issuer and do not confer, in law or in fact, the 6299
power to elect one or more directors of the issuer. 6300

(B) (1) Whoever violates this section is guilty of engaging 6301
in a pattern of corrupt activity. Except as otherwise provided 6302
in this division, engaging in corrupt activity is a felony of 6303
the second degree. Except as otherwise provided in this 6304
division, if at least one of the incidents of corrupt activity 6305
is a felony of the first, second, or third degree, aggravated 6306
murder, ~~or murder~~, aggravated abortion murder, or abortion 6307
murder, if at least one of the incidents was a felony under the 6308
law of this state that was committed prior to July 1, 1996, and 6309
that would constitute a felony of the first, second, or third 6310
degree, aggravated murder, or murder if committed on or after 6311
July 1, 1996, or if at least one of the incidents of corrupt 6312
activity is a felony under the law of the United States or of 6313
another state that, if committed in this state on or after July 6314
1, 1996, would constitute a felony of the first, second, or 6315
third degree, aggravated murder, ~~or murder~~, aggravated abortion 6316
murder, or abortion murder, under the law of this state, 6317
engaging in a pattern of corrupt activity is a felony of the 6318
first degree. If the offender also is convicted of or pleads 6319
guilty to a specification as described in section 2941.1422 of 6320
the Revised Code that was included in the indictment, count in 6321
the indictment, or information charging the offense, engaging in 6322
a pattern of corrupt activity is a felony of the first degree, 6323
and the court shall sentence the offender to a mandatory prison 6324

term as provided in division (B) (7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B) (8) of section 2929.18 of the Revised Code. Notwithstanding any other provision of law, a person may be convicted of violating the provisions of this section as well as of a conspiracy to violate one or more of those provisions under section 2923.01 of the Revised Code.

(2) Notwithstanding the financial sanctions authorized by section 2929.18 of the Revised Code, the court may do all of the following with respect to any person who derives pecuniary value or causes property damage, personal injury other than pain and suffering, or other loss through or by the violation of this section:

(a) In lieu of the fine authorized by that section, impose a fine not exceeding the greater of three times the gross value gained or three times the gross loss caused and order the clerk of the court to pay the fine into the state treasury to the credit of the corrupt activity investigation and prosecution fund, which is hereby created;

(b) In addition to the fine described in division (B) (2) (a) of this section and the financial sanctions authorized by section 2929.18 of the Revised Code, order the person to pay court costs;

(c) In addition to the fine described in division (B) (2) (a) of this section and the financial sanctions authorized by section 2929.18 of the Revised Code, order the person to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution the costs of investigation and prosecution that are reasonably incurred.

The court shall hold a hearing to determine the amount of fine, court costs, and other costs to be imposed under this division.

(3) In addition to any other penalty or disposition authorized or required by law, the court shall order any person who is convicted of or pleads guilty to a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit to the state under Chapter 2981. of the Revised Code any personal or real property in which the person has an interest and that was used in the course of or intended for use in the course of a violation of this section, or that was derived from or realized through conduct in violation of this section, including any property constituting an interest in, means of control over, or influence over the enterprise involved in the violation and any property constituting proceeds derived from the violation, including all of the following:

(a) Any position, office, appointment, tenure, commission, or employment contract of any kind acquired or maintained by the person in violation of this section, through which the person, in violation of this section, conducted or participated in the conduct of an enterprise, or that afforded the person a source of influence or control over an enterprise that the person exercised in violation of this section;

(b) Any compensation, right, or benefit derived from a position, office, appointment, tenure, commission, or employment contract described in division (B) (3) (a) of this section that accrued to the person in violation of this section during the period of the pattern of corrupt activity;

(c) Any interest in, security of, claim against, or

property or contractual right affording the person a source of 6384
influence or control over the affairs of an enterprise that the 6385
person exercised in violation of this section; 6386

(d) Any amount payable or paid under any contract for 6387
goods or services that was awarded or performed in violation of 6388
this section. 6389

Sec. 2927.21. (A) As used in this section: 6390

(1) "Offense subject to forfeiture proceedings" means any 6391
of the following: 6392

(a) A violation of section 2903.01, 2903.02, 2903.03, 6393
2903.04, 2903.041, 2903.05, 2903.06, 2903.08, 2903.09, 2903.11, 6394
2903.12, 2903.13, 2903.14, 2903.15, 2903.16, 2903.21, ~~or~~ 6395
2903.211, 2904.03, or 2904.04 of the Revised Code; 6396

(b) A violation of section 2905.01, 2905.02, 2905.03, 6397
2905.05, 2905.11, 2905.32, or 2905.33 of the Revised Code; 6398

(c) A violation of section 2907.02, 2907.03, 2907.04, 6399
2907.05, 2907.06, 2907.07, 2907.19, 2907.21, 2907.22, 2907.321, 6400
2907.322, or 2907.323 of the Revised Code; 6401

(d) A violation of section 2909.02, 2909.03, 2909.22, 6402
2909.23, 2909.24, 2909.26, 2909.27, 2909.28, or 2909.29 of the 6403
Revised Code; 6404

(e) A violation of section 2911.01, 2911.02, 2911.11, 6405
2911.12, or 2911.13 of the Revised Code; 6406

(f) A violation of section 2915.02, 2915.03, 2915.04, or 6407
2915.05 of the Revised Code; 6408

(g) A violation of section 2921.02, 2921.03, 2921.04, 6409
2921.05, 2921.11, 2921.12, or 2921.41 of the Revised Code; 6410

(h) A violation of section 2925.02, 2925.03, 2925.04,
2925.041, 2925.05, 2925.06, 2925.09, or 2925.11 of the Revised
Code;

(i) A conspiracy or attempt to commit, or complicity in
committing, any offense under division (A) (1) (a), (b), (c), (d),
(e), (f), (g), or (h) of this section.

(2) "Proceeds" has the same meaning as in section 2981.01
of the Revised Code.

(3) "Vehicle" has the same meaning as in section 4501.01
of the Revised Code.

(B) No person shall receive, retain, possess, or dispose
of proceeds knowing or having reasonable cause to believe that
the proceeds were derived from the commission of an offense
subject to forfeiture proceedings.

(C) It is not a defense to a charge of receiving proceeds
of an offense subject to forfeiture proceedings in violation of
this section that the proceeds were derived by means other than
the commission of an offense subject to forfeiture proceedings
if the property was explicitly represented to the accused person
as having been derived from the commission of an offense subject
to forfeiture proceedings.

(D) A person shall be considered to have received,
retained, possessed, or disposed of proceeds if the proceeds are
found anywhere in a vehicle and the person was the last person
who operated the vehicle immediately prior to the search of the
vehicle by the law enforcement officer who found the proceeds.

(E) Whoever violates this section is guilty of receiving
proceeds of an offense subject to forfeiture proceedings. If the
value of the proceeds involved is less than one thousand

dollars, receiving proceeds of an offense subject to forfeiture 6440
proceedings is a misdemeanor of the first degree. If the value 6441
of the proceeds involved is one thousand dollars or more and is 6442
less than twenty-five thousand dollars, receiving proceeds of an 6443
offense subject to forfeiture proceedings is a felony of the 6444
fifth degree. If the value of the proceeds involved is twenty- 6445
five thousand dollars or more and is less than one hundred fifty 6446
thousand dollars, receiving proceeds of an offense subject to 6447
forfeiture proceedings is a felony of the fourth degree. If the 6448
value of the proceeds involved is one hundred fifty thousand 6449
dollars or more, receiving proceeds of an offense subject to 6450
forfeiture proceedings is a felony of the third degree. 6451

Sec. 2929.01. As used in this chapter: 6452

(A) (1) "Alternative residential facility" means, subject 6453
to division (A) (2) of this section, any facility other than an 6454
offender's home or residence in which an offender is assigned to 6455
live and that satisfies all of the following criteria: 6456

(a) It provides programs through which the offender may 6457
seek or maintain employment or may receive education, training, 6458
treatment, or habilitation. 6459

(b) It has received the appropriate license or certificate 6460
for any specialized education, training, treatment, 6461
habilitation, or other service that it provides from the 6462
government agency that is responsible for licensing or 6463
certifying that type of education, training, treatment, 6464
habilitation, or service. 6465

(2) "Alternative residential facility" does not include a 6466
community-based correctional facility, jail, halfway house, or 6467
prison. 6468

(B) "Basic probation supervision" means a requirement that 6469
the offender maintain contact with a person appointed to 6470
supervise the offender in accordance with sanctions imposed by 6471
the court or imposed by the parole board pursuant to section 6472
2967.28 of the Revised Code. "Basic probation supervision" 6473
includes basic parole supervision and basic post-release control 6474
supervision. 6475

(C) "Cocaine," "fentanyl-related compound," "hashish," 6476
"L.S.D.," and "unit dose" have the same meanings as in section 6477
2925.01 of the Revised Code. 6478

(D) "Community-based correctional facility" means a 6479
community-based correctional facility and program or district 6480
community-based correctional facility and program developed 6481
pursuant to sections 2301.51 to 2301.58 of the Revised Code. 6482

(E) "Community control sanction" means a sanction that is 6483
not a prison term and that is described in section 2929.15, 6484
2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction 6485
that is not a jail term and that is described in section 6486
2929.26, 2929.27, or 2929.28 of the Revised Code. "Community 6487
control sanction" includes probation if the sentence involved 6488
was imposed for a felony that was committed prior to July 1, 6489
1996, or if the sentence involved was imposed for a misdemeanor 6490
that was committed prior to January 1, 2004. 6491

(F) "Controlled substance," "marihuana," "schedule I," and 6492
"schedule II" have the same meanings as in section 3719.01 of 6493
the Revised Code. 6494

(G) "Curfew" means a requirement that an offender during a 6495
specified period of time be at a designated place. 6496

(H) "Day reporting" means a sanction pursuant to which an 6497

offender is required each day to report to and leave a center or 6498
other approved reporting location at specified times in order to 6499
participate in work, education or training, treatment, and other 6500
approved programs at the center or outside the center. 6501

(I) "Deadly weapon" has the same meaning as in section 6502
2923.11 of the Revised Code. 6503

(J) "Drug and alcohol use monitoring" means a program 6504
under which an offender agrees to submit to random chemical 6505
analysis of the offender's blood, breath, or urine to determine 6506
whether the offender has ingested any alcohol or other drugs. 6507

(K) "Drug treatment program" means any program under which 6508
a person undergoes assessment and treatment designed to reduce 6509
or completely eliminate the person's physical or emotional 6510
reliance upon alcohol, another drug, or alcohol and another drug 6511
and under which the person may be required to receive assessment 6512
and treatment on an outpatient basis or may be required to 6513
reside at a facility other than the person's home or residence 6514
while undergoing assessment and treatment. 6515

(L) "Economic loss" means any economic detriment suffered 6516
by a victim as a direct and proximate result of the commission 6517
of an offense and includes any loss of income due to lost time 6518
at work because of any injury caused to the victim, and any 6519
property loss, medical cost, or funeral expense incurred as a 6520
result of the commission of the offense. "Economic loss" does 6521
not include non-economic loss or any punitive or exemplary 6522
damages. 6523

(M) "Education or training" includes study at, or in 6524
conjunction with a program offered by, a university, college, or 6525
technical college or vocational study and also includes the 6526

completion of primary school, secondary school, and literacy 6527
curricula or their equivalent. 6528

(N) "Firearm" has the same meaning as in section 2923.11 6529
of the Revised Code. 6530

(O) "Halfway house" means a facility licensed by the 6531
division of parole and community services of the department of 6532
rehabilitation and correction pursuant to section 2967.14 of the 6533
Revised Code as a suitable facility for the care and treatment 6534
of adult offenders. 6535

(P) "House arrest" means a period of confinement of an 6536
offender that is in the offender's home or in other premises 6537
specified by the sentencing court or by the parole board 6538
pursuant to section 2967.28 of the Revised Code and during which 6539
all of the following apply: 6540

(1) The offender is required to remain in the offender's 6541
home or other specified premises for the specified period of 6542
confinement, except for periods of time during which the 6543
offender is at the offender's place of employment or at other 6544
premises as authorized by the sentencing court or by the parole 6545
board. 6546

(2) The offender is required to report periodically to a 6547
person designated by the court or parole board. 6548

(3) The offender is subject to any other restrictions and 6549
requirements that may be imposed by the sentencing court or by 6550
the parole board. 6551

(Q) "Intensive probation supervision" means a requirement 6552
that an offender maintain frequent contact with a person 6553
appointed by the court, or by the parole board pursuant to 6554
section 2967.28 of the Revised Code, to supervise the offender 6555

while the offender is seeking or maintaining necessary 6556
employment and participating in training, education, and 6557
treatment programs as required in the court's or parole board's 6558
order. "Intensive probation supervision" includes intensive 6559
parole supervision and intensive post-release control 6560
supervision. 6561

(R) "Jail" means a jail, workhouse, minimum security jail, 6562
or other residential facility used for the confinement of 6563
alleged or convicted offenders that is operated by a political 6564
subdivision or a combination of political subdivisions of this 6565
state. 6566

(S) "Jail term" means the term in a jail that a sentencing 6567
court imposes or is authorized to impose pursuant to section 6568
2929.24 or 2929.25 of the Revised Code or pursuant to any other 6569
provision of the Revised Code that authorizes a term in a jail 6570
for a misdemeanor conviction. 6571

(T) "Mandatory jail term" means the term in a jail that a 6572
sentencing court is required to impose pursuant to division (G) 6573
of section 1547.99 of the Revised Code, division (E) of section 6574
2903.06 or division (D) of section 2903.08 of the Revised Code, 6575
division (E) or (G) of section 2929.24 of the Revised Code, 6576
division (B) of section 4510.14 of the Revised Code, or division 6577
(G) of section 4511.19 of the Revised Code or pursuant to any 6578
other provision of the Revised Code that requires a term in a 6579
jail for a misdemeanor conviction. 6580

(U) "Delinquent child" has the same meaning as in section 6581
2152.02 of the Revised Code. 6582

(V) "License violation report" means a report that is made 6583
by a sentencing court, or by the parole board pursuant to 6584

section 2967.28 of the Revised Code, to the regulatory or 6585
licensing board or agency that issued an offender a professional 6586
license or a license or permit to do business in this state and 6587
that specifies that the offender has been convicted of or 6588
pleaded guilty to an offense that may violate the conditions 6589
under which the offender's professional license or license or 6590
permit to do business in this state was granted or an offense 6591
for which the offender's professional license or license or 6592
permit to do business in this state may be revoked or suspended. 6593

(W) "Major drug offender" means an offender who is 6594
convicted of or pleads guilty to the possession of, sale of, or 6595
offer to sell any drug, compound, mixture, preparation, or 6596
substance that consists of or contains at least one thousand 6597
grams of hashish; at least one hundred grams of cocaine; at 6598
least one thousand unit doses or one hundred grams of heroin; at 6599
least five thousand unit doses of L.S.D. or five hundred grams 6600
of L.S.D. in a liquid concentrate, liquid extract, or liquid 6601
distillate form; at least fifty grams of a controlled substance 6602
analog; at least one thousand unit doses or one hundred grams of 6603
a fentanyl-related compound; or at least one hundred times the 6604
amount of any other schedule I or II controlled substance other 6605
than marihuana that is necessary to commit a felony of the third 6606
degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 6607
of the Revised Code that is based on the possession of, sale of, 6608
or offer to sell the controlled substance. 6609

(X) "Mandatory prison term" means any of the following: 6610

(1) Subject to division (X)(2) of this section, the term 6611
in prison that must be imposed for the offenses or circumstances 6612
set forth in divisions (F)(1) to (8) or (F)(12) to (21) of 6613
section 2929.13 and division (B) of section 2929.14 of the 6614

Revised Code. Except as provided in sections 2925.02, 2925.03, 6615
2925.04, 2925.05, and 2925.11 of the Revised Code, unless the 6616
maximum or another specific term is required under section 6617
2929.14 or 2929.142 of the Revised Code, a mandatory prison term 6618
described in this division may be any prison term authorized for 6619
the level of offense except that if the offense is a felony of 6620
the first or second degree committed on or after the effective 6621
date of this amendment, a mandatory prison term described in 6622
this division may be one of the terms prescribed in division (A) 6623
(1) (a) or (2) (a) of section 2929.14 of the Revised Code, 6624
whichever is applicable, that is authorized as the minimum term 6625
for the offense. 6626

(2) The term of sixty or one hundred twenty days in prison 6627
that a sentencing court is required to impose for a third or 6628
fourth degree felony OVI offense pursuant to division (G) (2) of 6629
section 2929.13 and division (G) (1) (d) or (e) of section 4511.19 6630
of the Revised Code or the term of one, two, three, four, or 6631
five years in prison that a sentencing court is required to 6632
impose pursuant to division (G) (2) of section 2929.13 of the 6633
Revised Code. 6634

(3) The term in prison imposed pursuant to division (A) of 6635
section 2971.03 of the Revised Code for the offenses and in the 6636
circumstances described in division (F) (11) of section 2929.13 6637
of the Revised Code or pursuant to division (B) (1) (a), (b), or 6638
(c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of 6639
section 2971.03 of the Revised Code and that term as modified or 6640
terminated pursuant to section 2971.05 of the Revised Code. 6641

(Y) "Monitored time" means a period of time during which 6642
an offender continues to be under the control of the sentencing 6643
court or parole board, subject to no conditions other than 6644

leading a law-abiding life. 6645

(Z) "Offender" means a person who, in this state, is 6646
convicted of or pleads guilty to a felony or a misdemeanor. 6647

(AA) "Prison" means a residential facility used for the 6648
confinement of convicted felony offenders that is under the 6649
control of the department of rehabilitation and correction and 6650
includes a violation sanction center operated under authority of 6651
section 2967.141 of the Revised Code. 6652

(BB) (1) "Prison term" includes either of the following 6653
sanctions for an offender: 6654

(a) A stated prison term; 6655

(b) A term in a prison shortened by, or with the approval 6656
of, the sentencing court pursuant to section 2929.143, 2929.20, 6657
2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code. 6658

(2) With respect to a non-life felony indefinite prison 6659
term, references in any provision of law to a reduction of, or 6660
deduction from, the prison term mean a reduction in, or 6661
deduction from, the minimum term imposed as part of the 6662
indefinite term. 6663

(CC) "Repeat violent offender" means a person about whom 6664
both of the following apply: 6665

(1) The person is being sentenced for committing or for 6666
complicity in committing any of the following: 6667

(a) Aggravated murder, murder, aggravated abortion murder, 6668
abortion murder, any felony of the first or second degree that 6669
is an offense of violence, or an attempt to commit any of these 6670
offenses if the attempt is a felony of the first or second 6671
degree; 6672

(b) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense described in division (CC) (1) (a) of this section.

(2) The person previously was convicted of or pleaded guilty to an offense described in division (CC) (1) (a) or (b) of this section.

(DD) "Sanction" means any penalty imposed upon an offender who is convicted of or pleads guilty to an offense, as punishment for the offense. "Sanction" includes any sanction imposed pursuant to any provision of sections 2929.14 to 2929.18 or 2929.24 to 2929.28 of the Revised Code.

(EE) "Sentence" means the sanction or combination of sanctions imposed by the sentencing court on an offender who is convicted of or pleads guilty to an offense.

(FF) (1) "Stated prison term" means the prison term, mandatory prison term, or combination of all prison terms and mandatory prison terms imposed by the sentencing court pursuant to section 2929.14, 2929.142, or 2971.03 of the Revised Code or under section 2919.25 of the Revised Code. "Stated prison term" includes any credit received by the offender for time spent in jail awaiting trial, sentencing, or transfer to prison for the offense and any time spent under house arrest or house arrest with electronic monitoring imposed after earning credits pursuant to section 2967.193 of the Revised Code. If an offender is serving a prison term as a risk reduction sentence under sections 2929.143 and 5120.036 of the Revised Code, "stated prison term" includes any period of time by which the prison term imposed upon the offender is shortened by the offender's successful completion of all assessment and treatment or

programming pursuant to those sections. 6703

(2) As used in the definition of "stated prison term" set 6704
forth in division (FF)(1) of this section, a prison term is a 6705
definite prison term imposed under section 2929.14 of the 6706
Revised Code or any other provision of law, is the minimum and 6707
maximum prison terms under a non-life felony indefinite prison 6708
term, or is a term of life imprisonment except to the extent 6709
that the use of that definition in a section of the Revised Code 6710
clearly is not intended to include a term of life imprisonment. 6711
With respect to an offender sentenced to a non-life felony 6712
indefinite prison term, references in section 2967.191 or 6713
2967.193 of the Revised Code or any other provision of law to a 6714
reduction of, or deduction from, the offender's stated prison 6715
term or to release of the offender before the expiration of the 6716
offender's stated prison term mean a reduction in, or deduction 6717
from, the minimum term imposed as part of the indefinite term or 6718
a release of the offender before the expiration of that minimum 6719
term, references in section 2929.19 or 2967.28 of the Revised 6720
Code to a stated prison term with respect to a prison term 6721
imposed for a violation of a post-release control sanction mean 6722
the minimum term so imposed, and references in any provision of 6723
law to an offender's service of the offender's stated prison 6724
term or the expiration of the offender's stated prison term mean 6725
service or expiration of the minimum term so imposed plus any 6726
additional period of incarceration under the sentence that is 6727
required under section 2967.271 of the Revised Code. 6728

(GG) "Victim-offender mediation" means a reconciliation or 6729
mediation program that involves an offender and the victim of 6730
the offense committed by the offender and that includes a 6731
meeting in which the offender and the victim may discuss the 6732
offense, discuss restitution, and consider other sanctions for 6733

the offense. 6734

(HH) "Fourth degree felony OVI offense" means a violation 6735
of division (A) of section 4511.19 of the Revised Code that, 6736
under division (G) of that section, is a felony of the fourth 6737
degree. 6738

(II) "Mandatory term of local incarceration" means the 6739
term of sixty or one hundred twenty days in a jail, a community- 6740
based correctional facility, a halfway house, or an alternative 6741
residential facility that a sentencing court may impose upon a 6742
person who is convicted of or pleads guilty to a fourth degree 6743
felony OVI offense pursuant to division (G) (1) of section 6744
2929.13 of the Revised Code and division (G) (1) (d) or (e) of 6745
section 4511.19 of the Revised Code. 6746

(JJ) "Designated homicide, assault, or kidnapping 6747
offense," "violent sex offense," "sexual motivation 6748
specification," "sexually violent offense," "sexually violent 6749
predator," and "sexually violent predator specification" have 6750
the same meanings as in section 2971.01 of the Revised Code. 6751

(KK) "Sexually oriented offense," "child-victim oriented 6752
offense," and "tier III sex offender/child-victim offender" have 6753
the same meanings as in section 2950.01 of the Revised Code. 6754

(LL) An offense is "committed in the vicinity of a child" 6755
if the offender commits the offense within thirty feet of or 6756
within the same residential unit as a child who is under 6757
eighteen years of age, regardless of whether the offender knows 6758
the age of the child or whether the offender knows the offense 6759
is being committed within thirty feet of or within the same 6760
residential unit as the child and regardless of whether the 6761
child actually views the commission of the offense. 6762

(MM) "Family or household member" has the same meaning as
in section 2919.25 of the Revised Code. 6763
6764

(NN) "Motor vehicle" and "manufactured home" have the same
meanings as in section 4501.01 of the Revised Code. 6765
6766

(OO) "Detention" and "detention facility" have the same
meanings as in section 2921.01 of the Revised Code. 6767
6768

(PP) "Third degree felony OVI offense" means a violation
of division (A) of section 4511.19 of the Revised Code that,
under division (G) of that section, is a felony of the third
degree. 6769
6770
6771
6772

(QQ) "Random drug testing" has the same meaning as in
section 5120.63 of the Revised Code. 6773
6774

(RR) "Felony sex offense" has the same meaning as in
section 2967.28 of the Revised Code. 6775
6776

(SS) "Body armor" has the same meaning as in section
2941.1411 of the Revised Code. 6777
6778

(TT) "Electronic monitoring" means monitoring through the
use of an electronic monitoring device. 6779
6780

(UU) "Electronic monitoring device" means any of the
following: 6781
6782

(1) Any device that can be operated by electrical or
battery power and that conforms with all of the following: 6783
6784

(a) The device has a transmitter that can be attached to a
person, that will transmit a specified signal to a receiver of
the type described in division (UU) (1) (b) of this section if the
transmitter is removed from the person, turned off, or altered
in any manner without prior court approval in relation to 6785
6786
6787
6788
6789

electronic monitoring or without prior approval of the 6790
department of rehabilitation and correction in relation to the 6791
use of an electronic monitoring device for an inmate on 6792
transitional control or otherwise is tampered with, that can 6793
transmit continuously and periodically a signal to that receiver 6794
when the person is within a specified distance from the 6795
receiver, and that can transmit an appropriate signal to that 6796
receiver if the person to whom it is attached travels a 6797
specified distance from that receiver. 6798

(b) The device has a receiver that can receive 6799
continuously the signals transmitted by a transmitter of the 6800
type described in division (UU) (1) (a) of this section, can 6801
transmit continuously those signals by a wireless or landline 6802
telephone connection to a central monitoring computer of the 6803
type described in division (UU) (1) (c) of this section, and can 6804
transmit continuously an appropriate signal to that central 6805
monitoring computer if the device has been turned off or altered 6806
without prior court approval or otherwise tampered with. The 6807
device is designed specifically for use in electronic 6808
monitoring, is not a converted wireless phone or another 6809
tracking device that is clearly not designed for electronic 6810
monitoring, and provides a means of text-based or voice 6811
communication with the person. 6812

(c) The device has a central monitoring computer that can 6813
receive continuously the signals transmitted by a wireless or 6814
landline telephone connection by a receiver of the type 6815
described in division (UU) (1) (b) of this section and can monitor 6816
continuously the person to whom an electronic monitoring device 6817
of the type described in division (UU) (1) (a) of this section is 6818
attached. 6819

(2) Any device that is not a device of the type described 6820
in division (UU) (1) of this section and that conforms with all 6821
of the following: 6822

(a) The device includes a transmitter and receiver that 6823
can monitor and determine the location of a subject person at 6824
any time, or at a designated point in time, through the use of a 6825
central monitoring computer or through other electronic means. 6826

(b) The device includes a transmitter and receiver that 6827
can determine at any time, or at a designated point in time, 6828
through the use of a central monitoring computer or other 6829
electronic means the fact that the transmitter is turned off or 6830
altered in any manner without prior approval of the court in 6831
relation to the electronic monitoring or without prior approval 6832
of the department of rehabilitation and correction in relation 6833
to the use of an electronic monitoring device for an inmate on 6834
transitional control or otherwise is tampered with. 6835

(3) Any type of technology that can adequately track or 6836
determine the location of a subject person at any time and that 6837
is approved by the director of rehabilitation and correction, 6838
including, but not limited to, any satellite technology, voice 6839
tracking system, or retinal scanning system that is so approved. 6840

(VV) "Non-economic loss" means nonpecuniary harm suffered 6841
by a victim of an offense as a result of or related to the 6842
commission of the offense, including, but not limited to, pain 6843
and suffering; loss of society, consortium, companionship, care, 6844
assistance, attention, protection, advice, guidance, counsel, 6845
instruction, training, or education; mental anguish; and any 6846
other intangible loss. 6847

(WW) "Prosecutor" has the same meaning as in section 6848

2935.01 of the Revised Code. 6849

(XX) "Continuous alcohol monitoring" means the ability to 6850
automatically test and periodically transmit alcohol consumption 6851
levels and tamper attempts at least every hour, regardless of 6852
the location of the person who is being monitored. 6853

(YY) A person is "adjudicated a sexually violent predator" 6854
if the person is convicted of or pleads guilty to a violent sex 6855
offense and also is convicted of or pleads guilty to a sexually 6856
violent predator specification that was included in the 6857
indictment, count in the indictment, or information charging 6858
that violent sex offense or if the person is convicted of or 6859
pleads guilty to a designated homicide, assault, or kidnapping 6860
offense and also is convicted of or pleads guilty to both a 6861
sexual motivation specification and a sexually violent predator 6862
specification that were included in the indictment, count in the 6863
indictment, or information charging that designated homicide, 6864
assault, or kidnapping offense. 6865

(ZZ) An offense is "committed in proximity to a school" if 6866
the offender commits the offense in a school safety zone or 6867
within five hundred feet of any school building or the 6868
boundaries of any school premises, regardless of whether the 6869
offender knows the offense is being committed in a school safety 6870
zone or within five hundred feet of any school building or the 6871
boundaries of any school premises. 6872

(AAA) "Human trafficking" means a scheme or plan to which 6873
all of the following apply: 6874

(1) Its object is one or more of the following: 6875

(a) To subject a victim or victims to involuntary 6876
servitude, as defined in section 2905.31 of the Revised Code or 6877

to compel a victim or victims to engage in sexual activity for 6878
hire, to engage in a performance that is obscene, sexually 6879
oriented, or nudity oriented, or to be a model or participant in 6880
the production of material that is obscene, sexually oriented, 6881
or nudity oriented; 6882

(b) To facilitate, encourage, or recruit a victim who is 6883
less than sixteen years of age or is a person with a 6884
developmental disability, or victims who are less than sixteen 6885
years of age or are persons with developmental disabilities, for 6886
any purpose listed in divisions (A) (2) (a) to (c) of section 6887
2905.32 of the Revised Code; 6888

(c) To facilitate, encourage, or recruit a victim who is 6889
sixteen or seventeen years of age, or victims who are sixteen or 6890
seventeen years of age, for any purpose listed in divisions (A) 6891
(2) (a) to (c) of section 2905.32 of the Revised Code, if the 6892
circumstances described in division (A) (5), (6), (7), (8), (9), 6893
(10), (11), (12), or (13) of section 2907.03 of the Revised Code 6894
apply with respect to the person engaging in the conduct and the 6895
victim or victims. 6896

(2) It involves at least two felony offenses, whether or 6897
not there has been a prior conviction for any of the felony 6898
offenses, to which all of the following apply: 6899

(a) Each of the felony offenses is a violation of section 6900
2905.01, 2905.02, 2905.32, 2907.21, 2907.22, or 2923.32, 6901
division (A) (1) or (2) of section 2907.323, or division (B) (1), 6902
(2), (3), (4), or (5) of section 2919.22 of the Revised Code or 6903
is a violation of a law of any state other than this state that 6904
is substantially similar to any of the sections or divisions of 6905
the Revised Code identified in this division. 6906

(b) At least one of the felony offenses was committed in 6907
this state. 6908

(c) The felony offenses are related to the same scheme or 6909
plan and are not isolated instances. 6910

(BBB) "Material," "nudity," "obscene," "performance," and 6911
"sexual activity" have the same meanings as in section 2907.01 6912
of the Revised Code. 6913

(CCC) "Material that is obscene, sexually oriented, or 6914
nudity oriented" means any material that is obscene, that shows 6915
a person participating or engaging in sexual activity, 6916
masturbation, or bestiality, or that shows a person in a state 6917
of nudity. 6918

(DDD) "Performance that is obscene, sexually oriented, or 6919
nudity oriented" means any performance that is obscene, that 6920
shows a person participating or engaging in sexual activity, 6921
masturbation, or bestiality, or that shows a person in a state 6922
of nudity. 6923

(EEE) "Accelerant" means a fuel or oxidizing agent, such 6924
as an ignitable liquid, used to initiate a fire or increase the 6925
rate of growth or spread of a fire. 6926

(FFF) "Permanent disabling harm" means serious physical 6927
harm that results in permanent injury to the intellectual, 6928
physical, or sensory functions and that permanently and 6929
substantially impairs a person's ability to meet one or more of 6930
the ordinary demands of life, including the functions of caring 6931
for one's self, performing manual tasks, walking, seeing, 6932
hearing, speaking, breathing, learning, and working. 6933

(GGG) "Non-life felony indefinite prison term" means a 6934
prison term imposed under division (A) (1) (a) or (2) (a) of 6935

section 2929.14 and section 2929.144 of the Revised Code for a 6936
felony of the first or second degree committed on or after the 6937
effective date of this amendment. 6938

Sec. 2929.02. (A) Whoever is convicted of or pleads guilty 6939
either to aggravated murder in violation of section 2903.01 of 6940
the Revised Code or aggravated abortion murder in violation of 6941
section 2904.03 of the Revised Code shall suffer death or be 6942
imprisoned for life, as determined pursuant to sections 6943
2929.022, 2929.03, and 2929.04 of the Revised Code, except that 6944
no person who raises the matter of age pursuant to section 6945
2929.023 of the Revised Code and who is not found to have been 6946
eighteen years of age or older at the time of the commission of 6947
the offense shall suffer death. In addition, the offender may be 6948
fined an amount fixed by the court, but not more than twenty- 6949
five thousand dollars. 6950

(B) (1) Except as otherwise provided in division (B) (2) or 6951
(3) of this section, whoever is convicted of or pleads guilty 6952
either to murder in violation of section 2903.02 of the Revised 6953
Code or abortion murder in violation of section 2904.04 of the 6954
Revised Code shall be imprisoned for an indefinite term of 6955
fifteen years to life. 6956

(2) Except as otherwise provided in division (B) (3) of 6957
this section, if a person is convicted of or pleads guilty 6958
either to murder in violation of section 2903.02 of the Revised 6959
Code or abortion murder in violation of section 2904.04 of the 6960
Revised Code, the victim of the offense was less than thirteen 6961
years of age, and the offender also is convicted of or pleads 6962
guilty to a sexual motivation specification that was included in 6963
the indictment, count in the indictment, or information charging 6964
the offense, the court shall impose an indefinite prison term of 6965

thirty years to life pursuant to division (B) (3) of section 2971.03 of the Revised Code. 6966
6967

(3) If a person is convicted of or pleads guilty either to 6968
murder in violation of section 2903.02 of the Revised Code or 6969
abortion murder in violation of section 2904.04 of the Revised 6970
Code, and also is convicted of or pleads guilty to a sexual 6971
motivation specification and a sexually violent predator 6972
specification that were included in the indictment, count in the 6973
indictment, or information that charged the murder or abortion 6974
murder, the court shall impose upon the offender a term of life 6975
imprisonment without parole that shall be served pursuant to 6976
section 2971.03 of the Revised Code. 6977

(4) In addition, the offender may be fined an amount fixed 6978
by the court, but not more than fifteen thousand dollars. 6979

(C) The court shall not impose a fine or fines for 6980
aggravated murder ~~or~~, murder, aggravated abortion murder, or 6981
abortion murder, which, in the aggregate and to the extent not 6982
suspended by the court, exceeds the amount which the offender is 6983
or will be able to pay by the method and within the time allowed 6984
without undue hardship to the offender or to the dependents of 6985
the offender, or will prevent the offender from making 6986
reparation for the victim's wrongful death. 6987

(D) (1) In addition to any other sanctions imposed for a 6988
violation of section 2903.01 or 2903.02 of the Revised Code, if 6989
the offender used a motor vehicle as the means to commit the 6990
violation, the court shall impose upon the offender a class two 6991
suspension of the offender's driver's license, commercial 6992
driver's license, temporary instruction permit, probationary 6993
license, or nonresident operating privilege as specified in 6994
division (A) (2) of section 4510.02 of the Revised Code. 6995

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

Sec. 2929.021. (A) If an indictment or a count in an indictment charges the defendant with either aggravated murder or aggravated abortion murder and contains one or more specifications of aggravating circumstances listed in division (A) of section 2929.04 of the Revised Code, the clerk of the court in which the indictment is filed, within fifteen days after the day on which it is filed, shall file a notice with the supreme court indicating that the indictment was filed. The notice shall be in the form prescribed by the clerk of the supreme court and shall contain, for each charge of aggravated murder or abortion murder, with a specification, at least the following information pertaining to the charge:

(1) The name of the person charged in the indictment or count in the indictment with either aggravated murder or aggravated abortion murder with a specification;

(2) The docket number or numbers of the case or cases arising out of the charge, if available;

(3) The court in which the case or cases will be heard;

(4) The date on which the indictment was filed.

(B) If an indictment or a count in an indictment charges the defendant with either aggravated murder or aggravated abortion murder and contains one or more specifications of aggravating circumstances listed in division (A) of section 2929.04 of the Revised Code and if the defendant pleads guilty or no contest to any offense in the case or if the indictment or any count in the indictment is dismissed, the clerk of the court

in which the plea is entered or the indictment or count is 7025
dismissed shall file a notice with the supreme court indicating 7026
what action was taken in the case. The notice shall be filed 7027
within fifteen days after the plea is entered or the indictment 7028
or count is dismissed, shall be in the form prescribed by the 7029
clerk of the supreme court, and shall contain at least the 7030
following information: 7031

(1) The name of the person who entered the guilty or no 7032
contest plea or who is named in the indictment or count that is 7033
dismissed; 7034

(2) The docket numbers of the cases in which the guilty or 7035
no contest plea is entered or in which the indictment or count 7036
is dismissed; 7037

(3) The sentence imposed on the offender in each case. 7038

Sec. 2929.022. (A) If an indictment or count in an 7039
indictment charging a defendant with aggravated murder or 7040
aggravated abortion murder contains a specification of the 7041
aggravating circumstance of a prior conviction listed in 7042
division (A) (5) of section 2929.04 of the Revised Code, the 7043
defendant may elect to have the panel of three judges, if the 7044
defendant waives trial by jury, or the trial judge, if the 7045
defendant is tried by jury, determine the existence of that 7046
aggravating circumstance at the sentencing hearing held pursuant 7047
to divisions (C) and (D) of section 2929.03 of the Revised Code. 7048

(1) If the defendant does not elect to have the existence 7049
of the aggravating circumstance determined at the sentencing 7050
hearing, the defendant shall be tried on the charge of 7051
aggravated murder or aggravated abortion murder, as applicable, 7052
on the specification of the aggravating circumstance of a prior 7053

conviction listed in division (A) (5) of section 2929.04 of the Revised Code, and on any other specifications of an aggravating circumstance listed in division (A) of section 2929.04 of the Revised Code in a single trial as in any other criminal case in which a person is charged with either aggravated murder or aggravated abortion murder and specifications.

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

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

(b) If the offender raises the matter of age at trial pursuant to section 2929.023 of the Revised Code and is not found at trial to have been eighteen years of age or older at the time of the commission of the offense, conduct a hearing to determine if the specification of the aggravating circumstance of a prior conviction listed in division (A) (5) of section 2929.04 of the Revised Code is proven beyond a reasonable doubt. After conducting the hearing, the panel or judge shall proceed as follows:

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

(ii) If that aggravating circumstance is not proven beyond 7084
a reasonable doubt and the defendant at trial was not convicted 7085
of any other specification of an aggravating circumstance, 7086
except as otherwise provided in this division, the panel or 7087
judge shall impose sentence of life imprisonment with parole 7088
eligibility after serving twenty years of imprisonment on the 7089
offender. If that aggravating circumstance is not proven beyond 7090
a reasonable doubt, the defendant at trial was not convicted of 7091
any other specification of an aggravating circumstance, the 7092
victim ~~of the aggravated murder~~ was less than thirteen years of 7093
age, and the offender also is convicted of or pleads guilty to a 7094
sexual motivation specification that was included in the 7095
indictment, count in the indictment, or information charging the 7096
offense, the panel or judge shall sentence the offender pursuant 7097
to division (B) (3) of section 2971.03 of the Revised Code to an 7098
indefinite term consisting of a minimum term of thirty years and 7099
a maximum term of life imprisonment. 7100

(B) At the sentencing hearing, the panel of judges, if the 7101
defendant was tried by a panel of three judges, or the trial 7102
judge, if the defendant was tried by jury, shall, when required 7103
pursuant to division (A) (2) of this section, first determine if 7104
the specification of the aggravating circumstance of a prior 7105
conviction listed in division (A) (5) of section 2929.04 of the 7106
Revised Code is proven beyond a reasonable doubt. If the panel 7107
of judges or the trial judge determines that the specification 7108
of the aggravating circumstance of a prior conviction listed in 7109
division (A) (5) of section 2929.04 of the Revised Code is proven 7110
beyond a reasonable doubt or if they do not determine that the 7111
specification is proven beyond a reasonable doubt but the 7112
defendant at trial was convicted of a specification of any other 7113
aggravating circumstance listed in division (A) of section 7114

2929.04 of the Revised Code, the panel of judges or the trial judge and trial jury shall impose sentence on the offender pursuant to division (D) of section 2929.03 and section 2929.04 of the Revised Code. If the panel of judges or the trial judge does not determine that the specification of the aggravating circumstance of a prior conviction listed in division (A) (5) of section 2929.04 of the Revised Code is proven beyond a reasonable doubt and the defendant at trial was not convicted of any other specification of an aggravating circumstance listed in division (A) of section 2929.04 of the Revised Code, the panel of judges or the trial judge shall terminate the sentencing hearing and impose sentence on the offender as follows:

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

(2) If the victim ~~of the aggravated murder~~ was less than thirteen years of age and the offender 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 the offense, the panel or judge shall sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code to an indefinite term consisting of a minimum term of thirty years and a maximum term of life imprisonment.

Sec. 2929.023. A person charged with aggravated murder or aggravated abortion murder, and one or more specifications of an aggravating circumstance, may, at trial, raise the matter of ~~his~~ the defendant's age at the time of the alleged commission of the offense and may present evidence at trial that ~~he~~ the defendant

was not eighteen years of age or older at the time of the 7145
alleged commission of the offense. The burdens of raising the 7146
matter of age, and of going forward with the evidence relating 7147
to the matter of age, are upon the defendant. After a defendant 7148
has raised the matter of age at trial, the prosecution shall 7149
have the burden of proving, by proof beyond a reasonable doubt, 7150
that the defendant was eighteen years of age or older at the 7151
time of the alleged commission of the offense. 7152

Sec. 2929.024. If the court determines that the defendant 7153
is indigent and that investigation services, experts, or other 7154
services are reasonably necessary for the proper representation 7155
of a defendant charged with aggravated murder or aggravated 7156
abortion murder, at trial or at the sentencing hearing, the 7157
court shall authorize the defendant's counsel to obtain the 7158
necessary services for the defendant, and shall order that 7159
payment of the fees and expenses for the necessary services be 7160
made in the same manner that payment for appointed counsel is 7161
made pursuant to Chapter 120. of the Revised Code. If the court 7162
determines that the necessary services had to be obtained prior 7163
to court authorization for payment of the fees and expenses for 7164
the necessary services, the court may, after the services have 7165
been obtained, authorize the defendant's counsel to obtain the 7166
necessary services and order that payment of the fees and 7167
expenses for the necessary services be made as provided in this 7168
section. 7169

Sec. 2929.03. (A) If the indictment or count in the 7170
indictment charging aggravated murder or aggravated abortion 7171
murder does not contain one or more specifications of 7172
aggravating circumstances listed in division (A) of section 7173
2929.04 of the Revised Code, then, following a verdict of guilty 7174
of the charge of aggravated murder or aggravated abortion 7175

murder, the trial court shall impose sentence on the offender as follows: 7176
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(1) Except as provided in division (A) (2) of this section, the trial court shall impose one of the following sentences on the offender: 7178
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(a) Life imprisonment without parole; 7181

(b) Subject to division (A) (1) (e) of this section, life imprisonment with parole eligibility after serving twenty years of imprisonment; 7182
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(c) Subject to division (A) (1) (e) of this section, life imprisonment with parole eligibility after serving twenty-five full years of imprisonment; 7185
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(d) Subject to division (A) (1) (e) of this section, life imprisonment with parole eligibility after serving thirty full years of imprisonment; 7188
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(e) If the victim ~~of the aggravated murder~~ was less than thirteen years of age, the offender 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 the offense, and the trial court does not impose a sentence of life imprisonment without parole on the offender pursuant to division (A) (1) (a) of this section, the trial court shall sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code to an indefinite term consisting of a minimum term of thirty years and a maximum term of life imprisonment that shall be served pursuant to that section. 7191
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(2) If the offender also is convicted of or pleads guilty to a sexual motivation specification and a sexually violent 7203
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predator specification that are included in the indictment, 7205
count in the indictment, or information that charged the 7206
aggravated murder or aggravated abortion murder, the trial court 7207
shall impose upon the offender a sentence of life imprisonment 7208
without parole that shall be served pursuant to section 2971.03 7209
of the Revised Code. 7210

(B) If the indictment or count in the indictment charging 7211
aggravated murder or aggravated abortion murder contains one or 7212
more specifications of aggravating circumstances listed in 7213
division (A) of section 2929.04 of the Revised Code, the verdict 7214
shall separately state whether the accused is found guilty or 7215
not guilty of the principal charge and, if guilty of the 7216
principal charge, whether the offender was eighteen years of age 7217
or older at the time of the commission of the offense, if the 7218
matter of age was raised by the offender pursuant to section 7219
2929.023 of the Revised Code, and whether the offender is guilty 7220
or not guilty of each specification. The jury shall be 7221
instructed on its duties in this regard. The instruction to the 7222
jury shall include an instruction that a specification shall be 7223
proved beyond a reasonable doubt in order to support a guilty 7224
verdict on the specification, but the instruction shall not 7225
mention the penalty that may be the consequence of a guilty or 7226
not guilty verdict on any charge or specification. 7227

(C) (1) If the indictment or count in the indictment 7228
charging aggravated murder or aggravated abortion murder 7229
contains one or more specifications of aggravating circumstances 7230
listed in division (A) of section 2929.04 of the Revised Code, 7231
then, following a verdict of guilty of the charge but not guilty 7232
of each of the specifications, and regardless of whether the 7233
offender raised the matter of age pursuant to section 2929.023 7234
of the Revised Code, the trial court shall impose sentence on 7235

the offender as follows: 7236

(a) Except as provided in division (C) (1) (b) of this 7237
section, the trial court shall impose one of the following 7238
sentences on the offender: 7239

(i) Life imprisonment without parole; 7240

(ii) Subject to division (C) (1) (a) (v) of this section, 7241
life imprisonment with parole eligibility after serving twenty 7242
years of imprisonment; 7243

(iii) Subject to division (C) (1) (a) (v) of this section, 7244
life imprisonment with parole eligibility after serving twenty- 7245
five full years of imprisonment; 7246

(iv) Subject to division (C) (1) (a) (v) of this section, 7247
life imprisonment with parole eligibility after serving thirty 7248
full years of imprisonment; 7249

(v) If the victim ~~of the aggravated murder~~ was less than 7250
thirteen years of age, the offender also is convicted of or 7251
pleads guilty to a sexual motivation specification that was 7252
included in the indictment, count in the indictment, or 7253
information charging the offense, and the trial court does not 7254
impose a sentence of life imprisonment without parole on the 7255
offender pursuant to division (C) (1) (a) (i) of this section, the 7256
trial court shall sentence the offender pursuant to division (B) 7257
(3) of section 2971.03 of the Revised Code to an indefinite term 7258
consisting of a minimum term of thirty years and a maximum term 7259
of life imprisonment. 7260

(b) If the offender also is convicted of or pleads guilty 7261
to a sexual motivation specification and a sexually violent 7262
predator specification that are included in the indictment, 7263
count in the indictment, or information that charged the 7264

aggravated murder ~~or aggravated abortion murder~~, the trial court 7265
shall impose upon the offender a sentence of life imprisonment 7266
without parole that shall be served pursuant to section 2971.03 7267
of the Revised Code. 7268

(2) (a) If the indictment or count in the indictment 7269
contains one or more specifications of aggravating circumstances 7270
listed in division (A) of section 2929.04 of the Revised Code 7271
and if the offender is found guilty of both the charge and one 7272
or more of the specifications, the penalty to be imposed on the 7273
offender shall be one of the following: 7274

(i) Except as provided in division (C) (2) (a) (ii) or (iii) 7275
of this section, the penalty to be imposed on the offender shall 7276
be death, life imprisonment without parole, life imprisonment 7277
with parole eligibility after serving twenty-five full years of 7278
imprisonment, or life imprisonment with parole eligibility after 7279
serving thirty full years of imprisonment. 7280

(ii) Except as provided in division (C) (2) (a) (iii) of this 7281
section, if the victim ~~of the aggravated murder~~ was less than 7282
thirteen years of age, the offender also is convicted of or 7283
pleads guilty to a sexual motivation specification that was 7284
included in the indictment, count in the indictment, or 7285
information charging the offense, and the trial court does not 7286
impose a sentence of death or life imprisonment without parole 7287
on the offender pursuant to division (C) (2) (a) (i) of this 7288
section, the penalty to be imposed on the offender shall be an 7289
indefinite term consisting of a minimum term of thirty years and 7290
a maximum term of life imprisonment that shall be imposed 7291
pursuant to division (B) (3) of section 2971.03 of the Revised 7292
Code and served pursuant to that section. 7293

(iii) If the offender also is convicted of or pleads 7294

guilty to a sexual motivation specification and a sexually 7295
violent predator specification that are included in the 7296
indictment, count in the indictment, or information that charged 7297
the aggravated murder or aggravated abortion murder, the penalty 7298
to be imposed on the offender shall be death or life 7299
imprisonment without parole that shall be served pursuant to 7300
section 2971.03 of the Revised Code. 7301

(b) A penalty imposed pursuant to division (C) (2) (a) (i), 7302
(ii), or (iii) of this section shall be determined pursuant to 7303
divisions (D) and (E) of this section and shall be determined by 7304
one of the following: 7305

(i) By the panel of three judges that tried the offender 7306
upon the offender's waiver of the right to trial by jury; 7307

(ii) By the trial jury and the trial judge, if the 7308
offender was tried by jury. 7309

(D) (1) Death may not be imposed as a penalty for 7310
aggravated murder or aggravated abortion murder if the offender 7311
raised the matter of age at trial pursuant to section 2929.023 7312
of the Revised Code and was not found at trial to have been 7313
eighteen years of age or older at the time of the commission of 7314
the offense. When death may be imposed as a penalty for 7315
aggravated murder or aggravated abortion murder, the court shall 7316
proceed under this division. When death may be imposed as a 7317
penalty, the court, upon the request of the defendant, shall 7318
require a pre-sentence investigation to be made and, upon the 7319
request of the defendant, shall require a mental examination to 7320
be made, and shall require reports of the investigation and of 7321
any mental examination submitted to the court, pursuant to 7322
section 2947.06 of the Revised Code. No statement made or 7323
information provided by a defendant in a mental examination or 7324

proceeding conducted pursuant to this division shall be 7325
disclosed to any person, except as provided in this division, or 7326
be used in evidence against the defendant on the issue of guilt 7327
in any retrial. A pre-sentence investigation or mental 7328
examination shall not be made except upon request of the 7329
defendant. Copies of any reports prepared under this division 7330
shall be furnished to the court, to the trial jury if the 7331
offender was tried by a jury, to the prosecutor, and to the 7332
offender or the offender's counsel for use under this division. 7333
The court, and the trial jury if the offender was tried by a 7334
jury, shall consider any report prepared pursuant to this 7335
division and furnished to it and any evidence raised at trial 7336
that is relevant to the aggravating circumstances the offender 7337
was found guilty of committing or to any factors in mitigation 7338
of the imposition of the sentence of death, shall hear testimony 7339
and other evidence that is relevant to the nature and 7340
circumstances of the aggravating circumstances the offender was 7341
found guilty of committing, the mitigating factors set forth in 7342
division (B) of section 2929.04 of the Revised Code, and any 7343
other factors in mitigation of the imposition of the sentence of 7344
death, and shall hear the statement, if any, of the offender, 7345
and the arguments, if any, of counsel for the defense and 7346
prosecution, that are relevant to the penalty that should be 7347
imposed on the offender. The defendant shall be given great 7348
latitude in the presentation of evidence of the mitigating 7349
factors set forth in division (B) of section 2929.04 of the 7350
Revised Code and of any other factors in mitigation of the 7351
imposition of the sentence of death. If the offender chooses to 7352
make a statement, the offender is subject to cross-examination 7353
only if the offender consents to make the statement under oath 7354
or affirmation. 7355

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

(2) 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 pursuant to division (D)(1) of this section, the trial jury, if the offender was tried by a jury, shall determine whether the aggravating circumstances the offender was found guilty of committing are sufficient to outweigh the mitigating factors present in the case. If the trial jury unanimously finds, by proof beyond a reasonable doubt, that the aggravating circumstances the offender was found guilty of committing outweigh the mitigating factors, the trial jury shall recommend to the court that the sentence of death be imposed on the offender. Absent such a finding, the jury shall recommend that the offender be sentenced to one of the following:

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

(b) Except as provided in division (D)(2)(c) of this section, if the victim ~~of the aggravated murder~~ was less than thirteen years of age, the offender also is convicted of or pleads guilty to a sexual motivation specification that was

included in the indictment, count in the indictment, or 7386
information charging the offense, and the jury does not 7387
recommend a sentence of life imprisonment without parole 7388
pursuant to division (D) (2) (a) of this section, to an indefinite 7389
term consisting of a minimum term of thirty years and a maximum 7390
term of life imprisonment to be imposed pursuant to division (B) 7391
(3) of section 2971.03 of the Revised Code and served pursuant 7392
to that section. 7393

(c) If the offender also is convicted of or pleads guilty 7394
to a sexual motivation specification and a sexually violent 7395
predator specification that are included in the indictment, 7396
count in the indictment, or information that charged the 7397
aggravated murder or aggravated abortion murder, to life 7398
imprisonment without parole. 7399

If the trial jury recommends that the offender be 7400
sentenced to life imprisonment without parole, life imprisonment 7401
with parole eligibility after serving twenty-five full years of 7402
imprisonment, life imprisonment with parole eligibility after 7403
serving thirty full years of imprisonment, or an indefinite term 7404
consisting of a minimum term of thirty years and a maximum term 7405
of life imprisonment to be imposed pursuant to division (B) (3) 7406
of section 2971.03 of the Revised Code, the court shall impose 7407
the sentence recommended by the jury upon the offender. If the 7408
sentence is an indefinite term consisting of a minimum term of 7409
thirty years and a maximum term of life imprisonment imposed as 7410
described in division (D) (2) (b) of this section or a sentence of 7411
life imprisonment without parole imposed under division (D) (2) 7412
(c) of this section, the sentence shall be served pursuant to 7413
section 2971.03 of the Revised Code. If the trial jury 7414
recommends that the sentence of death be imposed upon the 7415
offender, the court shall proceed to impose sentence pursuant to 7416

division (D) (3) of this section. 7417

(3) Upon consideration of the relevant evidence raised at 7418
trial, the testimony, other evidence, statement of the offender, 7419
arguments of counsel, and, if applicable, the reports submitted 7420
to the court pursuant to division (D) (1) of this section, if, 7421
after receiving pursuant to division (D) (2) of this section the 7422
trial jury's recommendation that the sentence of death be 7423
imposed, the court finds, by proof beyond a reasonable doubt, or 7424
if the panel of three judges unanimously finds, by proof beyond 7425
a reasonable doubt, that the aggravating circumstances the 7426
offender was found guilty of committing outweigh the mitigating 7427
factors, it shall impose sentence of death on the offender. 7428
Absent such a finding by the court or panel, the court or the 7429
panel shall impose one of the following sentences on the 7430
offender: 7431

(a) Except as provided in division (D) (3) (b) of this 7432
section, one of the following: 7433

(i) Life imprisonment without parole; 7434

(ii) Subject to division (D) (3) (a) (iv) of this section, 7435
life imprisonment with parole eligibility after serving twenty- 7436
five full years of imprisonment; 7437

(iii) Subject to division (D) (3) (a) (iv) of this section, 7438
life imprisonment with parole eligibility after serving thirty 7439
full years of imprisonment; 7440

(iv) If the victim ~~of the aggravated murder~~ was less than 7441
thirteen years of age, the offender also is convicted of or 7442
pleads guilty to a sexual motivation specification that was 7443
included in the indictment, count in the indictment, or 7444
information charging the offense, and the trial court does not 7445

impose a sentence of life imprisonment without parole on the 7446
offender pursuant to division (D) (3) (a) (i) of this section, the 7447
court or panel shall sentence the offender pursuant to division 7448
(B) (3) of section 2971.03 of the Revised Code to an indefinite 7449
term consisting of a minimum term of thirty years and a maximum 7450
term of life imprisonment. 7451

(b) If the offender also is convicted of or pleads guilty 7452
to a sexual motivation specification and a sexually violent 7453
predator specification that are included in the indictment, 7454
count in the indictment, or information that charged the 7455
aggravated murder or aggravated abortion murder, life 7456
imprisonment without parole that shall be served pursuant to 7457
section 2971.03 of the Revised Code. 7458

(E) If the offender raised the matter of age at trial 7459
pursuant to section 2929.023 of the Revised Code, was convicted 7460
of either aggravated murder or aggravated abortion murder and 7461
one or more specifications of an aggravating circumstance listed 7462
in division (A) of section 2929.04 of the Revised Code, and was 7463
not found at trial to have been eighteen years of age or older 7464
at the time of the commission of the offense, the court or the 7465
panel of three judges shall not impose a sentence of death on 7466
the offender. Instead, the court or panel shall impose one of 7467
the following sentences on the offender: 7468

(1) Except as provided in division (E) (2) of this section, 7469
one of the following: 7470

(a) Life imprisonment without parole; 7471

(b) Subject to division (E) (2) (d) of this section, life 7472
imprisonment with parole eligibility after serving twenty-five 7473
full years of imprisonment; 7474

(c) Subject to division (E) (2) (d) of this section, life imprisonment with parole eligibility after serving thirty full years of imprisonment;

(d) If the victim ~~of the aggravated murder~~ was less than thirteen years of age, the offender 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 the offense, and the trial court does not impose a sentence of life imprisonment without parole on the offender pursuant to division (E) (2) (a) of this section, the court or panel shall sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code to an indefinite term consisting of a minimum term of thirty years and a maximum term of life imprisonment.

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

(F) The court or the panel of three judges, when it imposes sentence of death, shall state in a separate opinion its specific findings as to the existence of any of the mitigating factors set forth in division (B) of section 2929.04 of the Revised Code, the existence of any other mitigating factors, the aggravating circumstances the offender was found guilty of committing, and the reasons why the aggravating circumstances the offender was found guilty of committing were sufficient to outweigh the mitigating factors. The court or panel, when it

imposes life imprisonment or an indefinite term consisting of a 7505
minimum term of thirty years and a maximum term of life 7506
imprisonment under division (D) of this section, shall state in 7507
a separate opinion its specific findings of which of the 7508
mitigating factors set forth in division (B) of section 2929.04 7509
of the Revised Code it found to exist, what other mitigating 7510
factors it found to exist, what aggravating circumstances the 7511
offender was found guilty of committing, and why it could not 7512
find that these aggravating circumstances were sufficient to 7513
outweigh the mitigating factors. For cases in which a sentence 7514
of death is imposed for an offense committed before January 1, 7515
1995, the court or panel shall file the opinion required to be 7516
prepared by this division with the clerk of the appropriate 7517
court of appeals and with the clerk of the supreme court within 7518
fifteen days after the court or panel imposes sentence. For 7519
cases in which a sentence of death is imposed for an offense 7520
committed on or after January 1, 1995, the court or panel shall 7521
file the opinion required to be prepared by this division with 7522
the clerk of the supreme court within fifteen days after the 7523
court or panel imposes sentence. The judgment in a case in which 7524
a sentencing hearing is held pursuant to this section is not 7525
final until the opinion is filed. 7526

(G) (1) Whenever the court or a panel of three judges 7527
imposes a sentence of death for an offense committed before 7528
January 1, 1995, the clerk of the court in which the judgment is 7529
rendered shall make and retain a copy of the entire record in 7530
the case, and shall deliver the original of the entire record in 7531
the case to the appellate court. 7532

(2) Whenever the court or a panel of three judges imposes 7533
a sentence of death for an offense committed on or after January 7534
1, 1995, the clerk of the court in which the judgment is 7535

rendered shall make and retain a copy of the entire record in 7536
the case, and shall deliver the original of the entire record in 7537
the case to the supreme court. 7538

Sec. 2929.04. (A) Imposition of the death penalty for 7539
aggravated murder or aggravated abortion murder is precluded 7540
unless one or more of the following is specified in the 7541
indictment or count in the indictment pursuant to section 7542
2941.14 of the Revised Code and proved beyond a reasonable 7543
doubt: 7544

(1) The offense was the assassination of the president of 7545
the United States or a person in line of succession to the 7546
presidency, the governor or lieutenant governor of this state, 7547
the president-elect or vice president-elect of the United 7548
States, the governor-elect or lieutenant governor-elect of this 7549
state, or a candidate for any of the offices described in this 7550
division. For purposes of this division, a person is a candidate 7551
if the person has been nominated for election according to law, 7552
if the person has filed a petition or petitions according to law 7553
to have the person's name placed on the ballot in a primary or 7554
general election, or if the person campaigns as a write-in 7555
candidate in a primary or general election. 7556

(2) The offense was committed for hire. 7557

(3) The offense was committed for the purpose of escaping 7558
detection, apprehension, trial, or punishment for another 7559
offense committed by the offender. 7560

(4) The offense was committed while the offender was under 7561
detention or while the offender was at large after having broken 7562
detention. As used in division (A)(4) of this section, 7563
"detention" has the same meaning as in section 2921.01 of the 7564

Revised Code, except that detention does not include 7565
hospitalization, institutionalization, or confinement in a 7566
mental health facility or intellectual disabilities facility 7567
unless at the time of the commission of the offense either of 7568
the following circumstances apply: 7569

(a) The offender was in the facility as a result of being 7570
charged with a violation of a section of the Revised Code. 7571

(b) The offender was under detention as a result of being 7572
convicted of or pleading guilty to a violation of a section of 7573
the Revised Code. 7574

(5) Prior to the offense at bar, the offender was 7575
convicted of an offense an essential element of which was the 7576
purposeful killing of or attempt to kill another, or the offense 7577
at bar was part of a course of conduct involving the purposeful 7578
killing of or attempt to kill two or more persons by the 7579
offender. 7580

(6) The victim of the offense was a law enforcement 7581
officer, as defined in section 2911.01 of the Revised Code, whom 7582
the offender had reasonable cause to know or knew to be a law 7583
enforcement officer as so defined, and either the victim, at the 7584
time of the commission of the offense, was engaged in the 7585
victim's duties, or it was the offender's specific purpose to 7586
kill a law enforcement officer as so defined. 7587

(7) The offense was committed while the offender was 7588
committing, attempting to commit, or fleeing immediately after 7589
committing or attempting to commit kidnapping, rape, aggravated 7590
arson, aggravated robbery, or aggravated burglary, and either 7591
the offender was the principal offender in the commission of the 7592
aggravated murder or aggravated abortion murder or, if not the 7593

principal offender, committed either the aggravated murder or 7594
aggravated abortion murder with prior calculation and design. 7595

(8) The victim of the aggravated murder was a witness to 7596
an offense who was purposely killed to prevent the victim's 7597
testimony in any criminal proceeding and the aggravated murder 7598
was not committed during the commission, attempted commission, 7599
or flight immediately after the commission or attempted 7600
commission of the offense to which the victim was a witness, or 7601
the victim of the aggravated murder was a witness to an offense 7602
and was purposely killed in retaliation for the victim's 7603
testimony in any criminal proceeding. 7604

(9) The offender, in the commission of the offense, 7605
purposefully caused the death of another who was under thirteen 7606
years of age at the time of the commission of the offense, and 7607
either the offender was the principal offender in the commission 7608
of the offense or, if not the principal offender, committed the 7609
offense with prior calculation and design. 7610

(10) The offense was committed while the offender was 7611
committing, attempting to commit, or fleeing immediately after 7612
committing or attempting to commit terrorism. 7613

(B) If one or more of the aggravating circumstances listed 7614
in division (A) of this section is specified in the indictment 7615
or count in the indictment and proved beyond a reasonable doubt, 7616
and if the offender did not raise the matter of age pursuant to 7617
section 2929.023 of the Revised Code or if the offender, after 7618
raising the matter of age, was found at trial to have been 7619
eighteen years of age or older at the time of the commission of 7620
the offense, the court, trial jury, or panel of three judges 7621
shall consider, and weigh against the aggravating circumstances 7622
proved beyond a reasonable doubt, the nature and circumstances 7623

of the offense, the history, character, and background of the 7624
offender, and all of the following factors: 7625

(1) Whether the victim of the offense induced or 7626
facilitated it; 7627

(2) Whether it is unlikely that the offense would have 7628
been committed, but for the fact that the offender was under 7629
duress, coercion, or strong provocation; 7630

(3) Whether, at the time of committing the offense, the 7631
offender, because of a mental disease or defect, lacked 7632
substantial capacity to appreciate the criminality of the 7633
offender's conduct or to conform the offender's conduct to the 7634
requirements of the law; 7635

(4) The youth of the offender; 7636

(5) The offender's lack of a significant history of prior 7637
criminal convictions and delinquency adjudications; 7638

(6) If the offender was a participant in the offense but 7639
not the principal offender, the degree of the offender's 7640
participation in the offense and the degree of the offender's 7641
participation in the acts that led to the death of the victim; 7642

(7) Any other factors that are relevant to the issue of 7643
whether the offender should be sentenced to death. 7644

(C) The defendant shall be given great latitude in the 7645
presentation of evidence of the factors listed in division (B) 7646
of this section and of any other factors in mitigation of the 7647
imposition of the sentence of death. 7648

The existence of any of the mitigating factors listed in 7649
division (B) of this section does not preclude the imposition of 7650
a sentence of death on the offender but shall be weighed 7651

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. 2929.05. (A) Whenever sentence of death is imposed pursuant to sections 2929.03 and 2929.04 of the Revised Code, the court of appeals, in a case in which a sentence of death was imposed for an offense committed before January 1, 1995, and the supreme court shall review upon appeal the sentence of death at the same time that they review the other issues in the case. The court of appeals and the supreme court shall review the judgment in the case and the sentence of death imposed by the court or panel of three judges in the same manner that they review other criminal cases, except that they shall review and independently weigh all of the facts and other evidence disclosed in the record in the case and consider the offense and the offender to determine whether the aggravating circumstances the offender was found guilty of committing outweigh the mitigating factors in the case, and whether the sentence of death is appropriate. In determining whether the sentence of death is appropriate, the court of appeals, in a case in which a sentence of death was imposed for an offense committed before January 1, 1995, and the supreme court shall consider whether the sentence is excessive or disproportionate to the penalty imposed in similar cases. They also shall review all of the facts and other evidence to determine if the evidence supports the finding of the aggravating circumstances the trial jury or the panel of three judges found the offender guilty of committing, and shall determine whether the sentencing court properly weighed the aggravating circumstances the offender was found guilty of committing and the mitigating factors. The court of appeals, in

a case in which a sentence of death was imposed for an offense 7683
committed before January 1, 1995, or the supreme court shall 7684
affirm a sentence of death only if the particular court is 7685
persuaded from the record that the aggravating circumstances the 7686
offender was found guilty of committing outweigh the mitigating 7687
factors present in the case and that the sentence of death is 7688
the appropriate sentence in the case. 7689

A court of appeals that reviews a case in which the 7690
sentence of death is imposed for an offense committed before 7691
January 1, 1995, shall file a separate opinion as to its 7692
findings in the case with the clerk of the supreme court. The 7693
opinion shall be filed within fifteen days after the court 7694
issues its opinion and shall contain whatever information is 7695
required by the clerk of the supreme court. 7696

(B) The court of appeals, in a case in which a sentence of 7697
death was imposed for an offense committed before January 1, 7698
1995, and the supreme court shall give priority over all other 7699
cases to the review of judgments in which the sentence of death 7700
is imposed and, except as otherwise provided in this section, 7701
shall conduct the review in accordance with the Rules of 7702
Appellate Procedure. 7703

(C) At any time after a sentence of death is imposed 7704
pursuant to section 2929.022 or 2929.03 of the Revised Code, the 7705
court of common pleas that sentenced the offender shall vacate 7706
the sentence if the offender did not present evidence at trial 7707
that the offender was not eighteen years of age or older at the 7708
time of the commission of the aggravated murder or aggravated 7709
abortion murder for which the offender was sentenced and if the 7710
offender shows by a preponderance of the evidence that the 7711
offender was less than eighteen years of age at the time of the 7712

commission of the aggravated murder or aggravated abortion 7713
murder for which the offender was sentenced. The court is not 7714
required to hold a hearing on a motion filed pursuant to this 7715
division unless the court finds, based on the motion and any 7716
supporting information submitted by the defendant, any 7717
information submitted by the prosecuting attorney, and the 7718
record in the case, including any previous hearings and orders, 7719
probable cause to believe that the defendant was not eighteen 7720
years of age or older at the time of the commission of the 7721
aggravated murder or aggravated abortion murder for which the 7722
defendant was sentenced to death. 7723

Sec. 2929.06. (A) If a sentence of death imposed upon an 7724
offender is set aside, nullified, or vacated because the court 7725
of appeals, in a case in which a sentence of death was imposed 7726
for an offense committed before January 1, 1995, or the supreme 7727
court, in cases in which the supreme court reviews the sentence 7728
upon appeal, could not affirm the sentence of death under the 7729
standards imposed by section 2929.05 of the Revised Code, is set 7730
aside, nullified, or vacated for the sole reason that the 7731
statutory procedure for imposing the sentence of death that is 7732
set forth in sections 2929.03 and 2929.04 of the Revised Code is 7733
unconstitutional, is set aside, nullified, or vacated pursuant 7734
to division (C) of section 2929.05 of the Revised Code, or is 7735
set aside, nullified, or vacated because a court has determined 7736
that the offender is a person with an intellectual disability 7737
under standards set forth in decisions of the supreme court of 7738
this state or the United States supreme court, the trial court 7739
that sentenced the offender shall conduct a hearing to 7740
resentence the offender. At the resentencing hearing, the court 7741
shall impose upon the offender a sentence of life imprisonment 7742
or an indefinite term consisting of a minimum term of thirty 7743

years and a maximum term of life imprisonment that is determined 7744
as specified in this division. If division (D) of section 7745
2929.03 of the Revised Code, at the time the offender committed 7746
the aggravated murder or aggravated abortion murder for which 7747
the sentence of death was imposed, required the imposition when 7748
a sentence of death was not imposed of a sentence of life 7749
imprisonment without parole or a sentence of an indefinite term 7750
consisting of a minimum term of thirty years and a maximum term 7751
of life imprisonment to be imposed pursuant to division (A) or 7752
(B) (3) of section 2971.03 of the Revised Code and served 7753
pursuant to that section, the court shall impose the sentence so 7754
required. In all other cases, the sentences of life imprisonment 7755
that are available at the hearing, and from which the court 7756
shall impose sentence, shall be the same sentences of life 7757
imprisonment that were available under division (D) of section 7758
2929.03 or under section 2909.24 of the Revised Code at the time 7759
the offender committed the offense for which the sentence of 7760
death was imposed. Nothing in this division regarding the 7761
resentencing of an offender shall affect the operation of 7762
section 2971.03 of the Revised Code. 7763

(B) Whenever any court of this state or any federal court 7764
sets aside, nullifies, or vacates a sentence of death imposed 7765
upon an offender because of error that occurred in the 7766
sentencing phase of the trial and if division (A) of this 7767
section does not apply, the trial court that sentenced the 7768
offender shall conduct a new hearing to resentence the offender. 7769
If the offender was tried by a jury, the trial court shall 7770
impanel a new jury for the hearing. If the offender was tried by 7771
a panel of three judges, that panel or, if necessary, a new 7772
panel of three judges shall conduct the hearing. At the hearing, 7773
the court or panel shall follow the procedure set forth in 7774

division (D) of section 2929.03 of the Revised Code in 7775
determining whether to impose upon the offender a sentence of 7776
death, a sentence of life imprisonment, or an indefinite term 7777
consisting of a minimum term of thirty years and a maximum term 7778
of life imprisonment. If, pursuant to that procedure, the court 7779
or panel determines that it will impose a sentence other than a 7780
sentence of death, the court or panel shall impose upon the 7781
offender one of the sentences of life imprisonment that could 7782
have been imposed at the time the offender committed the offense 7783
for which the sentence of death was imposed, determined as 7784
specified in this division, or an indefinite term consisting of 7785
a minimum term of thirty years and a maximum term of life 7786
imprisonment that is determined as specified in this division. 7787
If division (D) of section 2929.03 of the Revised Code, at the 7788
time the offender committed the aggravated murder or aggravated 7789
abortion murder for which the sentence of death was imposed, 7790
required the imposition when a sentence of death was not imposed 7791
of a sentence of life imprisonment without parole or a sentence 7792
of an indefinite term consisting of a minimum term of thirty 7793
years and a maximum term of life imprisonment to be imposed 7794
pursuant to division (A) or (B) (3) of section 2971.03 of the 7795
Revised Code and served pursuant to that section, the court or 7796
panel shall impose the sentence so required. In all other cases, 7797
the sentences of life imprisonment that are available at the 7798
hearing, and from which the court or panel shall impose 7799
sentence, shall be the same sentences of life imprisonment that 7800
were available under division (D) of section 2929.03 or under 7801
section 2909.24 of the Revised Code at the time the offender 7802
committed the offense for which the sentence of death was 7803
imposed. 7804

(C) If a sentence of life imprisonment without parole 7805

imposed upon an offender pursuant to section 2929.021 or 2929.03 7806
of the Revised Code is set aside, nullified, or vacated for the 7807
sole reason that the statutory procedure for imposing the 7808
sentence of life imprisonment without parole that is set forth 7809
in sections 2929.03 and 2929.04 of the Revised Code is 7810
unconstitutional, the trial court that sentenced the offender 7811
shall conduct a hearing to resentence the offender to life 7812
imprisonment with parole eligibility after serving twenty-five 7813
full years of imprisonment or to life imprisonment with parole 7814
eligibility after serving thirty full years of imprisonment. 7815

(D) Nothing in this section limits or restricts the rights 7816
of the state to appeal any order setting aside, nullifying, or 7817
vacating a conviction or sentence of death, when an appeal of 7818
that nature otherwise would be available. 7819

(E) This section, as amended by H.B. 184 of the 125th 7820
general assembly, shall apply to all offenders who have been 7821
sentenced to death for an aggravated murder that was committed 7822
on or after October 19, 1981, or for terrorism that was 7823
committed on or after May 15, 2002. This section, as amended by 7824
H.B. 184 of the 125th general assembly, shall apply equally to 7825
all such offenders sentenced to death prior to, on, or after 7826
March 23, 2005, including offenders who, on March 23, 2005, are 7827
challenging their sentence of death and offenders whose sentence 7828
of death has been set aside, nullified, or vacated by any court 7829
of this state or any federal court but who, as of March 23, 7830
2005, have not yet been resentenced. 7831

Sec. 2929.13. (A) Except as provided in division (E), (F), 7832
or (G) of this section and unless a specific sanction is 7833
required to be imposed or is precluded from being imposed 7834
pursuant to law, a court that imposes a sentence upon an 7835

offender for a felony may impose any sanction or combination of 7836
sanctions on the offender that are provided in sections 2929.14 7837
to 2929.18 of the Revised Code. 7838

If the offender is eligible to be sentenced to community 7839
control sanctions, the court shall consider the appropriateness 7840
of imposing a financial sanction pursuant to section 2929.18 of 7841
the Revised Code or a sanction of community service pursuant to 7842
section 2929.17 of the Revised Code as the sole sanction for the 7843
offense. Except as otherwise provided in this division, if the 7844
court is required to impose a mandatory prison term for the 7845
offense for which sentence is being imposed, the court also 7846
shall impose any financial sanction pursuant to section 2929.18 7847
of the Revised Code that is required for the offense and may 7848
impose any other financial sanction pursuant to that section but 7849
may not impose any additional sanction or combination of 7850
sanctions under section 2929.16 or 2929.17 of the Revised Code. 7851

If the offender is being sentenced for a fourth degree 7852
felony OVI offense or for a third degree felony OVI offense, in 7853
addition to the mandatory term of local incarceration or the 7854
mandatory prison term required for the offense by division (G) 7855
(1) or (2) of this section, the court shall impose upon the 7856
offender a mandatory fine in accordance with division (B) (3) of 7857
section 2929.18 of the Revised Code and may impose whichever of 7858
the following is applicable: 7859

(1) For a fourth degree felony OVI offense for which 7860
sentence is imposed under division (G) (1) of this section, an 7861
additional community control sanction or combination of 7862
community control sanctions under section 2929.16 or 2929.17 of 7863
the Revised Code. If the court imposes upon the offender a 7864
community control sanction and the offender violates any 7865

condition of the community control sanction, the court may take 7866
any action prescribed in division (B) of section 2929.15 of the 7867
Revised Code relative to the offender, including imposing a 7868
prison term on the offender pursuant to that division. 7869

(2) For a third or fourth degree felony OVI offense for 7870
which sentence is imposed under division (G)(2) of this section, 7871
an additional prison term as described in division (B)(4) of 7872
section 2929.14 of the Revised Code or a community control 7873
sanction as described in division (G)(2) of this section. 7874

(B)(1)(a) Except as provided in division (B)(1)(b) of this 7875
section, if an offender is convicted of or pleads guilty to a 7876
felony of the fourth or fifth degree that is not an offense of 7877
violence or that is a qualifying assault offense, the court 7878
shall sentence the offender to a community control sanction or 7879
combination of community control sanctions if all of the 7880
following apply: 7881

(i) The offender previously has not been convicted of or 7882
pleaded guilty to a felony offense. 7883

(ii) The most serious charge against the offender at the 7884
time of sentencing is a felony of the fourth or fifth degree. 7885

(iii) If the court made a request of the department of 7886
rehabilitation and correction pursuant to division (B)(1)(c) of 7887
this section, the department, within the forty-five-day period 7888
specified in that division, provided the court with the names 7889
of, contact information for, and program details of one or more 7890
community control sanctions that are available for persons 7891
sentenced by the court. 7892

(iv) The offender previously has not been convicted of or 7893
pleaded guilty to a misdemeanor offense of violence that the 7894

offender committed within two years prior to the offense for 7895
which sentence is being imposed. 7896

(b) The court has discretion to impose a prison term upon 7897
an offender who is convicted of or pleads guilty to a felony of 7898
the fourth or fifth degree that is not an offense of violence or 7899
that is a qualifying assault offense if any of the following 7900
apply: 7901

(i) The offender committed the offense while having a 7902
firearm on or about the offender's person or under the 7903
offender's control. 7904

(ii) If the offense is a qualifying assault offense, the 7905
offender caused serious physical harm to another person while 7906
committing the offense, and, if the offense is not a qualifying 7907
assault offense, the offender caused physical harm to another 7908
person while committing the offense. 7909

(iii) The offender violated a term of the conditions of 7910
bond as set by the court. 7911

(iv) The court made a request of the department of 7912
rehabilitation and correction pursuant to division (B) (1) (c) of 7913
this section, and the department, within the forty-five-day 7914
period specified in that division, did not provide the court 7915
with the name of, contact information for, and program details 7916
of any community control sanction that is available for persons 7917
sentenced by the court. 7918

(v) The offense is a sex offense that is a fourth or fifth 7919
degree felony violation of any provision of Chapter 2907. of the 7920
Revised Code. 7921

(vi) In committing the offense, the offender attempted to 7922
cause or made an actual threat of physical harm to a person with 7923

a deadly weapon. 7924

(vii) In committing the offense, the offender attempted to 7925
cause or made an actual threat of physical harm to a person, and 7926
the offender previously was convicted of an offense that caused 7927
physical harm to a person. 7928

(viii) The offender held a public office or position of 7929
trust, and the offense related to that office or position; the 7930
offender's position obliged the offender to prevent the offense 7931
or to bring those committing it to justice; or the offender's 7932
professional reputation or position facilitated the offense or 7933
was likely to influence the future conduct of others. 7934

(ix) The offender committed the offense for hire or as 7935
part of an organized criminal activity. 7936

(x) The offender at the time of the offense was serving, 7937
or the offender previously had served, a prison term. 7938

(xi) The offender committed the offense while under a 7939
community control sanction, while on probation, or while 7940
released from custody on a bond or personal recognizance. 7941

(c) If a court that is sentencing an offender who is 7942
convicted of or pleads guilty to a felony of the fourth or fifth 7943
degree that is not an offense of violence or that is a 7944
qualifying assault offense believes that no community control 7945
sanctions are available for its use that, if imposed on the 7946
offender, will adequately fulfill the overriding principles and 7947
purposes of sentencing, the court shall contact the department 7948
of rehabilitation and correction and ask the department to 7949
provide the court with the names of, contact information for, 7950
and program details of one or more community control sanctions 7951
that are available for persons sentenced by the court. Not later 7952

than forty-five days after receipt of a request from a court 7953
under this division, the department shall provide the court with 7954
the names of, contact information for, and program details of 7955
one or more community control sanctions that are available for 7956
persons sentenced by the court, if any. Upon making a request 7957
under this division that relates to a particular offender, a 7958
court shall defer sentencing of that offender until it receives 7959
from the department the names of, contact information for, and 7960
program details of one or more community control sanctions that 7961
are available for persons sentenced by the court or for forty- 7962
five days, whichever is the earlier. 7963

If the department provides the court with the names of, 7964
contact information for, and program details of one or more 7965
community control sanctions that are available for persons 7966
sentenced by the court within the forty-five-day period 7967
specified in this division, the court shall impose upon the 7968
offender a community control sanction under division (B) (1) (a) 7969
of this section, except that the court may impose a prison term 7970
under division (B) (1) (b) of this section if a factor described 7971
in division (B) (1) (b) (i) or (ii) of this section applies. If the 7972
department does not provide the court with the names of, contact 7973
information for, and program details of one or more community 7974
control sanctions that are available for persons sentenced by 7975
the court within the forty-five-day period specified in this 7976
division, the court may impose upon the offender a prison term 7977
under division (B) (1) (b) (iv) of this section. 7978

(d) A sentencing court may impose an additional penalty 7979
under division (B) of section 2929.15 of the Revised Code upon 7980
an offender sentenced to a community control sanction under 7981
division (B) (1) (a) of this section if the offender violates the 7982
conditions of the community control sanction, violates a law, or 7983

leaves the state without the permission of the court or the 7984
offender's probation officer. 7985

(2) If division (B) (1) of this section does not apply, 7986
except as provided in division (E), (F), or (G) of this section, 7987
in determining whether to impose a prison term as a sanction for 7988
a felony of the fourth or fifth degree, the sentencing court 7989
shall comply with the purposes and principles of sentencing 7990
under section 2929.11 of the Revised Code and with section 7991
2929.12 of the Revised Code. 7992

(C) Except as provided in division (D), (E), (F), or (G) 7993
of this section, in determining whether to impose a prison term 7994
as a sanction for a felony of the third degree or a felony drug 7995
offense that is a violation of a provision of Chapter 2925. of 7996
the Revised Code and that is specified as being subject to this 7997
division for purposes of sentencing, the sentencing court shall 7998
comply with the purposes and principles of sentencing under 7999
section 2929.11 of the Revised Code and with section 2929.12 of 8000
the Revised Code. 8001

(D) (1) Except as provided in division (E) or (F) of this 8002
section, for a felony of the first or second degree, for a 8003
felony drug offense that is a violation of any provision of 8004
Chapter 2925., 3719., or 4729. of the Revised Code for which a 8005
presumption in favor of a prison term is specified as being 8006
applicable, and for a violation of division (A) (4) or (B) of 8007
section 2907.05 of the Revised Code for which a presumption in 8008
favor of a prison term is specified as being applicable, it is 8009
presumed that a prison term is necessary in order to comply with 8010
the purposes and principles of sentencing under section 2929.11 8011
of the Revised Code. Division (D) (2) of this section does not 8012
apply to a presumption established under this division for a 8013

violation of division (A) (4) of section 2907.05 of the Revised Code. 8014
8015

(2) Notwithstanding the presumption established under 8016
division (D) (1) of this section for the offenses listed in that 8017
division other than a violation of division (A) (4) or (B) of 8018
section 2907.05 of the Revised Code, the sentencing court may 8019
impose a community control sanction or a combination of 8020
community control sanctions instead of a prison term on an 8021
offender for a felony of the first or second degree or for a 8022
felony drug offense that is a violation of any provision of 8023
Chapter 2925., 3719., or 4729. of the Revised Code for which a 8024
presumption in favor of a prison term is specified as being 8025
applicable if it makes both of the following findings: 8026

(a) A community control sanction or a combination of 8027
community control sanctions would adequately punish the offender 8028
and protect the public from future crime, because the applicable 8029
factors under section 2929.12 of the Revised Code indicating a 8030
lesser likelihood of recidivism outweigh the applicable factors 8031
under that section indicating a greater likelihood of 8032
recidivism. 8033

(b) A community control sanction or a combination of 8034
community control sanctions would not demean the seriousness of 8035
the offense, because one or more factors under section 2929.12 8036
of the Revised Code that indicate that the offender's conduct 8037
was less serious than conduct normally constituting the offense 8038
are applicable, and they outweigh the applicable factors under 8039
that section that indicate that the offender's conduct was more 8040
serious than conduct normally constituting the offense. 8041

(E) (1) Except as provided in division (F) of this section, 8042
for any drug offense that is a violation of any provision of 8043

Chapter 2925. of the Revised Code and that is a felony of the 8044
third, fourth, or fifth degree, the applicability of a 8045
presumption under division (D) of this section in favor of a 8046
prison term or of division (B) or (C) of this section in 8047
determining whether to impose a prison term for the offense 8048
shall be determined as specified in section 2925.02, 2925.03, 8049
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 8050
2925.36, or 2925.37 of the Revised Code, whichever is applicable 8051
regarding the violation. 8052

(2) If an offender who was convicted of or pleaded guilty 8053
to a felony violates the conditions of a community control 8054
sanction imposed for the offense solely by reason of producing 8055
positive results on a drug test or by acting pursuant to 8056
division (B) (2) (b) of section 2925.11 of the Revised Code with 8057
respect to a minor drug possession offense, the court, as 8058
punishment for the violation of the sanction, shall not order 8059
that the offender be imprisoned unless the court determines on 8060
the record either of the following: 8061

(a) The offender had been ordered as a sanction for the 8062
felony to participate in a drug treatment program, in a drug 8063
education program, or in narcotics anonymous or a similar 8064
program, and the offender continued to use illegal drugs after a 8065
reasonable period of participation in the program. 8066

(b) The imprisonment of the offender for the violation is 8067
consistent with the purposes and principles of sentencing set 8068
forth in section 2929.11 of the Revised Code. 8069

(3) A court that sentences an offender for a drug abuse 8070
offense that is a felony of the third, fourth, or fifth degree 8071
may require that the offender be assessed by a properly 8072
credentialed professional within a specified period of time. The 8073

court shall require the professional to file a written 8074
assessment of the offender with the court. If the offender is 8075
eligible for a community control sanction and after considering 8076
the written assessment, the court may impose a community control 8077
sanction that includes addiction services and recovery supports 8078
included in a community-based continuum of care established 8079
under section 340.032 of the Revised Code. If the court imposes 8080
addiction services and recovery supports as a community control 8081
sanction, the court shall direct the level and type of addiction 8082
services and recovery supports after considering the assessment 8083
and recommendation of community addiction services providers. 8084

(F) Notwithstanding divisions (A) to (E) of this section, 8085
the court shall impose a prison term or terms under sections 8086
2929.02 to 2929.06, section 2929.14, section 2929.142, or 8087
section 2971.03 of the Revised Code and except as specifically 8088
provided in section 2929.20, divisions (C) to (I) of section 8089
2967.19, or section 2967.191 of the Revised Code or when parole 8090
is authorized for the offense under section 2967.13 of the 8091
Revised Code shall not reduce the term or terms pursuant to 8092
section 2929.20, section 2967.19, section 2967.193, or any other 8093
provision of Chapter 2967. or Chapter 5120. of the Revised Code 8094
for any of the following offenses: 8095

(1) ~~Aggravated~~ Either aggravated murder or aggravated 8096
abortion murder when death is not imposed, or murder or abortion 8097
murder; 8098

(2) Any rape, regardless of whether force was involved and 8099
regardless of the age of the victim, or an attempt to commit 8100
rape if, had the offender completed the rape that was attempted, 8101
the offender would have been guilty of a violation of division 8102
(A) (1) (b) of section 2907.02 of the Revised Code and would be 8103

sentenced under section 2971.03 of the Revised Code; 8104

(3) Gross sexual imposition or sexual battery, if the 8105
victim is less than thirteen years of age and if any of the 8106
following applies: 8107

(a) Regarding gross sexual imposition, the offender 8108
previously was convicted of or pleaded guilty to rape, the 8109
former offense of felonious sexual penetration, gross sexual 8110
imposition, or sexual battery, and the victim of the previous 8111
offense was less than thirteen years of age; 8112

(b) Regarding gross sexual imposition, the offense was 8113
committed on or after August 3, 2006, and evidence other than 8114
the testimony of the victim was admitted in the case 8115
corroborating the violation. 8116

(c) Regarding sexual battery, either of the following 8117
applies: 8118

(i) The offense was committed prior to August 3, 2006, the 8119
offender previously was convicted of or pleaded guilty to rape, 8120
the former offense of felonious sexual penetration, or sexual 8121
battery, and the victim of the previous offense was less than 8122
thirteen years of age. 8123

(ii) The offense was committed on or after August 3, 2006. 8124

(4) A felony violation of section 2903.04, 2903.06, 8125
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 8126
or 2923.132 of the Revised Code if the section requires the 8127
imposition of a prison term; 8128

(5) A first, second, or third degree felony drug offense 8129
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 8130
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 8131

or 4729.99 of the Revised Code, whichever is applicable 8132
regarding the violation, requires the imposition of a mandatory 8133
prison term; 8134

(6) Any offense that is a first or second degree felony 8135
and that is not set forth in division (F) (1), (2), (3), or (4) 8136
of this section, if the offender previously was convicted of or 8137
pleaded guilty to aggravated murder, murder, aggravated abortion 8138
murder, abortion murder, any first or second degree felony, or 8139
an offense under an existing or former law of this state, 8140
another state, or the United States that is or was substantially 8141
equivalent to one of those offenses; 8142

(7) Any offense that is a third degree felony and either 8143
is a violation of section 2903.04 of the Revised Code or an 8144
attempt to commit a felony of the second degree that is an 8145
offense of violence and involved an attempt to cause serious 8146
physical harm to a person or that resulted in serious physical 8147
harm to a person if the offender previously was convicted of or 8148
pleaded guilty to any of the following offenses: 8149

(a) Aggravated murder, murder, aggravated abortion murder, 8150
abortion murder, involuntary manslaughter, rape, felonious 8151
sexual penetration as it existed under section 2907.12 of the 8152
Revised Code prior to September 3, 1996, a felony of the first 8153
or second degree that resulted in the death of a person or in 8154
physical harm to a person, or complicity in or an attempt to 8155
commit any of those offenses; 8156

(b) An offense under an existing or former law of this 8157
state, another state, or the United States that is or was 8158
substantially equivalent to an offense listed in division (F) (7) 8159
(a) of this section that resulted in the death of a person or in 8160
physical harm to a person. 8161

(8) Any offense, other than a violation of section 2923.12 8162
of the Revised Code, that is a felony, if the offender had a 8163
firearm on or about the offender's person or under the 8164
offender's control while committing the felony, with respect to 8165
a portion of the sentence imposed pursuant to division (B) (1) (a) 8166
of section 2929.14 of the Revised Code for having the firearm; 8167

(9) Any offense of violence that is a felony, if the 8168
offender wore or carried body armor while committing the felony 8169
offense of violence, with respect to the portion of the sentence 8170
imposed pursuant to division (B) (1) (d) of section 2929.14 of the 8171
Revised Code for wearing or carrying the body armor; 8172

(10) Corrupt activity in violation of section 2923.32 of 8173
the Revised Code when the most serious offense in the pattern of 8174
corrupt activity that is the basis of the offense is a felony of 8175
the first degree; 8176

(11) Any violent sex offense or designated homicide, 8177
assault, or kidnapping offense if, in relation to that offense, 8178
the offender is adjudicated a sexually violent predator; 8179

(12) A violation of division (A) (1) or (2) of section 8180
2921.36 of the Revised Code, or a violation of division (C) of 8181
that section involving an item listed in division (A) (1) or (2) 8182
of that section, if the offender is an officer or employee of 8183
the department of rehabilitation and correction; 8184

(13) A violation of division (A) (1) or (2) of section 8185
2903.06 of the Revised Code if the victim of the offense is a 8186
peace officer, as defined in section 2935.01 of the Revised 8187
Code, or an investigator of the bureau of criminal 8188
identification and investigation, as defined in section 2903.11 8189
of the Revised Code, with respect to the portion of the sentence 8190

imposed pursuant to division (B) (5) of section 2929.14 of the Revised Code; 8191
8192

(14) A violation of division (A) (1) or (2) of section 8193
2903.06 of the Revised Code if the offender has been convicted 8194
of or pleaded guilty to three or more violations of division (A) 8195
or (B) of section 4511.19 of the Revised Code or an equivalent 8196
offense, as defined in section 2941.1415 of the Revised Code, or 8197
three or more violations of any combination of those divisions 8198
and offenses, with respect to the portion of the sentence 8199
imposed pursuant to division (B) (6) of section 2929.14 of the 8200
Revised Code; 8201

(15) Kidnapping, in the circumstances specified in section 8202
2971.03 of the Revised Code and when no other provision of 8203
division (F) of this section applies; 8204

(16) Kidnapping, abduction, compelling prostitution, 8205
promoting prostitution, engaging in a pattern of corrupt 8206
activity, a violation of division (A) (1) or (2) of section 8207
2907.323 of the Revised Code that involves a minor, or 8208
endangering children in violation of division (B) (1), (2), (3), 8209
(4), or (5) of section 2919.22 of the Revised Code, if the 8210
offender is convicted of or pleads guilty to a specification as 8211
described in section 2941.1422 of the Revised Code that was 8212
included in the indictment, count in the indictment, or 8213
information charging the offense; 8214

(17) A felony violation of division (A) or (B) of section 8215
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 8216
that section, and division (D) (6) of that section, require the 8217
imposition of a prison term; 8218

(18) A felony violation of section 2903.11, 2903.12, or 8219

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

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

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

(20) Any violation of division (A) (1) of section 2903.11 of the Revised Code if the offender used an accelerant in committing the violation and the serious physical harm to another or another's unborn caused by the violation resulted in a permanent, serious disfigurement or permanent, substantial incapacity or any violation of division (A) (2) of that section if the offender used an accelerant in committing the violation, the violation caused physical harm to another or another's unborn, and the physical harm resulted in a permanent, serious disfigurement or permanent, substantial incapacity, with respect to a portion of the sentence imposed pursuant to division (B) (9) of section 2929.14 of the Revised Code. The provisions of this division and of division (D) (2) of section 2903.11, divisions (B) (9) and (C) (6) of section 2929.14, and section 2941.1425 of

the Revised Code shall be known as "Judy's Law." 8250

(21) Any violation of division (A) of section 2903.11 of 8251
the Revised Code if the victim of the offense suffered permanent 8252
disabling harm as a result of the offense and the victim was 8253
under ten years of age at the time of the offense, with respect 8254
to a portion of the sentence imposed pursuant to division (B) 8255
(10) of section 2929.14 of the Revised Code. 8256

(22) A felony violation of section 2925.03, 2925.05, or 8257
2925.11 of the Revised Code, if the drug involved in the 8258
violation is a fentanyl-related compound or a compound, mixture, 8259
preparation, or substance containing a fentanyl-related compound 8260
and the offender is convicted of or pleads guilty to a 8261
specification of the type described in division (B) of section 8262
2941.1410 of the Revised Code that was included in the 8263
indictment, count in the indictment, or information charging the 8264
offense, with respect to the portion of the sentence imposed 8265
under division (B) (9) of section 2929.14 of the Revised Code. 8266

(G) Notwithstanding divisions (A) to (E) of this section, 8267
if an offender is being sentenced for a fourth degree felony OVI 8268
offense or for a third degree felony OVI offense, the court 8269
shall impose upon the offender a mandatory term of local 8270
incarceration or a mandatory prison term in accordance with the 8271
following: 8272

(1) If the offender is being sentenced for a fourth degree 8273
felony OVI offense and if the offender has not been convicted of 8274
and has not pleaded guilty to a specification of the type 8275
described in section 2941.1413 of the Revised Code, the court 8276
may impose upon the offender a mandatory term of local 8277
incarceration of sixty days or one hundred twenty days as 8278
specified in division (G) (1) (d) of section 4511.19 of the 8279

Revised Code. The court shall not reduce the term pursuant to 8280
section 2929.20, 2967.193, or any other provision of the Revised 8281
Code. The court that imposes a mandatory term of local 8282
incarceration under this division shall specify whether the term 8283
is to be served in a jail, a community-based correctional 8284
facility, a halfway house, or an alternative residential 8285
facility, and the offender shall serve the term in the type of 8286
facility specified by the court. A mandatory term of local 8287
incarceration imposed under division (G) (1) of this section is 8288
not subject to any other Revised Code provision that pertains to 8289
a prison term except as provided in division (A) (1) of this 8290
section. 8291

(2) If the offender is being sentenced for a third degree 8292
felony OVI offense, or if the offender is being sentenced for a 8293
fourth degree felony OVI offense and the court does not impose a 8294
mandatory term of local incarceration under division (G) (1) of 8295
this section, the court shall impose upon the offender a 8296
mandatory prison term of one, two, three, four, or five years if 8297
the offender also is convicted of or also pleads guilty to a 8298
specification of the type described in section 2941.1413 of the 8299
Revised Code or shall impose upon the offender a mandatory 8300
prison term of sixty days or one hundred twenty days as 8301
specified in division (G) (1) (d) or (e) of section 4511.19 of the 8302
Revised Code if the offender has not been convicted of and has 8303
not pleaded guilty to a specification of that type. Subject to 8304
divisions (C) to (I) of section 2967.19 of the Revised Code, the 8305
court shall not reduce the term pursuant to section 2929.20, 8306
2967.19, 2967.193, or any other provision of the Revised Code. 8307
The offender shall serve the one-, two-, three-, four-, or five- 8308
year mandatory prison term consecutively to and prior to the 8309
prison term imposed for the underlying offense and consecutively 8310

to any other mandatory prison term imposed in relation to the 8311
offense. In no case shall an offender who once has been 8312
sentenced to a mandatory term of local incarceration pursuant to 8313
division (G) (1) of this section for a fourth degree felony OVI 8314
offense be sentenced to another mandatory term of local 8315
incarceration under that division for any violation of division 8316
(A) of section 4511.19 of the Revised Code. In addition to the 8317
mandatory prison term described in division (G) (2) of this 8318
section, the court may sentence the offender to a community 8319
control sanction under section 2929.16 or 2929.17 of the Revised 8320
Code, but the offender shall serve the prison term prior to 8321
serving the community control sanction. The department of 8322
rehabilitation and correction may place an offender sentenced to 8323
a mandatory prison term under this division in an intensive 8324
program prison established pursuant to section 5120.033 of the 8325
Revised Code if the department gave the sentencing judge prior 8326
notice of its intent to place the offender in an intensive 8327
program prison established under that section and if the judge 8328
did not notify the department that the judge disapproved the 8329
placement. Upon the establishment of the initial intensive 8330
program prison pursuant to section 5120.033 of the Revised Code 8331
that is privately operated and managed by a contractor pursuant 8332
to a contract entered into under section 9.06 of the Revised 8333
Code, both of the following apply: 8334

(a) The department of rehabilitation and correction shall 8335
make a reasonable effort to ensure that a sufficient number of 8336
offenders sentenced to a mandatory prison term under this 8337
division are placed in the privately operated and managed prison 8338
so that the privately operated and managed prison has full 8339
occupancy. 8340

(b) Unless the privately operated and managed prison has 8341

full occupancy, the department of rehabilitation and correction 8342
shall not place any offender sentenced to a mandatory prison 8343
term under this division in any intensive program prison 8344
established pursuant to section 5120.033 of the Revised Code 8345
other than the privately operated and managed prison. 8346

(H) If an offender is being sentenced for a sexually 8347
oriented offense or child-victim oriented offense that is a 8348
felony committed on or after January 1, 1997, the judge shall 8349
require the offender to submit to a DNA specimen collection 8350
procedure pursuant to section 2901.07 of the Revised Code. 8351

(I) If an offender is being sentenced for a sexually 8352
oriented offense or a child-victim oriented offense committed on 8353
or after January 1, 1997, the judge shall include in the 8354
sentence a summary of the offender's duties imposed under 8355
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 8356
Code and the duration of the duties. The judge shall inform the 8357
offender, at the time of sentencing, of those duties and of 8358
their duration. If required under division (A)(2) of section 8359
2950.03 of the Revised Code, the judge shall perform the duties 8360
specified in that section, or, if required under division (A)(6) 8361
of section 2950.03 of the Revised Code, the judge shall perform 8362
the duties specified in that division. 8363

(J)(1) Except as provided in division (J)(2) of this 8364
section, when considering sentencing factors under this section 8365
in relation to an offender who is convicted of or pleads guilty 8366
to an attempt to commit an offense in violation of section 8367
2923.02 of the Revised Code, the sentencing court shall consider 8368
the factors applicable to the felony category of the violation 8369
of section 2923.02 of the Revised Code instead of the factors 8370
applicable to the felony category of the offense attempted. 8371

(2) When considering sentencing factors under this section 8372
in relation to an offender who is convicted of or pleads guilty 8373
to an attempt to commit a drug abuse offense for which the 8374
penalty is determined by the amount or number of unit doses of 8375
the controlled substance involved in the drug abuse offense, the 8376
sentencing court shall consider the factors applicable to the 8377
felony category that the drug abuse offense attempted would be 8378
if that drug abuse offense had been committed and had involved 8379
an amount or number of unit doses of the controlled substance 8380
that is within the next lower range of controlled substance 8381
amounts than was involved in the attempt. 8382

(K) As used in this section: 8383

(1) "Community addiction services provider" has the same 8384
meaning as in section 5119.01 of the Revised Code. 8385

(2) "Drug abuse offense" has the same meaning as in 8386
section 2925.01 of the Revised Code. 8387

(3) "Minor drug possession offense" has the same meaning 8388
as in section 2925.11 of the Revised Code. 8389

(4) "Qualifying assault offense" means a violation of 8390
section 2903.13 of the Revised Code for which the penalty 8391
provision in division (C) (8) (b) or (C) (9) (b) of that section 8392
applies. 8393

(L) At the time of sentencing an offender for any sexually 8394
oriented offense, if the offender is a tier III sex 8395
offender/child-victim offender relative to that offense and the 8396
offender does not serve a prison term or jail term, the court 8397
may require that the offender be monitored by means of a global 8398
positioning device. If the court requires such monitoring, the 8399
cost of monitoring shall be borne by the offender. If the 8400

offender is indigent, the cost of compliance shall be paid by 8401
the crime victims reparations fund. 8402

Sec. 2929.14. (A) Except as provided in division (B)(1), 8403
(B)(2), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), (B)(8), (B)(9), 8404
(B)(10), (B)(11), (E), (G), (H), (J), or (K) of this section or 8405
in division (D)(6) of section 2919.25 of the Revised Code and 8406
except in relation to an offense for which a sentence of death 8407
or life imprisonment is to be imposed, if the court imposing a 8408
sentence upon an offender for a felony elects or is required to 8409
impose a prison term on the offender pursuant to this chapter, 8410
the court shall impose a prison term that shall be one of the 8411
following: 8412

(1)(a) For a felony of the first degree committed on or 8413
after the effective date of this amendment, the prison term 8414
shall be an indefinite prison term with a stated minimum term 8415
selected by the court of three, four, five, six, seven, eight, 8416
nine, ten, or eleven years and a maximum term that is determined 8417
pursuant to section 2929.144 of the Revised Code, except that if 8418
the section that criminalizes the conduct constituting the 8419
felony specifies a different minimum term or penalty for the 8420
offense, the specific language of that section shall control in 8421
determining the minimum term or otherwise sentencing the 8422
offender but the minimum term or sentence imposed under that 8423
specific language shall be considered for purposes of the 8424
Revised Code as if it had been imposed under this division. 8425

(b) For a felony of the first degree committed prior to 8426
the effective date of this amendment, the prison term shall be a 8427
definite prison term of three, four, five, six, seven, eight, 8428
nine, ten, or eleven years. 8429

(2)(a) For a felony of the second degree committed on or 8430

after the effective date of this amendment, the prison term 8431
shall be an indefinite prison term with a stated minimum term 8432
selected by the court of two, three, four, five, six, seven, or 8433
eight years and a maximum term that is determined pursuant to 8434
section 2929.144 of the Revised Code, except that if the section 8435
that criminalizes the conduct constituting the felony specifies 8436
a different minimum term or penalty for the offense, the 8437
specific language of that section shall control in determining 8438
the minimum term or otherwise sentencing the offender but the 8439
minimum term or sentence imposed under that specific language 8440
shall be considered for purposes of the Revised Code as if it 8441
had been imposed under this division. 8442

(b) For a felony of the second degree committed prior to 8443
the effective date of this amendment, the prison term shall be a 8444
definite term of two, three, four, five, six, seven, or eight 8445
years. 8446

(3) (a) For a felony of the third degree that is a 8447
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 8448
2907.05, 2907.321, 2907.322, 2907.323, or 3795.04 of the Revised 8449
Code or that is a violation of section 2911.02 or 2911.12 of the 8450
Revised Code if the offender previously has been convicted of or 8451
pleaded guilty in two or more separate proceedings to two or 8452
more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 8453
of the Revised Code, the prison term shall be a definite term of 8454
twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, 8455
forty-eight, fifty-four, or sixty months. 8456

(b) For a felony of the third degree that is not an 8457
offense for which division (A) (3) (a) of this section applies, 8458
the prison term shall be a definite term of nine, twelve, 8459
eighteen, twenty-four, thirty, or thirty-six months. 8460

(4) For a felony of the fourth degree, the prison term 8461
shall be a definite term of six, seven, eight, nine, ten, 8462
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, 8463
or eighteen months. 8464

(5) For a felony of the fifth degree, the prison term 8465
shall be a definite term of six, seven, eight, nine, ten, 8466
eleven, or twelve months. 8467

(B) (1) (a) Except as provided in division (B) (1) (e) of this 8468
section, if an offender who is convicted of or pleads guilty to 8469
a felony also is convicted of or pleads guilty to a 8470
specification of the type described in section 2941.141, 8471
2941.144, or 2941.145 of the Revised Code, the court shall 8472
impose on the offender one of the following prison terms: 8473

(i) A prison term of six years if the specification is of 8474
the type described in division (A) of section 2941.144 of the 8475
Revised Code that charges the offender with having a firearm 8476
that is an automatic firearm or that was equipped with a firearm 8477
muffler or suppressor on or about the offender's person or under 8478
the offender's control while committing the offense; 8479

(ii) A prison term of three years if the specification is 8480
of the type described in division (A) of section 2941.145 of the 8481
Revised Code that charges the offender with having a firearm on 8482
or about the offender's person or under the offender's control 8483
while committing the offense and displaying the firearm, 8484
brandishing the firearm, indicating that the offender possessed 8485
the firearm, or using it to facilitate the offense; 8486

(iii) A prison term of one year if the specification is of 8487
the type described in division (A) of section 2941.141 of the 8488
Revised Code that charges the offender with having a firearm on 8489

or about the offender's person or under the offender's control 8490
while committing the offense; 8491

(iv) A prison term of nine years if the specification is 8492
of the type described in division (D) of section 2941.144 of the 8493
Revised Code that charges the offender with having a firearm 8494
that is an automatic firearm or that was equipped with a firearm 8495
muffler or suppressor on or about the offender's person or under 8496
the offender's control while committing the offense and 8497
specifies that the offender previously has been convicted of or 8498
pleaded guilty to a specification of the type described in 8499
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 8500
the Revised Code; 8501

(v) A prison term of fifty-four months if the 8502
specification is of the type described in division (D) of 8503
section 2941.145 of the Revised Code that charges the offender 8504
with having a firearm on or about the offender's person or under 8505
the offender's control while committing the offense and 8506
displaying the firearm, brandishing the firearm, indicating that 8507
the offender possessed the firearm, or using the firearm to 8508
facilitate the offense and that the offender previously has been 8509
convicted of or pleaded guilty to a specification of the type 8510
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 8511
2941.1412 of the Revised Code; 8512

(vi) A prison term of eighteen months if the specification 8513
is of the type described in division (D) of section 2941.141 of 8514
the Revised Code that charges the offender with having a firearm 8515
on or about the offender's person or under the offender's 8516
control while committing the offense and that the offender 8517
previously has been convicted of or pleaded guilty to a 8518
specification of the type described in section 2941.141, 8519

2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 8520

(b) If a court imposes a prison term on an offender under 8521
division (B)(1)(a) of this section, the prison term shall not be 8522
reduced pursuant to section 2967.19, section 2929.20, section 8523
2967.193, or any other provision of Chapter 2967. or Chapter 8524
5120. of the Revised Code. Except as provided in division (B)(1) 8525
(g) of this section, a court shall not impose more than one 8526
prison term on an offender under division (B)(1)(a) of this 8527
section for felonies committed as part of the same act or 8528
transaction. 8529

(c)(i) Except as provided in division (B)(1)(e) of this 8530
section, if an offender who is convicted of or pleads guilty to 8531
a violation of section 2923.161 of the Revised Code or to a 8532
felony that includes, as an essential element, purposely or 8533
knowingly causing or attempting to cause the death of or 8534
physical harm to another, also is convicted of or pleads guilty 8535
to a specification of the type described in division (A) of 8536
section 2941.146 of the Revised Code that charges the offender 8537
with committing the offense by discharging a firearm from a 8538
motor vehicle other than a manufactured home, the court, after 8539
imposing a prison term on the offender for the violation of 8540
section 2923.161 of the Revised Code or for the other felony 8541
offense under division (A), (B)(2), or (B)(3) of this section, 8542
shall impose an additional prison term of five years upon the 8543
offender that shall not be reduced pursuant to section 2929.20, 8544
section 2967.19, section 2967.193, or any other provision of 8545
Chapter 2967. or Chapter 5120. of the Revised Code. 8546

(ii) Except as provided in division (B)(1)(e) of this 8547
section, if an offender who is convicted of or pleads guilty to 8548
a violation of section 2923.161 of the Revised Code or to a 8549

felony that includes, as an essential element, purposely or 8550
knowingly causing or attempting to cause the death of or 8551
physical harm to another, also is convicted of or pleads guilty 8552
to a specification of the type described in division (C) of 8553
section 2941.146 of the Revised Code that charges the offender 8554
with committing the offense by discharging a firearm from a 8555
motor vehicle other than a manufactured home and that the 8556
offender previously has been convicted of or pleaded guilty to a 8557
specification of the type described in section 2941.141, 8558
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 8559
the court, after imposing a prison term on the offender for the 8560
violation of section 2923.161 of the Revised Code or for the 8561
other felony offense under division (A), (B) (2), or (3) of this 8562
section, shall impose an additional prison term of ninety months 8563
upon the offender that shall not be reduced pursuant to section 8564
2929.20, 2967.19, 2967.193, or any other provision of Chapter 8565
2967. or Chapter 5120. of the Revised Code. 8566

(iii) A court shall not impose more than one additional 8567
prison term on an offender under division (B) (1) (c) of this 8568
section for felonies committed as part of the same act or 8569
transaction. If a court imposes an additional prison term on an 8570
offender under division (B) (1) (c) of this section relative to an 8571
offense, the court also shall impose a prison term under 8572
division (B) (1) (a) of this section relative to the same offense, 8573
provided the criteria specified in that division for imposing an 8574
additional prison term are satisfied relative to the offender 8575
and the offense. 8576

(d) If an offender who is convicted of or pleads guilty to 8577
an offense of violence that is a felony also is convicted of or 8578
pleads guilty to a specification of the type described in 8579
section 2941.1411 of the Revised Code that charges the offender 8580

with wearing or carrying body armor while committing the felony 8581
offense of violence, the court shall impose on the offender an 8582
additional prison term of two years. The prison term so imposed, 8583
subject to divisions (C) to (I) of section 2967.19 of the 8584
Revised Code, shall not be reduced pursuant to section 2929.20, 8585
section 2967.19, section 2967.193, or any other provision of 8586
Chapter 2967. or Chapter 5120. of the Revised Code. A court 8587
shall not impose more than one prison term on an offender under 8588
division (B) (1) (d) of this section for felonies committed as 8589
part of the same act or transaction. If a court imposes an 8590
additional prison term under division (B) (1) (a) or (c) of this 8591
section, the court is not precluded from imposing an additional 8592
prison term under division (B) (1) (d) of this section. 8593

(e) The court shall not impose any of the prison terms 8594
described in division (B) (1) (a) of this section or any of the 8595
additional prison terms described in division (B) (1) (c) of this 8596
section upon an offender for a violation of section 2923.12 or 8597
2923.123 of the Revised Code. The court shall not impose any of 8598
the prison terms described in division (B) (1) (a) or (b) of this 8599
section upon an offender for a violation of section 2923.122 8600
that involves a deadly weapon that is a firearm other than a 8601
dangerous ordnance, section 2923.16, or section 2923.121 of the 8602
Revised Code. The court shall not impose any of the prison terms 8603
described in division (B) (1) (a) of this section or any of the 8604
additional prison terms described in division (B) (1) (c) of this 8605
section upon an offender for a violation of section 2923.13 of 8606
the Revised Code unless all of the following apply: 8607

(i) The offender previously has been convicted of 8608
aggravated murder, murder, aggravated abortion murder, abortion 8609
murder, or any felony of the first or second degree. 8610

(ii) Less than five years have passed since the offender 8611
was released from prison or post-release control, whichever is 8612
later, for the prior offense. 8613

(f)(i) If an offender is convicted of or pleads guilty to 8614
a felony that includes, as an essential element, causing or 8615
attempting to cause the death of or physical harm to another and 8616
also is convicted of or pleads guilty to a specification of the 8617
type described in division (A) of section 2941.1412 of the 8618
Revised Code that charges the offender with committing the 8619
offense by discharging a firearm at a peace officer as defined 8620
in section 2935.01 of the Revised Code or a corrections officer, 8621
as defined in section 2941.1412 of the Revised Code, the court, 8622
after imposing a prison term on the offender for the felony 8623
offense under division (A), (B)(2), or (B)(3) of this section, 8624
shall impose an additional prison term of seven years upon the 8625
offender that shall not be reduced pursuant to section 2929.20, 8626
section 2967.19, section 2967.193, or any other provision of 8627
Chapter 2967. or Chapter 5120. of the Revised Code. 8628

(ii) If an offender is convicted of or pleads guilty to a 8629
felony that includes, as an essential element, causing or 8630
attempting to cause the death of or physical harm to another and 8631
also is convicted of or pleads guilty to a specification of the 8632
type described in division (B) of section 2941.1412 of the 8633
Revised Code that charges the offender with committing the 8634
offense by discharging a firearm at a peace officer, as defined 8635
in section 2935.01 of the Revised Code, or a corrections 8636
officer, as defined in section 2941.1412 of the Revised Code, 8637
and that the offender previously has been convicted of or 8638
pleaded guilty to a specification of the type described in 8639
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 8640
the Revised Code, the court, after imposing a prison term on the 8641

offender for the felony offense under division (A), (B) (2), or 8642
(3) of this section, shall impose an additional prison term of 8643
one hundred twenty-six months upon the offender that shall not 8644
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 8645
any other provision of Chapter 2967. or 5120. of the Revised 8646
Code. 8647

(iii) If an offender is convicted of or pleads guilty to 8648
two or more felonies that include, as an essential element, 8649
causing or attempting to cause the death or physical harm to 8650
another and also is convicted of or pleads guilty to a 8651
specification of the type described under division (B) (1) (f) of 8652
this section in connection with two or more of the felonies of 8653
which the offender is convicted or to which the offender pleads 8654
guilty, the sentencing court shall impose on the offender the 8655
prison term specified under division (B) (1) (f) of this section 8656
for each of two of the specifications of which the offender is 8657
convicted or to which the offender pleads guilty and, in its 8658
discretion, also may impose on the offender the prison term 8659
specified under that division for any or all of the remaining 8660
specifications. If a court imposes an additional prison term on 8661
an offender under division (B) (1) (f) of this section relative to 8662
an offense, the court shall not impose a prison term under 8663
division (B) (1) (a) or (c) of this section relative to the same 8664
offense. 8665

(g) If an offender is convicted of or pleads guilty to two 8666
or more felonies, if one or more of those felonies are 8667
aggravated murder, murder, attempted aggravated murder, 8668
attempted murder, aggravated abortion murder, abortion murder, 8669
attempted aggravated abortion murder, attempted abortion murder, 8670
aggravated robbery, felonious assault, or rape, and if the 8671
offender is convicted of or pleads guilty to a specification of 8672

the type described under division (B) (1) (a) of this section in 8673
connection with two or more of the felonies, the sentencing 8674
court shall impose on the offender the prison term specified 8675
under division (B) (1) (a) of this section for each of the two 8676
most serious specifications of which the offender is convicted 8677
or to which the offender pleads guilty and, in its discretion, 8678
also may impose on the offender the prison term specified under 8679
that division for any or all of the remaining specifications. 8680

(2) (a) If division (B) (2) (b) of this section does not 8681
apply, the court may impose on an offender, in addition to the 8682
longest prison term authorized or required for the offense or, 8683
for offenses for which division (A) (1) (a) or (2) (a) of this 8684
section applies, in addition to the longest minimum prison term 8685
authorized or required for the offense, an additional definite 8686
prison term of one, two, three, four, five, six, seven, eight, 8687
nine, or ten years if all of the following criteria are met: 8688

(i) The offender is convicted of or pleads guilty to a 8689
specification of the type described in section 2941.149 of the 8690
Revised Code that the offender is a repeat violent offender. 8691

(ii) The offense of which the offender currently is 8692
convicted or to which the offender currently pleads guilty is 8693
aggravated murder or aggravated abortion murder and the court 8694
does not impose a sentence of death or life imprisonment without 8695
parole, murder, abortion murder, terrorism and the court does 8696
not impose a sentence of life imprisonment without parole, any 8697
felony of the first degree that is an offense of violence and 8698
the court does not impose a sentence of life imprisonment 8699
without parole, or any felony of the second degree that is an 8700
offense of violence and the trier of fact finds that the offense 8701
involved an attempt to cause or a threat to cause serious 8702

physical harm to a person or resulted in serious physical harm 8703
to a person. 8704

(iii) The court imposes the longest prison term for the 8705
offense or the longest minimum prison term for the offense, 8706
whichever is applicable, that is not life imprisonment without 8707
parole. 8708

(iv) The court finds that the prison terms imposed 8709
pursuant to division (B) (2) (a) (iii) of this section and, if 8710
applicable, division (B) (1) or (3) of this section are 8711
inadequate to punish the offender and protect the public from 8712
future crime, because the applicable factors under section 8713
2929.12 of the Revised Code indicating a greater likelihood of 8714
recidivism outweigh the applicable factors under that section 8715
indicating a lesser likelihood of recidivism. 8716

(v) The court finds that the prison terms imposed pursuant 8717
to division (B) (2) (a) (iii) of this section and, if applicable, 8718
division (B) (1) or (3) of this section are demeaning to the 8719
seriousness of the offense, because one or more of the factors 8720
under section 2929.12 of the Revised Code indicating that the 8721
offender's conduct is more serious than conduct normally 8722
constituting the offense are present, and they outweigh the 8723
applicable factors under that section indicating that the 8724
offender's conduct is less serious than conduct normally 8725
constituting the offense. 8726

(b) The court shall impose on an offender the longest 8727
prison term authorized or required for the offense or, for 8728
offenses for which division (A) (1) (a) or (2) (a) of this section 8729
applies, the longest minimum prison term authorized or required 8730
for the offense, and shall impose on the offender an additional 8731
definite prison term of one, two, three, four, five, six, seven, 8732

eight, nine, or ten years if all of the following criteria are met:

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

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

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

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

one offense shall be the offense with the greatest penalty. 8763

(d) A sentence imposed under division (B)(2)(a) or (b) of 8764
this section shall not be reduced pursuant to section 2929.20, 8765
section 2967.19, or section 2967.193, or any other provision of 8766
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 8767
shall serve an additional prison term imposed under division (B) 8768
(2)(a) or (b) of this section consecutively to and prior to the 8769
prison term imposed for the underlying offense. 8770

(e) When imposing a sentence pursuant to division (B)(2) 8771
(a) or (b) of this section, the court shall state its findings 8772
explaining the imposed sentence. 8773

(3) Except when an offender commits a violation of section 8774
2903.01, 2904.03, or 2907.02 of the Revised Code and the penalty 8775
imposed for the violation is life imprisonment or commits a 8776
violation of section 2903.02 or 2904.04 of the Revised Code, if 8777
the offender commits a violation of section 2925.03 or 2925.11 8778
of the Revised Code and that section classifies the offender as 8779
a major drug offender, if the offender commits a violation of 8780
section 2925.05 of the Revised Code and division (E)(1) of that 8781
section classifies the offender as a major drug offender, if the 8782
offender commits a felony violation of section 2925.02, 2925.04, 8783
2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, 8784
or 4729.61, division (C) or (D) of section 3719.172, division 8785
(E) of section 4729.51, or division (J) of section 4729.54 of 8786
the Revised Code that includes the sale, offer to sell, or 8787
possession of a schedule I or II controlled substance, with the 8788
exception of marihuana, and the court imposing sentence upon the 8789
offender finds that the offender is guilty of a specification of 8790
the type described in division (A) of section 2941.1410 of the 8791
Revised Code charging that the offender is a major drug 8792

offender, if the court imposing sentence upon an offender for a 8793
felony finds that the offender is guilty of corrupt activity 8794
with the most serious offense in the pattern of corrupt activity 8795
being a felony of the first degree, or if the offender is guilty 8796
of an attempted violation of section 2907.02 of the Revised Code 8797
and, had the offender completed the violation of section 2907.02 8798
of the Revised Code that was attempted, the offender would have 8799
been subject to a sentence of life imprisonment or life 8800
imprisonment without parole for the violation of section 2907.02 8801
of the Revised Code, the court shall impose upon the offender 8802
for the felony violation a mandatory prison term determined as 8803
described in this division that, subject to divisions (C) to (I) 8804
of section 2967.19 of the Revised Code, cannot be reduced 8805
pursuant to section 2929.20, section 2967.19, or any other 8806
provision of Chapter 2967. or 5120. of the Revised Code. The 8807
mandatory prison term shall be the maximum definite prison term 8808
prescribed in division (A)(1)(b) of this section for a felony of 8809
the first degree, except that for offenses for which division 8810
(A)(1)(a) of this section applies, the mandatory prison term 8811
shall be the longest minimum prison term prescribed in that 8812
division for the offense. 8813

(4) If the offender is being sentenced for a third or 8814
fourth degree felony OVI offense under division (G)(2) of 8815
section 2929.13 of the Revised Code, the sentencing court shall 8816
impose upon the offender a mandatory prison term in accordance 8817
with that division. In addition to the mandatory prison term, if 8818
the offender is being sentenced for a fourth degree felony OVI 8819
offense, the court, notwithstanding division (A)(4) of this 8820
section, may sentence the offender to a definite prison term of 8821
not less than six months and not more than thirty months, and if 8822
the offender is being sentenced for a third degree felony OVI 8823

offense, the sentencing court may sentence the offender to an 8824
additional prison term of any duration specified in division (A) 8825
(3) of this section. In either case, the additional prison term 8826
imposed shall be reduced by the sixty or one hundred twenty days 8827
imposed upon the offender as the mandatory prison term. The 8828
total of the additional prison term imposed under division (B) 8829
(4) of this section plus the sixty or one hundred twenty days 8830
imposed as the mandatory prison term shall equal a definite term 8831
in the range of six months to thirty months for a fourth degree 8832
felony OVI offense and shall equal one of the authorized prison 8833
terms specified in division (A) (3) of this section for a third 8834
degree felony OVI offense. If the court imposes an additional 8835
prison term under division (B) (4) of this section, the offender 8836
shall serve the additional prison term after the offender has 8837
served the mandatory prison term required for the offense. In 8838
addition to the mandatory prison term or mandatory and 8839
additional prison term imposed as described in division (B) (4) 8840
of this section, the court also may sentence the offender to a 8841
community control sanction under section 2929.16 or 2929.17 of 8842
the Revised Code, but the offender shall serve all of the prison 8843
terms so imposed prior to serving the community control 8844
sanction. 8845

If the offender is being sentenced for a fourth degree 8846
felony OVI offense under division (G) (1) of section 2929.13 of 8847
the Revised Code and the court imposes a mandatory term of local 8848
incarceration, the court may impose a prison term as described 8849
in division (A) (1) of that section. 8850

(5) If an offender is convicted of or pleads guilty to a 8851
violation of division (A) (1) or (2) of section 2903.06 of the 8852
Revised Code and also is convicted of or pleads guilty to a 8853
specification of the type described in section 2941.1414 of the 8854

Revised Code that charges that the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, the court shall impose on the offender a prison term of five years. If a court imposes a prison term on an offender under division (B) (5) of this section, the prison term, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B) (5) of this section for felonies committed as part of the same act.

(6) If an offender is convicted of or pleads guilty to a violation of division (A) (1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (B) (6) of this section, the prison term, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term

on an offender under division (B) (6) of this section for 8886
felonies committed as part of the same act. 8887

(7) (a) If an offender is convicted of or pleads guilty to 8888
a felony violation of section 2905.01, 2905.02, 2907.21, 8889
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323 8890
involving a minor, or division (B) (1), (2), (3), (4), or (5) of 8891
section 2919.22 of the Revised Code and also is convicted of or 8892
pleads guilty to a specification of the type described in 8893
section 2941.1422 of the Revised Code that charges that the 8894
offender knowingly committed the offense in furtherance of human 8895
trafficking, the court shall impose on the offender a mandatory 8896
prison term that is one of the following: 8897

(i) If the offense is a felony of the first degree, a 8898
definite prison term of not less than five years and not greater 8899
than eleven years, except that if the offense is a felony of the 8900
first degree committed on or after the effective date of this 8901
amendment, the court shall impose as the minimum prison term a 8902
mandatory term of not less than five years and not greater than 8903
eleven years; 8904

(ii) If the offense is a felony of the second or third 8905
degree, a definite prison term of not less than three years and 8906
not greater than the maximum prison term allowed for the offense 8907
by division (A) (2) (b) or (3) of this section, except that if the 8908
offense is a felony of the second degree committed on or after 8909
the effective date of this amendment, the court shall impose as 8910
the minimum prison term a mandatory term of not less than three 8911
years and not greater than eight years; 8912

(iii) If the offense is a felony of the fourth or fifth 8913
degree, a definite prison term that is the maximum prison term 8914
allowed for the offense by division (A) of section 2929.14 of 8915

the Revised Code. 8916

(b) Subject to divisions (C) to (I) of section 2967.19 of 8917
the Revised Code, the prison term imposed under division (B) (7) 8918
(a) of this section shall not be reduced pursuant to section 8919
2929.20, section 2967.19, section 2967.193, or any other 8920
provision of Chapter 2967. of the Revised Code. A court shall 8921
not impose more than one prison term on an offender under 8922
division (B) (7) (a) of this section for felonies committed as 8923
part of the same act, scheme, or plan. 8924

(8) If an offender is convicted of or pleads guilty to a 8925
felony violation of section 2903.11, 2903.12, or 2903.13 of the 8926
Revised Code and also is convicted of or pleads guilty to a 8927
specification of the type described in section 2941.1423 of the 8928
Revised Code that charges that the victim of the violation was a 8929
woman whom the offender knew was pregnant at the time of the 8930
violation, notwithstanding the range prescribed in division (A) 8931
of this section as the definite prison term or minimum prison 8932
term for felonies of the same degree as the violation, the court 8933
shall impose on the offender a mandatory prison term that is 8934
either a definite prison term of six months or one of the prison 8935
terms prescribed in division (A) of this section for felonies of 8936
the same degree as the violation, except that if the violation 8937
is a felony of the first or second degree committed on or after 8938
the effective date of this amendment, the court shall impose as 8939
the minimum prison term under division (A) (1) (a) or (2) (a) of 8940
this section a mandatory term that is one of the terms 8941
prescribed in that division, whichever is applicable, for the 8942
offense. 8943

(9) (a) If an offender is convicted of or pleads guilty to 8944
a violation of division (A) (1) or (2) of section 2903.11 of the 8945

Revised Code and also is convicted of or pleads guilty to a 8946
specification of the type described in section 2941.1425 of the 8947
Revised Code, the court shall impose on the offender a mandatory 8948
prison term of six years if either of the following applies: 8949

(i) The violation is a violation of division (A) (1) of 8950
section 2903.11 of the Revised Code and the specification 8951
charges that the offender used an accelerant in committing the 8952
violation and the serious physical harm to another or to 8953
another's unborn caused by the violation resulted in a 8954
permanent, serious disfigurement or permanent, substantial 8955
incapacity; 8956

(ii) The violation is a violation of division (A) (2) of 8957
section 2903.11 of the Revised Code and the specification 8958
charges that the offender used an accelerant in committing the 8959
violation, that the violation caused physical harm to another or 8960
to another's unborn, and that the physical harm resulted in a 8961
permanent, serious disfigurement or permanent, substantial 8962
incapacity. 8963

(b) If a court imposes a prison term on an offender under 8964
division (B) (9) (a) of this section, the prison term shall not be 8965
reduced pursuant to section 2929.20, section 2967.19, section 8966
2967.193, or any other provision of Chapter 2967. or Chapter 8967
5120. of the Revised Code. A court shall not impose more than 8968
one prison term on an offender under division (B) (9) of this 8969
section for felonies committed as part of the same act. 8970

(c) The provisions of divisions (B) (9) and (C) (6) of this 8971
section and of division (D) (2) of section 2903.11, division (F) 8972
(20) of section 2929.13, and section 2941.1425 of the Revised 8973
Code shall be known as "Judy's Law." 8974

(10) If an offender is convicted of or pleads guilty to a violation of division (A) 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 2941.1426 of the Revised Code that charges that the victim of the offense suffered permanent disabling harm as a result of the offense and that the victim was under ten years of age at the time of the offense, regardless of whether the offender knew the age of the victim, the court shall impose upon the offender an additional definite prison term of six years. A prison term imposed on an offender under division (B) (10) of this section shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. If a court imposes an additional prison term on an offender under this division relative to a violation of division (A) of section 2903.11 of the Revised Code, the court shall not impose any other additional prison term on the offender relative to the same offense.

(11) If an offender is convicted of or pleads guilty to a felony violation of section 2925.03 or 2925.05 of the Revised Code or a felony violation of section 2925.11 of the Revised Code for which division (C) (11) of that section applies in determining the sentence for the violation, if the drug involved in the violation is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound, and if the offender also is convicted of or pleads guilty to a specification of the type described in division (B) of section 2941.1410 of the Revised Code that charges that the offender is a major drug offender, in addition to any other penalty imposed for the violation, the court shall impose on the offender a mandatory prison term of three, four, five, six,

seven, or eight years. If a court imposes a prison term on an 9006
offender under division (B) (11) of this section, the prison 9007
term, subject to divisions (C) to (I) of section 2967.19 of the 9008
Revised Code, shall not be reduced pursuant to section 2929.20, 9009
2967.19, or 2967.193, or any other provision of Chapter 2967. or 9010
5120. of the Revised Code. A court shall not impose more than 9011
one prison term on an offender under division (B) (11) of this 9012
section for felonies committed as part of the same act. 9013

(C) (1) (a) Subject to division (C) (1) (b) of this section, 9014
if a mandatory prison term is imposed upon an offender pursuant 9015
to division (B) (1) (a) of this section for having a firearm on or 9016
about the offender's person or under the offender's control 9017
while committing a felony, if a mandatory prison term is imposed 9018
upon an offender pursuant to division (B) (1) (c) of this section 9019
for committing a felony specified in that division by 9020
discharging a firearm from a motor vehicle, or if both types of 9021
mandatory prison terms are imposed, the offender shall serve any 9022
mandatory prison term imposed under either division 9023
consecutively to any other mandatory prison term imposed under 9024
either division or under division (B) (1) (d) of this section, 9025
consecutively to and prior to any prison term imposed for the 9026
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 9027
this section or any other section of the Revised Code, and 9028
consecutively to any other prison term or mandatory prison term 9029
previously or subsequently imposed upon the offender. 9030

(b) If a mandatory prison term is imposed upon an offender 9031
pursuant to division (B) (1) (d) of this section for wearing or 9032
carrying body armor while committing an offense of violence that 9033
is a felony, the offender shall serve the mandatory term so 9034
imposed consecutively to any other mandatory prison term imposed 9035
under that division or under division (B) (1) (a) or (c) of this 9036

section, consecutively to and prior to any prison term imposed 9037
for the underlying felony under division (A), (B) (2), or (B) (3) 9038
of this section or any other section of the Revised Code, and 9039
consecutively to any other prison term or mandatory prison term 9040
previously or subsequently imposed upon the offender. 9041

(c) If a mandatory prison term is imposed upon an offender 9042
pursuant to division (B) (1) (f) of this section, the offender 9043
shall serve the mandatory prison term so imposed consecutively 9044
to and prior to any prison term imposed for the underlying 9045
felony under division (A), (B) (2), or (B) (3) of this section or 9046
any other section of the Revised Code, and consecutively to any 9047
other prison term or mandatory prison term previously or 9048
subsequently imposed upon the offender. 9049

(d) If a mandatory prison term is imposed upon an offender 9050
pursuant to division (B) (7) or (8) of this section, the offender 9051
shall serve the mandatory prison term so imposed consecutively 9052
to any other mandatory prison term imposed under that division 9053
or under any other provision of law and consecutively to any 9054
other prison term or mandatory prison term previously or 9055
subsequently imposed upon the offender. 9056

(e) If a mandatory prison term is imposed upon an offender 9057
pursuant to division (B) (10) of this section, the offender shall 9058
serve the mandatory prison term consecutively to any other 9059
mandatory prison term imposed under that division, consecutively 9060
to and prior to any prison term imposed for the underlying 9061
felony, and consecutively to any other prison term or mandatory 9062
prison term previously or subsequently imposed upon the 9063
offender. 9064

(2) If an offender who is an inmate in a jail, prison, or 9065
other residential detention facility violates section 2917.02, 9066

2917.03, or 2921.35 of the Revised Code or division (A) (1) or 9067
(2) of section 2921.34 of the Revised Code, if an offender who 9068
is under detention at a detention facility commits a felony 9069
violation of section 2923.131 of the Revised Code, or if an 9070
offender who is an inmate in a jail, prison, or other 9071
residential detention facility or is under detention at a 9072
detention facility commits another felony while the offender is 9073
an escapee in violation of division (A) (1) or (2) of section 9074
2921.34 of the Revised Code, any prison term imposed upon the 9075
offender for one of those violations shall be served by the 9076
offender consecutively to the prison term or term of 9077
imprisonment the offender was serving when the offender 9078
committed that offense and to any other prison term previously 9079
or subsequently imposed upon the offender. 9080

(3) If a prison term is imposed for a violation of 9081
division (B) of section 2911.01 of the Revised Code, a violation 9082
of division (A) of section 2913.02 of the Revised Code in which 9083
the stolen property is a firearm or dangerous ordnance, or a 9084
felony violation of division (B) of section 2921.331 of the 9085
Revised Code, the offender shall serve that prison term 9086
consecutively to any other prison term or mandatory prison term 9087
previously or subsequently imposed upon the offender. 9088

(4) If multiple prison terms are imposed on an offender 9089
for convictions of multiple offenses, the court may require the 9090
offender to serve the prison terms consecutively if the court 9091
finds that the consecutive service is necessary to protect the 9092
public from future crime or to punish the offender and that 9093
consecutive sentences are not disproportionate to the 9094
seriousness of the offender's conduct and to the danger the 9095
offender poses to the public, and if the court also finds any of 9096
the following: 9097

(a) The offender committed one or more of the multiple 9098
offenses while the offender was awaiting trial or sentencing, 9099
was under a sanction imposed pursuant to section 2929.16, 9100
2929.17, or 2929.18 of the Revised Code, or was under post- 9101
release control for a prior offense. 9102

(b) At least two of the multiple offenses were committed 9103
as part of one or more courses of conduct, and the harm caused 9104
by two or more of the multiple offenses so committed was so 9105
great or unusual that no single prison term for any of the 9106
offenses committed as part of any of the courses of conduct 9107
adequately reflects the seriousness of the offender's conduct. 9108

(c) The offender's history of criminal conduct 9109
demonstrates that consecutive sentences are necessary to protect 9110
the public from future crime by the offender. 9111

(5) If a mandatory prison term is imposed upon an offender 9112
pursuant to division (B) (5) or (6) of this section, the offender 9113
shall serve the mandatory prison term consecutively to and prior 9114
to any prison term imposed for the underlying violation of 9115
division (A) (1) or (2) of section 2903.06 of the Revised Code 9116
pursuant to division (A) of this section or section 2929.142 of 9117
the Revised Code. If a mandatory prison term is imposed upon an 9118
offender pursuant to division (B) (5) of this section, and if a 9119
mandatory prison term also is imposed upon the offender pursuant 9120
to division (B) (6) of this section in relation to the same 9121
violation, the offender shall serve the mandatory prison term 9122
imposed pursuant to division (B) (5) of this section 9123
consecutively to and prior to the mandatory prison term imposed 9124
pursuant to division (B) (6) of this section and consecutively to 9125
and prior to any prison term imposed for the underlying 9126
violation of division (A) (1) or (2) of section 2903.06 of the 9127

Revised Code pursuant to division (A) of this section or section 9128
2929.142 of the Revised Code. 9129

(6) If a mandatory prison term is imposed on an offender 9130
pursuant to division (B)(9) of this section, the offender shall 9131
serve the mandatory prison term consecutively to and prior to 9132
any prison term imposed for the underlying violation of division 9133
(A)(1) or (2) of section 2903.11 of the Revised Code and 9134
consecutively to and prior to any other prison term or mandatory 9135
prison term previously or subsequently imposed on the offender. 9136

(7) If a mandatory prison term is imposed on an offender 9137
pursuant to division (B)(10) of this section, the offender shall 9138
serve that mandatory prison term consecutively to and prior to 9139
any prison term imposed for the underlying felonious assault. 9140
Except as otherwise provided in division (C) of this section, 9141
any other prison term or mandatory prison term previously or 9142
subsequently imposed upon the offender may be served 9143
concurrently with, or consecutively to, the prison term imposed 9144
pursuant to division (B)(10) of this section. 9145

(8) Any prison term imposed for a violation of section 9146
2903.04 of the Revised Code that is based on a violation of 9147
section 2925.03 or 2925.11 of the Revised Code or on a violation 9148
of section 2925.05 of the Revised Code that is not funding of 9149
marihuana trafficking shall run consecutively to any prison term 9150
imposed for the violation of section 2925.03 or 2925.11 of the 9151
Revised Code or for the violation of section 2925.05 of the 9152
Revised Code that is not funding of marihuana trafficking. 9153

(9) When consecutive prison terms are imposed pursuant to 9154
division (C)(1), (2), (3), (4), (5), (6), (7), or (8) or 9155
division (H)(1) or (2) of this section, subject to division (C) 9156
(8) of this section, the term to be served is the aggregate of 9157

all of the terms so imposed. 9158

(10) When a court sentences an offender to a non-life 9159
felony indefinite prison term, any definite prison term or 9160
mandatory definite prison term previously or subsequently 9161
imposed on the offender in addition to that indefinite sentence 9162
that is required to be served consecutively to that indefinite 9163
sentence shall be served prior to the indefinite sentence. 9164

(11) If a court is sentencing an offender for a felony of 9165
the first or second degree, if division (A)(1)(a) or (2)(a) of 9166
this section applies with respect to the sentencing for the 9167
offense, and if the court is required under the Revised Code 9168
section that sets forth the offense or any other Revised Code 9169
provision to impose a mandatory prison term for the offense, the 9170
court shall impose the required mandatory prison term as the 9171
minimum term imposed under division (A)(1)(a) or (2)(a) of this 9172
section, whichever is applicable. 9173

(D)(1) If a court imposes a prison term, other than a term 9174
of life imprisonment, for a felony of the first degree, for a 9175
felony of the second degree, for a felony sex offense, or for a 9176
felony of the third degree that is an offense of violence and 9177
that is not a felony sex offense, it shall include in the 9178
sentence a requirement that the offender be subject to a period 9179
of post-release control after the offender's release from 9180
imprisonment, in accordance with section 2967.28 of the Revised 9181
Code. If a court imposes a sentence including a prison term of a 9182
type described in this division on or after July 11, 2006, the 9183
failure of a court to include a post-release control requirement 9184
in the sentence pursuant to this division does not negate, 9185
limit, or otherwise affect the mandatory period of post-release 9186
control that is required for the offender under division (B) of 9187

section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

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

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

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

(2) A person 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 either

the court does not impose a sentence of life without parole when 9218
authorized pursuant to division (B) of section 2907.02 of the 9219
Revised Code, or division (B) of section 2907.02 of the Revised 9220
Code provides that the court shall not sentence the offender 9221
pursuant to section 2971.03 of the Revised Code. 9222

(3) A person is convicted of or pleads guilty to attempted 9223
rape committed on or after January 2, 2007, and a specification 9224
of the type described in section 2941.1418, 2941.1419, or 9225
2941.1420 of the Revised Code. 9226

(4) A person is convicted of or pleads guilty to a 9227
violation of section 2905.01 of the Revised Code committed on or 9228
after January 1, 2008, and that section requires the court to 9229
sentence the offender pursuant to section 2971.03 of the Revised 9230
Code. 9231

(5) A person is convicted of or pleads guilty to either 9232
aggravated murder committed on or after January 1, 2008, or 9233
aggravated abortion murder, and division (A) (2) (b) (ii) of 9234
section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) 9235
(ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, 9236
or division (A) or (B) of section 2929.06 of the Revised Code 9237
requires the court to sentence the offender pursuant to division 9238
(B) (3) of section 2971.03 of the Revised Code. 9239

(6) A person is convicted of or pleads guilty to either 9240
murder committed on or after January 1, 2008, or abortion 9241
murder, and division (B) (2) of section 2929.02 of the Revised 9242
Code requires the court to sentence the offender pursuant to 9243
section 2971.03 of the Revised Code. 9244

(F) If a person who has been convicted of or pleaded 9245
guilty to a felony is sentenced to a prison term or term of 9246

imprisonment under this section, sections 2929.02 to 2929.06 of 9247
the Revised Code, section 2929.142 of the Revised Code, section 9248
2971.03 of the Revised Code, or any other provision of law, 9249
section 5120.163 of the Revised Code applies regarding the 9250
person while the person is confined in a state correctional 9251
institution. 9252

(G) If an offender who is convicted of or pleads guilty to 9253
a felony that is an offense of violence also is convicted of or 9254
pleads guilty to a specification of the type described in 9255
section 2941.142 of the Revised Code that charges the offender 9256
with having committed the felony while participating in a 9257
criminal gang, the court shall impose upon the offender an 9258
additional prison term of one, two, or three years. 9259

(H) (1) If an offender who is convicted of or pleads guilty 9260
to aggravated murder, murder, aggravated abortion murder, 9261
abortion murder, or a felony of the first, second, or third 9262
degree that is an offense of violence also is convicted of or 9263
pleads guilty to a specification of the type described in 9264
section 2941.143 of the Revised Code that charges the offender 9265
with having committed the offense in a school safety zone or 9266
towards a person in a school safety zone, the court shall impose 9267
upon the offender an additional prison term of two years. The 9268
offender shall serve the additional two years consecutively to 9269
and prior to the prison term imposed for the underlying offense. 9270

(2) (a) If an offender is convicted of or pleads guilty to 9271
a felony violation of section 2907.22, 2907.24, 2907.241, or 9272
2907.25 of the Revised Code and to a specification of the type 9273
described in section 2941.1421 of the Revised Code and if the 9274
court imposes a prison term on the offender for the felony 9275
violation, the court may impose upon the offender an additional 9276

prison term as follows: 9277

(i) Subject to division (H) (2) (a) (ii) of this section, an 9278
additional prison term of one, two, three, four, five, or six 9279
months; 9280

(ii) If the offender previously has been convicted of or 9281
pleaded guilty to one or more felony or misdemeanor violations 9282
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 9283
the Revised Code and also was convicted of or pleaded guilty to 9284
a specification of the type described in section 2941.1421 of 9285
the Revised Code regarding one or more of those violations, an 9286
additional prison term of one, two, three, four, five, six, 9287
seven, eight, nine, ten, eleven, or twelve months. 9288

(b) In lieu of imposing an additional prison term under 9289
division (H) (2) (a) of this section, the court may directly 9290
impose on the offender a sanction that requires the offender to 9291
wear a real-time processing, continual tracking electronic 9292
monitoring device during the period of time specified by the 9293
court. The period of time specified by the court shall equal the 9294
duration of an additional prison term that the court could have 9295
imposed upon the offender under division (H) (2) (a) of this 9296
section. A sanction imposed under this division shall commence 9297
on the date specified by the court, provided that the sanction 9298
shall not commence until after the offender has served the 9299
prison term imposed for the felony violation of section 2907.22, 9300
2907.24, 2907.241, or 2907.25 of the Revised Code and any 9301
residential sanction imposed for the violation under section 9302
2929.16 of the Revised Code. A sanction imposed under this 9303
division shall be considered to be a community control sanction 9304
for purposes of section 2929.15 of the Revised Code, and all 9305
provisions of the Revised Code that pertain to community control 9306

sanctions shall apply to a sanction imposed under this division, 9307
except to the extent that they would by their nature be clearly 9308
inapplicable. The offender shall pay all costs associated with a 9309
sanction imposed under this division, including the cost of the 9310
use of the monitoring device. 9311

(I) At the time of sentencing, the court may recommend the 9312
offender for placement in a program of shock incarceration under 9313
section 5120.031 of the Revised Code or for placement in an 9314
intensive program prison under section 5120.032 of the Revised 9315
Code, disapprove placement of the offender in a program of shock 9316
incarceration or an intensive program prison of that nature, or 9317
make no recommendation on placement of the offender. In no case 9318
shall the department of rehabilitation and correction place the 9319
offender in a program or prison of that nature unless the 9320
department determines as specified in section 5120.031 or 9321
5120.032 of the Revised Code, whichever is applicable, that the 9322
offender is eligible for the placement. 9323

If the court disapproves placement of the offender in a 9324
program or prison of that nature, the department of 9325
rehabilitation and correction shall not place the offender in 9326
any program of shock incarceration or intensive program prison. 9327

If the court recommends placement of the offender in a 9328
program of shock incarceration or in an intensive program 9329
prison, and if the offender is subsequently placed in the 9330
recommended program or prison, the department shall notify the 9331
court of the placement and shall include with the notice a brief 9332
description of the placement. 9333

If the court recommends placement of the offender in a 9334
program of shock incarceration or in an intensive program prison 9335
and the department does not subsequently place the offender in 9336

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 9367
control while committing the presently charged violent felony 9368
offense and displayed or brandished the firearm, indicated that 9369
the offender possessed a firearm, or used the firearm to 9370
facilitate the offense. The offender shall serve the prison term 9371
imposed under this division consecutively to and prior to the 9372
prison term imposed for the underlying offense. The prison term 9373
shall not be reduced pursuant to section 2929.20 or 2967.19 or 9374
any other provision of Chapter 2967. or 5120. of the Revised 9375
Code. A court may not impose more than one sentence under 9376
division (B) (2) (a) of this section and this division for acts 9377
committed as part of the same act or transaction. 9378

(2) As used in division (K) (1) of this section, "violent 9379
career criminal" and "violent felony offense" have the same 9380
meanings as in section 2923.132 of the Revised Code. 9381

Sec. 2929.143. (A) When a court sentences an offender who 9382
is convicted of a felony to a term of incarceration in a state 9383
correctional institution, the court may recommend that the 9384
offender serve a risk reduction sentence under section 5120.036 9385
of the Revised Code if the court determines that a risk 9386
reduction sentence is appropriate, and all of the following 9387
apply: 9388

(1) The offense for which the offender is being sentenced 9389
is not aggravated murder, murder, aggravated abortion murder, 9390
abortion murder, complicity in committing aggravated murder ~~or,~~ 9391
murder, aggravated abortion murder, or abortion murder, an 9392
offense of violence that is a felony of the first or second 9393
degree, a sexually oriented offense, or an attempt or conspiracy 9394
to commit or complicity in committing any offense otherwise 9395
identified in this division if the attempt, conspiracy, or 9396

complicity is a felony of the first or second degree. 9397

(2) The offender's sentence to the term of incarceration 9398
does not consist solely of one or more mandatory prison terms. 9399

(3) The offender agrees to cooperate with an assessment of 9400
the offender's needs and risk of reoffending that the department 9401
of rehabilitation and correction conducts under section 5120.036 9402
of the Revised Code. 9403

(4) The offender agrees to participate in any programming 9404
or treatment that the department of rehabilitation and 9405
correction orders to address any issues raised in the assessment 9406
described in division (A) (3) of this section. 9407

(B) An offender who is serving a risk reduction sentence 9408
is not entitled to any earned credit under section 2967.193 of 9409
the Revised Code. 9410

Sec. 2929.31. (A) Regardless of the penalties provided in 9411
sections 2929.02, 2929.14 to 2929.18, and 2929.24 to 2929.28 of 9412
the Revised Code, an organization convicted of an offense 9413
pursuant to section 2901.23 of the Revised Code shall be fined 9414
in accordance with this section. The court shall fix the fine as 9415
follows: 9416

(1) For aggravated murder or aggravated abortion murder, 9417
not more than one hundred thousand dollars; 9418

(2) For murder or abortion murder, not more than fifty 9419
thousand dollars; 9420

(3) For a felony of the first degree, not more than 9421
twenty-five thousand dollars; 9422

(4) For a felony of the second degree, not more than 9423
twenty thousand dollars; 9424

(5) For a felony of the third degree, not more than	9425
fifteen thousand dollars;	9426
(6) For a felony of the fourth degree, not more than ten	9427
thousand dollars;	9428
(7) For a felony of the fifth degree, not more than	9429
seventy-five hundred dollars;	9430
(8) For a misdemeanor of the first degree, not more than	9431
five thousand dollars;	9432
(9) For a misdemeanor of the second degree, not more than	9433
four thousand dollars;	9434
(10) For a misdemeanor of the third degree, not more than	9435
three thousand dollars;	9436
(11) For a misdemeanor of the fourth degree, not more than	9437
two thousand dollars;	9438
(12) For a minor misdemeanor, not more than one thousand	9439
dollars;	9440
(13) For a felony not specifically classified, not more	9441
than ten thousand dollars;	9442
(14) For a misdemeanor not specifically classified, not	9443
more than two thousand dollars;	9444
(15) For a minor misdemeanor not specifically classified,	9445
not more than one thousand dollars.	9446
(B) When an organization is convicted of an offense that	9447
is not specifically classified, and the section defining the	9448
offense or penalty plainly indicates a purpose to impose the	9449
penalty provided for violation upon organizations, then the	9450
penalty so provided shall be imposed in lieu of the penalty	9451

provided in this section. 9452

(C) When an organization is convicted of an offense that 9453
is not specifically classified, and the penalty provided 9454
includes a higher fine than the fine that is provided in this 9455
section, then the penalty imposed shall be pursuant to the 9456
penalty provided for the violation of the section defining the 9457
offense. 9458

(D) This section does not prevent the imposition of 9459
available civil sanctions against an organization convicted of 9460
an offense pursuant to section 2901.23 of the Revised Code, 9461
either in addition to or in lieu of a fine imposed pursuant to 9462
this section. 9463

Sec. 2929.32. (A) (1) Subject to division (A) (2) of this 9464
section, notwithstanding the fines prescribed in section 2929.02 9465
of the Revised Code for a person who is convicted of or pleads 9466
guilty to aggravated murder ~~or~~, murder, aggravated abortion 9467
murder, or abortion murder, the fines prescribed in section 9468
2929.18 of the Revised Code for a person who is convicted of or 9469
pleads guilty to a felony, the fines prescribed in section 9470
2929.28 of the Revised Code for a person who is convicted of or 9471
pleads guilty to a misdemeanor, the fines prescribed in section 9472
2929.31 of the Revised Code for an organization that is 9473
convicted of or pleads guilty to an offense, and the fines 9474
prescribed in any other section of the Revised Code for a person 9475
who is convicted of or pleads guilty to an offense, a sentencing 9476
court may impose upon the offender a fine of not more than one 9477
million dollars if any of the following applies to the offense 9478
and the offender: 9479

(a) There are three or more victims, as defined in section 9480
2969.11 of the Revised Code, of the offense for which the 9481

offender is being sentenced. 9482

(b) The offender previously has been convicted of or 9483
pleaded guilty to one or more offenses, and, for the offense for 9484
which the offender is being sentenced and all of the other 9485
offenses, there is a total of three or more victims, as defined 9486
in section 2969.11 of the Revised Code. 9487

(c) The offense for which the offender is being sentenced 9488
is aggravated murder, murder, aggravated abortion murder, 9489
abortion murder, or a felony of the first degree that, if it had 9490
been committed prior to July 1, 1996, would have been an 9491
aggravated felony of the first degree. 9492

(2) If the offense in question is a first, second, or 9493
third degree felony violation of any provision of Chapter 2925., 9494
3719., or 4729. of the Revised Code, the court shall impose upon 9495
the offender the mandatory fine described in division (B) of 9496
section 2929.18 of the Revised Code, and, in addition, may 9497
impose a fine under division (A)(1) of this section, provided 9498
that the total of the mandatory fine and the fine imposed under 9499
division (A)(1) of this section shall not exceed one million 9500
dollars. The mandatory fine shall be paid as described in 9501
division (D) of section 2929.18 of the Revised Code, and the 9502
fine imposed under division (A)(1) of this section shall be 9503
deposited pursuant to division (B) of this section. 9504

(B) If a sentencing court imposes a fine upon an offender 9505
pursuant to division (A)(1) of this section, all moneys paid in 9506
satisfaction of the fine or collected pursuant to division (C) 9507
(1) of this section in satisfaction of the fine shall be 9508
deposited into the crime victims recovery fund created by 9509
division (D) of this section and shall be distributed as 9510
described in that division. 9511

(C) (1) Subject to division (C) (2) of this section, 9512
notwithstanding any contrary provision of any section of the 9513
Revised Code, if a sentencing court imposes a fine upon an 9514
offender pursuant to division (A) (1) of this section or pursuant 9515
to another section of the Revised Code, the fine shall be a 9516
judgment against the offender in favor of the state, and both of 9517
the following apply to that judgment: 9518

(a) The state may collect the judgment by garnishing, 9519
attaching, or otherwise executing against any income, profits, 9520
or other real or personal property in which the offender has any 9521
right, title, or interest, including property acquired after the 9522
imposition of the fine, in the same manner as if the judgment 9523
had been rendered against the offender and in favor of the state 9524
in a civil action. If the fine is imposed pursuant to division 9525
(A) (1) of this section, the moneys collected as a result of the 9526
garnishment, attachment, or other execution shall be deposited 9527
and distributed as described in divisions (B) and (D) of this 9528
section. If the fine is not imposed pursuant to division (A) (1) 9529
of this section, the moneys collected as a result of the 9530
garnishment, attachment, or other execution shall be distributed 9531
as otherwise provided by law for the distribution of money paid 9532
in satisfaction of a fine. 9533

(b) The provisions of Chapter 2329. of the Revised Code 9534
relative to the establishment of court judgments and decrees as 9535
liens and to the enforcement of those liens apply to the 9536
judgment. 9537

(2) Division (C) (1) of this section does not apply to any 9538
financial sanction imposed pursuant to section 2929.18 of the 9539
Revised Code upon a person who is convicted of or pleads guilty 9540
to a felony. 9541

(D) There is hereby created in the state treasury the 9542
crime victims recovery fund. If a sentencing court imposes a 9543
fine upon an offender pursuant to division (A) (1) of this 9544
section, all moneys paid in satisfaction of the fine and all 9545
moneys collected in satisfaction of the fine pursuant to 9546
division (C) (1) of this section shall be deposited into the 9547
fund. The fund shall be administered and the moneys in it shall 9548
be distributed in accordance with sections 2969.11 to 2969.14 of 9549
the Revised Code. 9550

Sec. 2929.34. (A) A person who is convicted of or pleads 9551
guilty to aggravated murder, murder, aggravated abortion murder, 9552
abortion murder, or an offense punishable by life imprisonment 9553
and who is sentenced to a term of life imprisonment or a prison 9554
term pursuant to that conviction shall serve that term in an 9555
institution under the control of the department of 9556
rehabilitation and correction. 9557

(B) (1) A person who is convicted of or pleads guilty to a 9558
felony other than aggravated murder, murder, aggravated abortion 9559
murder, abortion murder, or an offense punishable by life 9560
imprisonment and who is sentenced to a term of imprisonment or a 9561
prison term pursuant to that conviction shall serve that term as 9562
follows: 9563

(a) Subject to divisions (B) (1) (b), (B) (2), and (B) (3) of 9564
this section, in an institution under the control of the 9565
department of rehabilitation and correction if the term is a 9566
prison term or as otherwise determined by the sentencing court 9567
pursuant to section 2929.16 of the Revised Code if the term is 9568
not a prison term; 9569

(b) In a facility of a type described in division (G) (1) 9570
of section 2929.13 of the Revised Code, if the offender is 9571

sentenced pursuant to that division. 9572

(2) If the term is a prison term, the person may be 9573
imprisoned in a jail that is not a minimum security jail 9574
pursuant to agreement under section 5120.161 of the Revised Code 9575
between the department of rehabilitation and correction and the 9576
local authority that operates the jail. 9577

(3) (a) As used in divisions (B) (3) (a) to (d) of this 9578
section: 9579

(i) "Target county" means Franklin county, Cuyahoga 9580
county, Hamilton county, Summit county, Montgomery county, Lucas 9581
county, Butler county, Stark county, Lorain county, and Mahoning 9582
county. 9583

(ii) "Voluntary county" means any county in which the 9584
board of county commissioners of the county and the 9585
administrative judge of the general division of the court of 9586
common pleas of the county enter into an agreement of the type 9587
described in division (B) (3) (b) of this section and in which the 9588
agreement has not been terminated as described in that division. 9589

(b) In any county other than a target county, the board of 9590
county commissioners of the county and the administrative judge 9591
of the general division of the court of common pleas of the 9592
county may agree to having the county participate in the 9593
procedures regarding local and state confinement established 9594
under division (B) (3) (c) of this section. A board of county 9595
commissioners and an administrative judge of a court of common 9596
pleas that enter into an agreement of the type described in this 9597
division may terminate the agreement, but a termination under 9598
this division shall take effect only at the end of the state 9599
fiscal biennium in which the termination decision is made. 9600

(c) Except as provided in division (B) (3) (d) of this section, on and after July 1, 2018, no person sentenced by the court of common pleas of a target county or of a voluntary county to a prison term that is twelve months or less for a felony of the fifth degree shall serve the term in an institution under the control of the department of rehabilitation and correction. The person shall instead serve the sentence as a term of confinement in a facility of a type described in division (C) or (D) of this section. Nothing in this division relieves the state of its obligation to pay for the cost of confinement of the person in a community-based correctional facility under division (D) of this section.

(d) Division (B) (3) (c) of this section does not apply to any person to whom any of the following apply:

(i) The felony of the fifth degree was an offense of violence, as defined in section 2901.01 of the Revised Code, a sex offense under Chapter 2907. of the Revised Code, a violation of section 2925.03 of the Revised Code, or any offense for which a mandatory prison term is required.

(ii) The person previously has been convicted of or pleaded guilty to any felony offense of violence, as defined in section 2901.01 of the Revised Code, unless the felony of the fifth degree for which the person is being sentenced is a violation of division (I) (1) of section 2903.43 of the Revised Code.

(iii) The person previously has been convicted of or pleaded guilty to any felony sex offense under Chapter 2907. of the Revised Code.

(iv) The person's sentence is required to be served

concurrently to any other sentence imposed upon the person for a 9630
felony that is required to be served in an institution under the 9631
control of the department of rehabilitation and correction. 9632

(C) A person who is convicted of or pleads guilty to one 9633
or more misdemeanors and who is sentenced to a jail term or term 9634
of imprisonment pursuant to the conviction or convictions shall 9635
serve that term in a county, multicounty, municipal, municipal- 9636
county, or multicounty-municipal jail or workhouse; in a 9637
community alternative sentencing center or district community 9638
alternative sentencing center when authorized by section 307.932 9639
of the Revised Code; or, if the misdemeanor or misdemeanors are 9640
not offenses of violence, in a minimum security jail. 9641

(D) Nothing in this section prohibits the commitment, 9642
referral, or sentencing of a person who is convicted of or 9643
pleads guilty to a felony to a community-based correctional 9644
facility. 9645

Sec. 2930.16. (A) If a defendant is incarcerated, a victim 9646
in a case who has requested to receive notice under this section 9647
shall be given notice of the incarceration of the defendant. If 9648
an alleged juvenile offender is committed to the temporary 9649
custody of a school, camp, institution, or other facility 9650
operated for the care of delinquent children or to the legal 9651
custody of the department of youth services, a victim in a case 9652
who has requested to receive notice under this section shall be 9653
given notice of the commitment. Promptly after sentence is 9654
imposed upon the defendant or the commitment of the alleged 9655
juvenile offender is ordered, the prosecutor in the case shall 9656
notify the victim of the date on which the defendant will be 9657
released, or initially will be eligible for release, from 9658
confinement or the prosecutor's reasonable estimate of that date 9659

or the date on which the alleged juvenile offender will have 9660
served the minimum period of commitment or the prosecutor's 9661
reasonable estimate of that date. The prosecutor also shall 9662
notify the victim of the name of the custodial agency of the 9663
defendant or alleged juvenile offender and tell the victim how 9664
to contact that custodial agency. If the custodial agency is the 9665
department of rehabilitation and correction, the prosecutor 9666
shall notify the victim of the services offered by the office of 9667
victims' services pursuant to section 5120.60 of the Revised 9668
Code. If the custodial agency is the department of youth 9669
services, the prosecutor shall notify the victim of the services 9670
provided by the office of victims' services within the release 9671
authority of the department pursuant to section 5139.55 of the 9672
Revised Code and the victim's right pursuant to section 5139.56 9673
of the Revised Code to submit a written request to the release 9674
authority to be notified of actions the release authority takes 9675
with respect to the alleged juvenile offender. The victim shall 9676
keep the custodial agency informed of the victim's current 9677
address and telephone number. 9678

(B) (1) Upon the victim's request or in accordance with 9679
division (D) of this section, the prosecutor promptly shall 9680
notify the victim of any hearing for judicial release of the 9681
defendant pursuant to section 2929.20 of the Revised Code, of 9682
any hearing for release of the defendant pursuant to section 9683
2967.19 of the Revised Code, or of any hearing for judicial 9684
release or early release of the alleged juvenile offender 9685
pursuant to section 2151.38 of the Revised Code and of the 9686
victim's right to make a statement under those sections. The 9687
court shall notify the victim of its ruling in each of those 9688
hearings and on each of those applications. 9689

(2) If an offender is sentenced to a prison term pursuant 9690

to division (A) (3) or (B) of section 2971.03 of the Revised Code, upon the request of the victim of the crime or in accordance with division (D) of this section, the prosecutor promptly shall notify the victim of any hearing to be conducted pursuant to section 2971.05 of the Revised Code to determine whether to modify the requirement that the offender serve the entire prison term in a state correctional facility in accordance with division (C) of that section, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term in accordance with division (D) of that section. The court shall notify the victim of any order issued at the conclusion of the hearing.

(C) Upon the victim's request made at any time before the particular notice would be due or in accordance with division (D) of this section, the custodial agency of a defendant or alleged juvenile offender shall give the victim any of the following notices that is applicable:

(1) At least sixty days before the adult parole authority recommends a pardon or commutation of sentence for the defendant or at least sixty days prior to a hearing before the adult parole authority regarding a grant of parole to the defendant, notice of the victim's right to submit a statement regarding the impact of the defendant's release in accordance with section 2967.12 of the Revised Code and, if applicable, of the victim's right to appear at a full board hearing of the parole board to give testimony as authorized by section 5149.101 of the Revised Code; and at least sixty days prior to a hearing before the department regarding a determination of whether the inmate must be released under division (C) or (D) (2) of section 2967.271 of the Revised Code if the inmate is serving a non-life felony

indefinite prison term, notice of the fact that the inmate will 9722
be having a hearing regarding a possible grant of release, the 9723
date of any hearing regarding a possible grant of release, and 9724
the right of any person to submit a written statement regarding 9725
the pending action; 9726

(2) At least sixty days before the defendant is 9727
transferred to transitional control under section 2967.26 of the 9728
Revised Code, notice of the pendency of the transfer and of the 9729
victim's right under that section to submit a statement 9730
regarding the impact of the transfer; 9731

(3) At least sixty days before the release authority of 9732
the department of youth services holds a release review, release 9733
hearing, or discharge review for the alleged juvenile offender, 9734
notice of the pendency of the review or hearing, of the victim's 9735
right to make an oral or written statement regarding the impact 9736
of the crime upon the victim or regarding the possible release 9737
or discharge, and, if the notice pertains to a hearing, of the 9738
victim's right to attend and make statements or comments at the 9739
hearing as authorized by section 5139.56 of the Revised Code; 9740

(4) Prompt notice of the defendant's or alleged juvenile 9741
offender's escape from a facility of the custodial agency in 9742
which the defendant was incarcerated or in which the alleged 9743
juvenile offender was placed after commitment, of the 9744
defendant's or alleged juvenile offender's absence without leave 9745
from a mental health or developmental disabilities facility or 9746
from other custody, and of the capture of the defendant or 9747
alleged juvenile offender after an escape or absence; 9748

(5) Notice of the defendant's or alleged juvenile 9749
offender's death while in confinement or custody; 9750

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

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

(D) (1) If a defendant is incarcerated for the commission of aggravated murder, murder, aggravated abortion murder, abortion murder, or an offense of violence that is a felony of the first, second, or third degree or is under a sentence of life imprisonment or if an alleged juvenile offender has been charged with the commission of an act that would be aggravated murder, murder, aggravated abortion murder, abortion murder, or an offense of violence that is a felony of the first, second, or third degree or be subject to a sentence of life imprisonment if committed by an adult, except as otherwise provided in this division, the notices described in divisions (B) and (C) of this section shall be given regardless of whether the victim has requested the notification. The notices described in divisions (B) and (C) of this section shall not be given under this division to a victim if the victim has requested pursuant to division (B) (2) of section 2930.03 of the Revised Code that the victim not be provided the notice. Regardless of whether the victim has requested that the notices described in division (C) of this section be provided or not be provided, the custodial agency shall give notice similar to those notices to the prosecutor in the case, to the sentencing court, to the law enforcement agency that arrested the defendant or alleged juvenile offender if any officer of that agency was a victim of the offense, and to any member of the victim's immediate family

who requests notification. If the notice given under this 9782
division to the victim is based on an offense committed prior to 9783
March 22, 2013, and if the prosecutor or custodial agency has 9784
not previously successfully provided any notice to the victim 9785
under this division or division (B) or (C) of this section with 9786
respect to that offense and the offender who committed it, the 9787
notice also shall inform the victim that the victim may request 9788
that the victim not be provided any further notices with respect 9789
to that offense and the offender who committed it and shall 9790
describe the procedure for making that request. If the notice 9791
given under this division to the victim pertains to a hearing 9792
regarding a grant of a parole to the defendant, the notice also 9793
shall inform the victim that the victim, a member of the 9794
victim's immediate family, or the victim's representative may 9795
request a victim conference, as described in division (E) of 9796
this section, and shall provide an explanation of a victim 9797
conference. 9798

The prosecutor or custodial agency may give the notices to 9799
which this division applies by any reasonable means, including 9800
regular mail, telephone, and electronic mail. If the prosecutor 9801
or custodial agency attempts to provide notice to a victim under 9802
this division but the attempt is unsuccessful because the 9803
prosecutor or custodial agency is unable to locate the victim, 9804
is unable to provide the notice by its chosen method because it 9805
cannot determine the mailing address, telephone number, or 9806
electronic mail address at which to provide the notice, or, if 9807
the notice is sent by mail, the notice is returned, the 9808
prosecutor or custodial agency shall make another attempt to 9809
provide the notice to the victim. If the second attempt is 9810
unsuccessful, the prosecutor or custodial agency shall make at 9811
least one more attempt to provide the notice. If the notice is 9812

based on an offense committed prior to March 22, 2013, in each attempt to provide the notice to the victim, the notice shall include the opt-out information described in the preceding paragraph. The prosecutor or custodial agency, in accordance with division (D) (2) of this section, shall keep a record of all attempts to provide the notice, and of all notices provided, under this division.

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

(2) Each prosecutor and custodial agency that attempts to give any notice to which division (D) (1) of this section applies shall keep a record of all attempts to give the notice. The record shall indicate the person who was to be the recipient of the notice, the date on which the attempt was made, the manner in which the attempt was made, and the person who made the attempt. If the attempt is successful and the notice is given, the record shall indicate that fact. The record shall be kept in a manner that allows public inspection of attempts and notices given to persons other than victims without revealing the names, addresses, or other identifying information relating to victims. The record of attempts and notices given to victims is not a public record, but the prosecutor or custodial agency shall provide upon request a copy of that record to a prosecuting attorney, judge, law enforcement agency, or member of the general assembly. The record of attempts and notices given to persons other than victims is a public record. A record kept

under this division may be indexed by offender name, or in any 9844
other manner determined by the prosecutor or the custodial 9845
agency. Each prosecutor or custodial agency that is required to 9846
keep a record under this division shall determine the procedures 9847
for keeping the record and the manner in which it is to be kept, 9848
subject to the requirements of this division. 9849

(E) The adult parole authority shall adopt rules under 9850
Chapter 119. of the Revised Code providing for a victim 9851
conference, upon request of the victim, a member of the victim's 9852
immediate family, or the victim's representative, prior to a 9853
parole hearing in the case of a prisoner who is incarcerated for 9854
the commission of aggravated murder, murder, aggravated abortion 9855
murder, abortion murder, or an offense of violence that is a 9856
felony of the first, second, or third degree or is under a 9857
sentence of life imprisonment. The rules shall provide for, but 9858
not be limited to, all of the following: 9859

(1) Subject to division (E)(3) of this section, attendance 9860
by the victim, members of the victim's immediate family, the 9861
victim's representative, and, if practicable, other individuals; 9862

(2) Allotment of up to one hour for the conference; 9863

(3) A specification of the number of persons specified in 9864
division (E)(1) of this section who may be present at any single 9865
victim conference, if limited by the department pursuant to 9866
division (F) of this section. 9867

(F) The department may limit the number of persons 9868
specified in division (E)(1) of this section who may be present 9869
at any single victim conference, provided that the department 9870
shall not limit the number of persons who may be present at any 9871
single conference to fewer than three. If the department limits 9872

the number of persons who may be present at any single victim 9873
conference, the department shall permit and schedule, upon 9874
request of the victim, a member of the victim's immediate 9875
family, or the victim's representative, multiple victim 9876
conferences for the persons specified in division (E) (1) of this 9877
section. 9878

(G) As used in this section, "victim's immediate family" 9879
has the same meaning as in section 2967.12 of the Revised Code. 9880

Sec. 2933.51. As used in sections 2933.51 to 2933.66 of 9881
the Revised Code: 9882

(A) "Wire communication" means an aural transfer that is 9883
made in whole or in part through the use of facilities for the 9884
transmission of communications by the aid of wires or similar 9885
methods of connecting the point of origin of the communication 9886
and the point of reception of the communication, including the 9887
use of a method of connecting the point of origin and the point 9888
of reception of the communication in a switching station, if the 9889
facilities are furnished or operated by a person engaged in 9890
providing or operating the facilities for the transmission of 9891
communications. "Wire communication" includes an electronic 9892
storage of a wire communication. 9893

(B) "Oral communication" means an oral communication 9894
uttered by a person exhibiting an expectation that the 9895
communication is not subject to interception under circumstances 9896
justifying that expectation. "Oral communication" does not 9897
include an electronic communication. 9898

(C) "Intercept" means the aural or other acquisition of 9899
the contents of any wire, oral, or electronic communication 9900
through the use of an interception device. 9901

(D) "Interception device" means an electronic, mechanical, 9902
or other device or apparatus that can be used to intercept a 9903
wire, oral, or electronic communication. "Interception device" 9904
does not mean any of the following: 9905

(1) A telephone or telegraph instrument, equipment, or 9906
facility, or any of its components, if the instrument, 9907
equipment, facility, or component is any of the following: 9908

(a) Furnished to the subscriber or user by a provider of 9909
wire or electronic communication service in the ordinary course 9910
of its business and being used by the subscriber or user in the 9911
ordinary course of its business; 9912

(b) Furnished by a subscriber or user for connection to 9913
the facilities of a provider of wire or electronic communication 9914
service and used in the ordinary course of that subscriber's or 9915
user's business; 9916

(c) Being used by a provider of wire or electronic 9917
communication service in the ordinary course of its business or 9918
by an investigative or law enforcement officer in the ordinary 9919
course of the officer's duties that do not involve the 9920
interception of wire, oral, or electronic communications. 9921

(2) A hearing aid or similar device being used to correct 9922
subnormal hearing to not better than normal. 9923

(E) "Investigative officer" means any of the following: 9924

(1) An officer of this state or a political subdivision of 9925
this state, who is empowered by law to conduct investigations or 9926
to make arrests for a designated offense; 9927

(2) A person described in divisions (A) (11) (a) and (b) of 9928
section 2901.01 of the Revised Code; 9929

- (3) An attorney authorized by law to prosecute or participate in the prosecution of a designated offense; 9930
9931
- (4) A secret service officer appointed pursuant to section 309.07 of the Revised Code; 9932
9933
- (5) An officer of the United States, a state, or a political subdivision of a state who is authorized to conduct investigations pursuant to the "Electronic Communications Privacy Act of 1986," 100 Stat. 1848-1857, 18 U.S.C. 2510-2521 (1986), as amended. 9934
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- (F) "Interception warrant" means a court order that authorizes the interception of wire, oral, or electronic communications and that is issued pursuant to sections 2933.53 to 2933.56 of the Revised Code. 9939
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- (G) "Contents," when used with respect to a wire, oral, or electronic communication, includes any information concerning the substance, purport, or meaning of the communication. 9943
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9945
- (H) "Communications common carrier" means a person who is engaged as a common carrier for hire in intrastate, interstate, or foreign communications by wire, radio, or radio transmission of energy. "Communications common carrier" does not include, to the extent that the person is engaged in radio broadcasting, a person engaged in radio broadcasting. 9946
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- (I) "Designated offense" means any of the following: 9952
- (1) A felony violation of section 1315.53, 1315.55, 2903.01, 2903.02, 2903.11, 2904.03, 2904.04, 2905.01, 2905.02, 2905.11, 2905.22, 2905.32, 2907.02, 2907.21, 2907.22, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.04, 2913.42, 2913.51, 2915.02, 2915.03, 2917.01, 2917.02, 9953
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2921.02, 2921.03, 2921.04, 2921.32, 2921.34, 2923.20, 2923.32, 9959
2925.03, 2925.04, 2925.05, or 2925.06 or of division (B) of 9960
section 2915.05 or of division (E) or (G) of section 3772.99 of 9961
the Revised Code; 9962

(2) A violation of section 2919.23 of the Revised Code 9963
that, had it occurred prior to July 1, 1996, would have been a 9964
violation of section 2905.04 of the Revised Code as it existed 9965
prior to that date; 9966

(3) A felony violation of section 2925.11 of the Revised 9967
Code that is not a minor drug possession offense, as defined in 9968
section 2925.01 of the Revised Code; 9969

(4) Complicity in the commission of a felony violation of 9970
a section listed in division (I) (1), (2), or (3) of this 9971
section; 9972

(5) An attempt to commit, or conspiracy in the commission 9973
of, a felony violation of a section listed in division (I) (1), 9974
(2), or (3) of this section, if the attempt or conspiracy is 9975
punishable by a term of imprisonment of more than one year. 9976

(J) "Aggrieved person" means a person who was a party to 9977
an intercepted wire, oral, or electronic communication or a 9978
person against whom the interception of the communication was 9979
directed. 9980

(K) "Person" means a person, as defined in section 1.59 of 9981
the Revised Code, or a governmental officer, employee, or 9982
entity. 9983

(L) "Special need" means a showing that a licensed 9984
physician, licensed practicing psychologist, attorney, 9985
practicing cleric, journalist, or either spouse is personally 9986
engaging in continuing criminal activity, was engaged in 9987

continuing criminal activity over a period of time, or is 9988
committing, has committed, or is about to commit, a designated 9989
offense, or a showing that specified public facilities are being 9990
regularly used by someone who is personally engaging in 9991
continuing criminal activity, was engaged in continuing criminal 9992
activity over a period of time, or is committing, has committed, 9993
or is about to commit, a designated offense. 9994

(M) "Journalist" means a person engaged in, connected 9995
with, or employed by, any news media, including a newspaper, 9996
magazine, press association, news agency, or wire service, a 9997
radio or television station, or a similar media, for the purpose 9998
of gathering, processing, transmitting, compiling, editing, or 9999
disseminating news for the general public. 10000

(N) "Electronic communication" means a transfer of a sign, 10001
signal, writing, image, sound, datum, or intelligence of any 10002
nature that is transmitted in whole or in part by a wire, radio, 10003
electromagnetic, photoelectronic, or photo-optical system. 10004
"Electronic communication" does not mean any of the following: 10005

(1) A wire or oral communication; 10006

(2) A communication made through a tone-only paging 10007
device; 10008

(3) A communication from an electronic or mechanical 10009
tracking device that permits the tracking of the movement of a 10010
person or object. 10011

(O) "User" means a person or entity that uses an 10012
electronic communication service and is duly authorized by the 10013
provider of the service to engage in the use of the electronic 10014
communication service. 10015

(P) "Electronic communications system" means a wire, 10016

radio, electromagnetic, photoelectronic, or photo-optical 10017
facility for the transmission of electronic communications, and 10018
a computer facility or related electronic equipment for the 10019
electronic storage of electronic communications. 10020

(Q) "Electronic communication service" means a service 10021
that provides to users of the service the ability to send or 10022
receive wire or electronic communications. 10023

(R) "Readily accessible to the general public" means, with 10024
respect to a radio communication, that the communication is none 10025
of the following: 10026

(1) Scrambled or encrypted; 10027

(2) Transmitted using a modulation technique, the 10028
essential parameters of which have been withheld from the public 10029
with the intention of preserving the privacy of the 10030
communication; 10031

(3) Carried on a subcarrier or other signal subsidiary to 10032
a radio transmission; 10033

(4) Transmitted over a communications system provided by a 10034
communications common carrier, unless the communication is a 10035
tone-only paging system communication; 10036

(5) Transmitted on a frequency allocated under part 25, 10037
subpart D, E, or F of part 74, or part 94 of the Rules of the 10038
Federal Communications Commission, as those provisions existed 10039
on July 1, 1996, unless, in the case of a communication 10040
transmitted on a frequency allocated under part 74 that is not 10041
exclusively allocated to broadcast auxiliary services, the 10042
communication is a two-way voice communication by radio. 10043

(S) "Electronic storage" means a temporary, intermediate 10044

storage of a wire or electronic communication that is incidental 10045
to the electronic transmission of the communication, and a 10046
storage of a wire or electronic communication by an electronic 10047
communication service for the purpose of backup protection of 10048
the communication. 10049

(T) "Aural transfer" means a transfer containing the human 10050
voice at a point between and including the point of origin and 10051
the point of reception. 10052

(U) "Pen register" means a device that records or decodes 10053
electronic impulses that identify the numbers dialed, pulsed, or 10054
otherwise transmitted on telephone lines to which the device is 10055
attached. 10056

(V) "Trap and trace device" means a device that captures 10057
the incoming electronic or other impulses that identify the 10058
originating number of an instrument or device from which a wire 10059
communication or electronic communication was transmitted but 10060
that does not intercept the contents of the wire communication 10061
or electronic communication. 10062

(W) "Judge of a court of common pleas" means a judge of 10063
that court who is elected or appointed as a judge of general 10064
jurisdiction or as a judge who exercises both general 10065
jurisdiction and probate, domestic relations, or juvenile 10066
jurisdiction. "Judge of a court of common pleas" does not mean a 10067
judge of that court who is elected or appointed specifically as 10068
a probate, domestic relations, or juvenile judge. 10069

Sec. 2933.81. (A) As used in this section: 10070

(1) "Custodial interrogation" means any interrogation 10071
involving a law enforcement officer's questioning that is 10072
reasonably likely to elicit incriminating responses and in which 10073

a reasonable person in the subject's position would consider 10074
self to be in custody, beginning when a person should have been 10075
advised of the person's right to counsel and right to remain 10076
silent and of the fact that anything the person says could be 10077
used against the person, as specified by the United States 10078
supreme court in *Miranda v. Arizona* (1966), 384 U.S. 436, and 10079
subsequent decisions, and ending when the questioning has 10080
completely finished. 10081

(2) "Detention facility" has the same meaning as in 10082
section 2921.01 of the Revised Code. 10083

(3) "Electronic recording" or "electronically recorded" 10084
means an audio and visual recording that is an authentic, 10085
accurate, unaltered record of a custodial interrogation. 10086

(4) "Law enforcement agency" has the same meaning as in 10087
section 109.573 of the Revised Code. 10088

(5) "Law enforcement vehicle" means a vehicle primarily 10089
used by a law enforcement agency or by an employee of a law 10090
enforcement agency for official law enforcement purposes. 10091

(6) "Local correctional facility" has the same meaning as 10092
in section 2903.13 of the Revised Code. 10093

(7) "Place of detention" means a jail, police or sheriff's 10094
station, holding cell, state correctional institution, local 10095
correctional facility, detention facility, or department of 10096
youth services facility. "Place of detention" does not include a 10097
law enforcement vehicle. 10098

(8) "State correctional institution" has the same meaning 10099
as in section 2967.01 of the Revised Code. 10100

(9) "Statement" means an oral, written, sign language, or 10101

nonverbal communication. 10102

(B) All statements made by a person who is the suspect of 10103
a violation of or possible violation of section 2903.01, 10104
2903.02, ~~or~~ 2903.03, 2904.03, or 2904.04, a violation of section 10105
2903.04 or 2903.06 that is a felony of the first or second 10106
degree, a violation of section 2907.02 or 2907.03, or an attempt 10107
to commit a violation of section 2907.02 of the Revised Code 10108
during a custodial interrogation in a place of detention are 10109
presumed to be voluntary if the statements made by the person 10110
are electronically recorded. The person making the statements 10111
during the electronic recording of the custodial interrogation 10112
has the burden of proving that the statements made during the 10113
custodial interrogation were not voluntary. There shall be no 10114
penalty against the law enforcement agency that employs a law 10115
enforcement officer if the law enforcement officer fails to 10116
electronically record as required by this division a custodial 10117
interrogation. A law enforcement officer's failure to 10118
electronically record a custodial interrogation does not create 10119
a private cause of action against that law enforcement officer. 10120

(C) A failure to electronically record a statement as 10121
required by this section shall not provide the basis to exclude 10122
or suppress the statement in any criminal proceeding, delinquent 10123
child proceeding, or other legal proceeding. 10124

(D) (1) Law enforcement personnel shall clearly identify 10125
and catalog every electronic recording of a custodial 10126
interrogation that is recorded pursuant to this section. 10127

(2) If a criminal or delinquent child proceeding is 10128
brought against a person who was the subject of a custodial 10129
interrogation that was electronically recorded, law enforcement 10130
personnel shall preserve the recording until the later of when 10131

all appeals, post-conviction relief proceedings, and habeas corpus proceedings are final and concluded or the expiration of the period of time within which such appeals and proceedings must be brought.

(3) Upon motion by the defendant in a criminal proceeding or the alleged delinquent child in a delinquent child proceeding, the court may order that a copy of an electronic recording of a custodial interrogation of the person be preserved for any period beyond the expiration of all appeals, post-conviction relief proceedings, and habeas corpus proceedings.

(4) If no criminal or delinquent child proceeding is brought against a person who was the subject of a custodial interrogation that was electronically recorded pursuant to this section, law enforcement personnel are not required to preserve the related recording.

Sec. 2933.82. (A) As used in this section:

(1) (a) "Biological evidence" means any of the following:

(i) The contents of a sexual assault examination kit;

(ii) Any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material that was collected as part of a criminal investigation or delinquent child investigation and that reasonably may be used to incriminate or exculpate any person for an offense or delinquent act.

(b) The definition of "biological evidence" set forth in division (A) (1) (a) of this section applies whether the material in question is cataloged separately, such as on a slide or swab or in a test tube, or is present on other evidence, including,

but not limited to, clothing, ligatures, bedding or other household material, drinking cups or containers, or cigarettes. 10161
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(2) "Biological material" has the same meaning as in section 2953.71 of the Revised Code. 10163
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(3) "DNA," "DNA analysis," "DNA database," "DNA record," and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code. 10165
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(4) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code. 10168
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(5) "Governmental evidence-retention entity" means all of the following: 10170
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(a) Any law enforcement agency, prosecutor's office, court, public hospital, crime laboratory, or other governmental or public entity or individual within this state that is charged with the collection, storage, or retrieval of biological evidence; 10172
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(b) Any official or employee of any entity or individual described in division (A) (5) (a) of this section. 10177
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(B) (1) Each governmental evidence-retention entity that secures any biological evidence in relation to an investigation or prosecution of a criminal offense or delinquent act that is a violation of section 2903.01, 2903.02, ~~or 2903.03, 2904.04, or 2904.04,~~ a violation of section 2903.04 or 2903.06 that is a felony of the first or second degree, a violation of section 2907.02 or 2907.03 or division (A) (4) or (B) of section 2907.05 of the Revised Code, or an attempt to commit a violation of section 2907.02 of the Revised Code shall secure the biological evidence for whichever of the following periods of time is applicable: 10179
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(a) For a violation of section 2903.01 ~~or,~~ 2903.02, 2904.03, or 2904.04 of the Revised Code, for the period of time that the offense or act remains unsolved; 10190
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(b) For a violation of section 2903.03, a violation of section 2903.04 or 2903.06 that is a felony of the first or second degree, a violation of section 2907.02 or 2907.03 or of division (A) (4) or (B) of section 2907.05 of the Revised Code, or an attempt to commit a violation of section 2907.02 of the Revised Code, for a period of thirty years if the offense or act remains unsolved; 10193
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(c) If any person is convicted of or pleads guilty to the offense, or is adjudicated a delinquent child for committing the delinquent act, for the earlier of the following: (i) the expiration of the latest of the following periods of time that apply to the person: the period of time that the person is incarcerated, is in a department of youth services institution or other juvenile facility, is under a community control sanction for that offense, is under any order of disposition for that act, is on probation or parole for that offense, is under judicial release or supervised release for that act, is under post-release control for that offense, is involved in civil litigation in connection with that offense or act, or is subject to registration and other duties imposed for that offense or act under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code or (ii) thirty years. If after the period of thirty years the person remains incarcerated, then the governmental evidence-retention entity shall secure the biological evidence until the person is released from incarceration or dies. 10200
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(2) (a) A law enforcement agency shall review all of its records and reports pertaining to its investigation of any 10218
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offense specified in division (B)(1) of this section as soon as 10220
possible after March 23, 2015. If the law enforcement agency's 10221
review determines that one or more persons may have committed or 10222
participated in an offense specified in division (B)(1) of this 10223
section or another offense committed during the course of an 10224
offense specified in division (B)(1) of this section and the 10225
agency is in possession of a sexual assault examination kit 10226
secured during the course of the agency's investigation, as soon 10227
as possible, but not later than one year after March 23, 2015, 10228
the agency shall forward the contents of the kit to the bureau 10229
of criminal identification and investigation or another crime 10230
laboratory for a DNA analysis of the contents of the kit if a 10231
DNA analysis has not previously been performed on the contents 10232
of the kit. The law enforcement agency shall consider the period 10233
of time remaining under section 2901.13 of the Revised Code for 10234
commencing the prosecution of a criminal offense related to the 10235
DNA specimens from the kit as well as other relevant factors in 10236
prioritizing the forwarding of the contents of sexual assault 10237
examination kits. 10238

(b) If an investigation is initiated on or after March 23, 10239
2015, and if a law enforcement agency investigating an offense 10240
specified in division (B)(1) of this section determines that one 10241
or more persons may have committed or participated in an offense 10242
specified in division (B)(1) of this section or another offense 10243
committed during the course of an offense specified in division 10244
(B)(1) of this section, the law enforcement agency shall forward 10245
the contents of a sexual assault examination kit in the agency's 10246
possession to the bureau or another crime laboratory within 10247
thirty days for a DNA analysis of the contents of the kit. 10248

(c) A law enforcement agency shall be considered in the 10249
possession of a sexual assault examination kit that is not in 10250

the law enforcement agency's possession for purposes of 10251
divisions (B) (2) (a) and (b) of this section if the sexual 10252
assault examination kit contains biological evidence related to 10253
the law enforcement agency's investigation of an offense 10254
specified in division (B) (1) of this section and is in the 10255
possession of another government evidence-retention entity. The 10256
law enforcement agency shall be responsible for retrieving the 10257
sexual assault examination kit from the government evidence- 10258
retention entity and forwarding the contents of the kit to the 10259
bureau or another crime laboratory as required under divisions 10260
(B) (2) (a) and (b) of this section. 10261

(d) (i) The bureau or a laboratory under contract with the 10262
bureau pursuant to division (B) (5) of section 109.573 of the 10263
Revised Code shall perform a DNA analysis of the contents of any 10264
sexual assault examination kit forwarded to the bureau pursuant 10265
to division (B) (2) (a) or (b) of this section as soon as possible 10266
after the bureau receives the contents of the kit. The bureau 10267
shall enter the resulting DNA record into a DNA database. If the 10268
DNA analysis is performed by a laboratory under contract with 10269
the bureau, the laboratory shall forward the biological evidence 10270
to the bureau immediately after the laboratory performs the DNA 10271
analysis. A crime laboratory shall perform a DNA analysis of the 10272
contents of any sexual assault examination kit forwarded to the 10273
crime laboratory pursuant to division (B) (2) (a) or (b) of this 10274
section as soon as possible after the crime laboratory receives 10275
the contents of the kit and shall enter the resulting DNA record 10276
into a DNA database subject to the applicable DNA index system 10277
standards. 10278

(ii) Upon the completion of the DNA analysis by the bureau 10279
or a crime laboratory under contract with the bureau under this 10280
division, the bureau shall return the contents of the sexual 10281

assault examination kit to the law enforcement agency. The law 10282
enforcement agency shall secure the contents of the sexual 10283
assault examination kit in accordance with division (B) (1) of 10284
this section, as applicable. 10285

(e) The failure of any law enforcement agency to comply 10286
with any time limit specified in this section shall not create, 10287
and shall not be construed as creating, any basis or right to 10288
appeal, claim for or right to postconviction relief, or claim 10289
for or right to a new trial or any other claim or right to 10290
relief by any person. 10291

(3) This section applies to evidence likely to contain 10292
biological material that was in the possession of any 10293
governmental evidence-retention entity during the investigation 10294
and prosecution of a criminal case or delinquent child case 10295
involving a violation of section 2903.01, 2903.02, ~~or~~ 2903.03, 10296
2904.03, or 2904.04, a violation of section 2903.04 or 2903.06 10297
that is a felony of the first or second degree, a violation of 10298
section 2907.02 or 2907.03 or of division (A) (4) or (B) of 10299
section 2907.05 of the Revised Code, or an attempt to commit a 10300
violation of section 2907.02 of the Revised Code. 10301

(4) A governmental evidence-retention entity that 10302
possesses biological evidence shall retain the biological 10303
evidence in the amount and manner sufficient to develop a DNA 10304
record from the biological material contained in or included on 10305
the evidence. 10306

(5) Upon written request by the defendant in a criminal 10307
case or the alleged delinquent child in a delinquent child case 10308
involving a violation of section 2903.01, 2903.02, ~~or~~ 2903.03, 10309
2904.03, or 2904.04, a violation of section 2903.04 or 2903.06 10310
that is a felony of the first or second degree, a violation of 10311

section 2907.02 or 2907.03 or of division (A) (4) or (B) of 10312
section 2907.05 of the Revised Code, or an attempt to commit a 10313
violation of section 2907.02 of the Revised Code, a governmental 10314
evidence-retention entity that possesses biological evidence 10315
shall prepare an inventory of the biological evidence that has 10316
been preserved in connection with the defendant's criminal case 10317
or the alleged delinquent child's delinquent child case. 10318

(6) Except as otherwise provided in division (B) (8) of 10319
this section, a governmental evidence-retention entity that 10320
possesses biological evidence that includes biological material 10321
may destroy the evidence before the expiration of the applicable 10322
period of time specified in division (B) (1) of this section if 10323
all of the following apply: 10324

(a) No other provision of federal or state law requires 10325
the state to preserve the evidence. 10326

(b) The governmental evidence-retention entity, by 10327
certified mail, return receipt requested, provides notice of 10328
intent to destroy the evidence to all of the following: 10329

(i) All persons who remain in custody, incarcerated, in a 10330
department of youth services institution or other juvenile 10331
facility, under a community control sanction, under any order of 10332
disposition, on probation or parole, under judicial release or 10333
supervised release, under post-release control, involved in 10334
civil litigation, or subject to registration and other duties 10335
imposed for that offense or act under sections 2950.04, 10336
2950.041, 2950.05, and 2950.06 of the Revised Code as a result 10337
of a criminal conviction, delinquency adjudication, or 10338
commitment related to the evidence in question; 10339

(ii) The attorney of record for each person who is in 10340

custody in any circumstance described in division (B) (6) (b) (i) 10341
of this section if the attorney of record can be located; 10342

(iii) The state public defender; 10343

(iv) The office of the prosecutor of record in the case 10344
that resulted in the custody of the person in custody in any 10345
circumstance described in division (B) (6) (b) (i) of this section; 10346

(v) The attorney general. 10347

(c) No person who is notified under division (B) (6) (b) of 10348
this section does either of the following within one year after 10349
the date on which the person receives the notice: 10350

(i) Files a motion for testing of evidence under sections 10351
2953.71 to 2953.81 or section 2953.82 of the Revised Code; 10352

(ii) Submits a written request for retention of evidence 10353
to the governmental evidence-retention entity that provided 10354
notice of its intent to destroy evidence under division (B) (6) 10355
(b) of this section. 10356

(7) Except as otherwise provided in division (B) (8) of 10357
this section, if, after providing notice under division (B) (6) 10358
(b) of this section of its intent to destroy evidence, a 10359
governmental evidence-retention entity receives a written 10360
request for retention of the evidence from any person to whom 10361
the notice is provided, the governmental evidence-retention 10362
entity shall retain the evidence while the person referred to in 10363
division (B) (6) (b) (i) of this section remains in custody, 10364
incarcerated, in a department of youth services institution or 10365
other juvenile facility, under a community control sanction, 10366
under any order of disposition, on probation or parole, under 10367
judicial release or supervised release, under post-release 10368
control, involved in civil litigation, or subject to 10369

registration and other duties imposed for that offense or act 10370
under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 10371
Revised Code as a result of a criminal conviction, delinquency 10372
adjudication, or commitment related to the evidence in question. 10373

(8) A governmental evidence-retention entity that 10374
possesses biological evidence that includes biological material 10375
may destroy the evidence five years after a person pleads guilty 10376
or no contest to a violation of section 2903.01, 2903.02, ~~or~~ 10377
2903.03, 2904.03, or 2904.04, a violation of section 2903.04 or 10378
2903.06 that is a felony of the first or second degree, a 10379
violation of section 2907.02, 2907.03, division (A) (4) or (B) of 10380
section 2907.05, or an attempt to commit a violation of section 10381
2907.02 of the Revised Code and all appeals have been exhausted 10382
unless, upon a motion to the court by the person who pleaded 10383
guilty or no contest or the person's attorney and notice to 10384
those persons described in division (B) (6) (b) of this section 10385
requesting that the evidence not be destroyed, the court finds 10386
good cause as to why that evidence must be retained. 10387

(9) A governmental evidence-retention entity shall not be 10388
required to preserve physical evidence pursuant to this section 10389
that is of such a size, bulk, or physical character as to render 10390
retention impracticable. When retention of physical evidence 10391
that otherwise would be required to be retained pursuant to this 10392
section is impracticable as described in this division, the 10393
governmental evidence-retention entity that otherwise would be 10394
required to retain the physical evidence shall remove and 10395
preserve portions of the material evidence likely to contain 10396
biological evidence related to the offense, in a quantity 10397
sufficient to permit future DNA testing before returning or 10398
disposing of that physical evidence. 10399

(C) The office of the attorney general shall administer 10400
and conduct training programs for law enforcement officers and 10401
other relevant employees who are charged with preserving and 10402
cataloging biological evidence regarding the methods and 10403
procedures referenced in this section. 10404

Sec. 2937.222. (A) On the motion of the prosecuting 10405
attorney or on the judge's own motion, the judge shall hold a 10406
hearing to determine whether an accused person charged with 10407
aggravated murder or aggravated abortion murder when it is not a 10408
capital offense, murder, abortion murder, a felony of the first 10409
or second degree, a violation of section 2903.06 of the Revised 10410
Code, a violation of section 2903.211 of the Revised Code that 10411
is a felony, or a felony OVI offense shall be denied bail. The 10412
judge shall order that the accused be detained until the 10413
conclusion of the hearing. Except for good cause, a continuance 10414
on the motion of the state shall not exceed three court days. 10415
Except for good cause, a continuance on the motion of the 10416
accused shall not exceed five court days unless the motion of 10417
the accused waives in writing the five-day limit and states in 10418
writing a specific period for which the accused requests a 10419
continuance. A continuance granted upon a motion of the accused 10420
that waives in writing the five-day limit shall not exceed five 10421
court days after the period of continuance requested in the 10422
motion. 10423

At the hearing, the accused has the right to be 10424
represented by counsel and, if the accused is indigent, to have 10425
counsel appointed. The judge shall afford the accused an 10426
opportunity to testify, to present witnesses and other 10427
information, and to cross-examine witnesses who appear at the 10428
hearing. The rules concerning admissibility of evidence in 10429
criminal trials do not apply to the presentation and 10430

consideration of information at the hearing. Regardless of 10431
whether the hearing is being held on the motion of the 10432
prosecuting attorney or on the court's own motion, the state has 10433
the burden of proving that the proof is evident or the 10434
presumption great that the accused committed the offense with 10435
which the accused is charged, of proving that the accused poses 10436
a substantial risk of serious physical harm to any person or to 10437
the community, and of proving that no release conditions will 10438
reasonably assure the safety of that person and the community. 10439

The judge may reopen the hearing at any time before trial 10440
if the judge finds that information exists that was not known to 10441
the movant at the time of the hearing and that that information 10442
has a material bearing on whether bail should be denied. If a 10443
municipal court or county court enters an order denying bail, a 10444
judge of the court of common pleas having jurisdiction over the 10445
case may continue that order or may hold a hearing pursuant to 10446
this section to determine whether to continue that order. 10447

(B) No accused person shall be denied bail pursuant to 10448
this section unless the judge finds by clear and convincing 10449
evidence that the proof is evident or the presumption great that 10450
the accused committed the offense described in division (A) of 10451
this section with which the accused is charged, finds by clear 10452
and convincing evidence that the accused poses a substantial 10453
risk of serious physical harm to any person or to the community, 10454
and finds by clear and convincing evidence that no release 10455
conditions will reasonably assure the safety of that person and 10456
the community. 10457

(C) The judge, in determining whether the accused person 10458
described in division (A) of this section poses a substantial 10459
risk of serious physical harm to any person or to the community 10460

and whether there are conditions of release that will reasonably assure the safety of that person and the community, shall consider all available information regarding all of the following:

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

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

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

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

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

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

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

(a) Give the appeal priority on its calendar;

(b) Liberally modify or dispense with formal requirements 10489
in the interest of a speedy and just resolution of the appeal; 10490

(c) Decide the appeal expeditiously; 10491

(d) Promptly enter its judgment affirming or reversing the 10492
order denying bail. 10493

(2) The pendency of an appeal under this section does not 10494
deprive the court of common pleas of jurisdiction to conduct 10495
further proceedings in the case or to further consider the order 10496
denying bail in accordance with this section. If, during the 10497
pendency of an appeal under division (D) of this section, the 10498
court of common pleas sets aside or terminates the order denying 10499
bail, the court of appeals shall dismiss the appeal. 10500

(E) As used in this section: 10501

(1) "Court day" has the same meaning as in section 5122.01 10502
of the Revised Code. 10503

(2) "Felony OVI offense" means a third degree felony OVI 10504
offense and a fourth degree felony OVI offense. 10505

(3) "Fourth degree felony OVI offense" and "third degree 10506
felony OVI offense" have the same meanings as in section 2929.01 10507
of the Revised Code. 10508

Sec. 2941.14. (A) In an indictment for aggravated murder, 10509
murder, aggravated abortion murder, abortion murder, or 10510
voluntary or involuntary manslaughter, the manner in which, or 10511
the means by which the death was caused need not be set forth. 10512

(B) Imposition of the death penalty for aggravated murder 10513
or aggravated abortion murder is precluded unless the indictment 10514
or count in the indictment charging the offense specifies one or 10515
more of the aggravating circumstances listed in division (A) of 10516

section 2929.04 of the Revised Code. If more than one 10517
aggravating circumstance is specified to an indictment or count, 10518
each shall be in a separately numbered specification, and if an 10519
aggravating circumstance is specified to a count in an 10520
indictment containing more than one count, such specification 10521
shall be identified as to the count to which it applies. 10522

(C) A specification to an indictment or count in an 10523
indictment charging aggravated murder or aggravated abortion
murder shall be stated at the end of the body of the indictment 10524
or count, and may be in substantially the following form: 10525
10526

"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE 10527
FIRST COUNT, or SPECIFICATION 1 TO THE FIRST COUNT). The Grand 10528
Jurors further find and specify that (set forth the applicable 10529
aggravating circumstance listed in divisions (A)(1) to (10) of 10530
section 2929.04 of the Revised Code. The aggravating 10531
circumstance may be stated in the words of the subdivision in 10532
which it appears, or in words sufficient to give the accused 10533
notice of the same)." 10534

Sec. 2941.143. Imposition of a sentence by a court 10535
pursuant to division (H) of section 2929.14 of the Revised Code 10536
is precluded unless the indictment, count in the indictment, or 10537
information charging aggravated murder, murder, aggravated
abortion murder, abortion murder, or a felony of the first, 10538
second, or third degree that is an offense of violence specifies 10539
that the offender committed the offense in a school safety zone 10540
or towards a person in a school safety zone. The specification 10541
shall be stated at the end of the body of the indictment, count, 10542
or information and shall be in substantially the following form: 10543
10544

"SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The 10545
grand jurors (or insert the person's or the prosecuting 10546

attorney's name when appropriate) further find and specify that 10547
(set forth that the offender committed aggravated murder, 10548
murder, aggravated abortion murder, abortion murder, or the 10549
felony of the first, second, or third degree that is an offense 10550
of violence in a school safety zone or towards a person in a 10551
school safety zone)." 10552

Sec. 2941.147. (A) Whenever a person is charged with an 10553
offense that is a violation of section 2903.01, 2903.02, 10554
2903.11, 2904.03, 2904.04, or 2905.01 of the Revised Code, a 10555
violation of division (A) of section 2903.04 of the Revised 10556
Code, an attempt to violate or complicity in violating section 10557
2903.01, 2903.02, 2903.11, 2904.03, 2904.04, or 2905.01 of the 10558
Revised Code when the attempt or complicity is a felony, or an 10559
attempt to violate or complicity in violating division (A) of 10560
section 2903.04 of the Revised Code when the attempt or 10561
complicity is a felony, the indictment, count in the indictment, 10562
information, or complaint charging the offense may include a 10563
specification that the person committed the offense with a 10564
sexual motivation. The specification shall be stated at the end 10565
of the body of the indictment, count, information, or complaint 10566
and shall be in substantially the following form: 10567

"SPECIFICATION (OR, SPECIFICATION TO THE FIRST COUNT). The 10568
Grand Jurors (or insert the person's or the prosecuting 10569
attorney's name when appropriate) further find and specify that 10570
the offender committed the offense with a sexual motivation." 10571

(B) As used in this section, "sexual motivation" has the 10572
same meaning as in section 2971.01 of the Revised Code. 10573

Sec. 2941.148. (A) (1) The application of Chapter 2971. of 10574
the Revised Code to an offender is precluded unless one of the 10575
following applies: 10576

(a) The offender is charged with a violent sex offense, 10577
and the indictment, count in the indictment, or information 10578
charging the violent sex offense also includes a specification 10579
that the offender is a sexually violent predator, or the 10580
offender is charged with a designated homicide, assault, or 10581
kidnapping offense, and the indictment, count in the indictment, 10582
or information charging the designated homicide, assault, or 10583
kidnapping offense also includes both a specification of the 10584
type described in section 2941.147 of the Revised Code and a 10585
specification that the offender is a sexually violent predator. 10586

(b) The offender is convicted of or pleads guilty to a 10587
violation of division (A) (1) (b) of section 2907.02 of the 10588
Revised Code committed on or after January 2, 2007, and division 10589
(B) of section 2907.02 of the Revised Code does not prohibit the 10590
court from sentencing the offender pursuant to section 2971.03 10591
of the Revised Code. 10592

(c) The offender is convicted of or pleads guilty to 10593
attempted rape committed on or after January 2, 2007, and to a 10594
specification of the type described in section 2941.1418, 10595
2941.1419, or 2941.1420 of the Revised Code. 10596

(d) The offender is convicted of or pleads guilty to a 10597
violation of section 2905.01 of the Revised Code and to a 10598
specification of the type described in section 2941.147 of the 10599
Revised Code, and section 2905.01 of the Revised Code requires a 10600
court to sentence the offender pursuant to section 2971.03 of 10601
the Revised Code. 10602

(e) The offender is convicted of or pleads guilty to 10603
either aggravated murder or aggravated abortion murder, and to a 10604
specification of the type described in section 2941.147 of the 10605
Revised Code, and division (A) (2) (b) (ii) of section 2929.022, 10606

division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) 10607
(3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or 10608
(B) of section 2929.06 of the Revised Code requires a court to 10609
sentence the offender pursuant to division (B) (3) of section 10610
2971.03 of the Revised Code. 10611

(f) The offender is convicted of or pleads guilty to 10612
either murder or abortion murder, and to a specification of the 10613
type described in section 2941.147 of the Revised Code, and 10614
division (B) (2) of section 2929.02 of the Revised Code requires 10615
a court to sentence the offender pursuant to section 2971.03 of 10616
the Revised Code. 10617

(2) A specification required under division (A) (1) (a) of 10618
this section that an offender is a sexually violent predator 10619
shall be stated at the end of the body of the indictment, count, 10620
or information and shall be stated in substantially the 10621
following form: 10622

"Specification (or, specification to the first count). The 10623
grand jury (or insert the person's or prosecuting attorney's 10624
name when appropriate) further find and specify that the 10625
offender is a sexually violent predator." 10626

(B) In determining for purposes of this section whether a 10627
person is a sexually violent predator, all of the factors set 10628
forth in divisions (H) (1) to (6) of section 2971.01 of the 10629
Revised Code that apply regarding the person may be considered 10630
as evidence tending to indicate that it is likely that the 10631
person will engage in the future in one or more sexually violent 10632
offenses. 10633

(C) As used in this section, "designated homicide, 10634
assault, or kidnapping offense," "violent sex offense," and 10635

"sexually violent predator" have the same meanings as in section 10636
2971.01 of the Revised Code. 10637

Sec. 2945.06. In any case in which a defendant waives ~~his~~ 10638
the defendant's right to trial by jury and elects to be tried by 10639
the court under section 2945.05 of the Revised Code, any judge 10640
of the court in which the cause is pending shall proceed to 10641
hear, try, and determine the cause in accordance with the rules 10642
and in like manner as if the cause were being tried before a 10643
jury. If the accused is charged with an offense punishable with 10644
death, ~~he~~ the accused shall be tried by a court to be composed 10645
of three judges, consisting of the judge presiding at the time 10646
in the trial of criminal cases and two other judges to be 10647
designated by the presiding judge or chief justice of that 10648
court, and in case there is neither a presiding judge nor a 10649
chief justice, by the chief justice of the supreme court. The 10650
judges or a majority of them may decide all questions of fact 10651
and law arising upon the trial; however the accused shall not be 10652
found guilty or not guilty of any offense unless the judges 10653
unanimously find the accused guilty or not guilty. If the 10654
accused pleads guilty of aggravated murder or aggravated 10655
abortion murder, a court composed of three judges shall examine 10656
the witnesses, determine whether the accused is guilty of 10657
aggravated murder or aggravated abortion murder or any other 10658
offense, and pronounce sentence accordingly. The court shall 10659
follow the procedures contained in sections 2929.03 and 2929.04 10660
of the Revised Code in all cases in which the accused is charged 10661
with an offense punishable by death. If in the composition of 10662
the court it is necessary that a judge from another county be 10663
assigned by the chief justice, the judge from another county 10664
shall be compensated for ~~his~~ the judge's services as provided by 10665
section 141.07 of the Revised Code. 10666

Sec. 2945.11. In charging the jury, the court must state 10667
to it all matters of law necessary for the information of the 10668
jury in giving its verdict. The court must also inform the jury 10669
that the jury is the exclusive judge of all questions of fact. 10670
The court must state to the jury that in determining the 10671
question of guilt, it must not consider the punishment but that 10672
punishment rests with the judge except in cases of abortion 10673
murder or murder in the first degree or burglary of an inhabited 10674
dwelling. 10675

Sec. 2945.38. (A) If the issue of a defendant's competence 10676
to stand trial is raised and if the court, upon conducting the 10677
hearing provided for in section 2945.37 of the Revised Code, 10678
finds that the defendant is competent to stand trial, the 10679
defendant shall be proceeded against as provided by law. If the 10680
court finds the defendant competent to stand trial and the 10681
defendant is receiving psychotropic drugs or other medication, 10682
the court may authorize the continued administration of the 10683
drugs or medication or other appropriate treatment in order to 10684
maintain the defendant's competence to stand trial, unless the 10685
defendant's attending physician advises the court against 10686
continuation of the drugs, other medication, or treatment. 10687

(B) (1) (a) If, after taking into consideration all relevant 10688
reports, information, and other evidence, the court finds that 10689
the defendant is incompetent to stand trial and that there is a 10690
substantial probability that the defendant will become competent 10691
to stand trial within one year if the defendant is provided with 10692
a course of treatment, the court shall order the defendant to 10693
undergo treatment. If the defendant has been charged with a 10694
felony offense and if, after taking into consideration all 10695
relevant reports, information, and other evidence, the court 10696
finds that the defendant is incompetent to stand trial, but the 10697

court is unable at that time to determine whether there is a 10698
substantial probability that the defendant will become competent 10699
to stand trial within one year if the defendant is provided with 10700
a course of treatment, the court shall order continuing 10701
evaluation and treatment of the defendant for a period not to 10702
exceed four months to determine whether there is a substantial 10703
probability that the defendant will become competent to stand 10704
trial within one year if the defendant is provided with a course 10705
of treatment. 10706

(b) The court order for the defendant to undergo treatment 10707
or continuing evaluation and treatment under division (B) (1) (a) 10708
of this section shall specify that the defendant, if determined 10709
to require mental health treatment or continuing evaluation and 10710
treatment, either shall be committed to the department of mental 10711
health and addiction services for treatment or continuing 10712
evaluation and treatment at a hospital, facility, or agency, as 10713
determined to be clinically appropriate by the department of 10714
mental health and addiction services or shall be committed to a 10715
facility certified by the department of mental health and 10716
addiction services as being qualified to treat mental illness, 10717
to a public or community mental health facility, or to a 10718
psychiatrist or another mental health professional for treatment 10719
or continuing evaluation and treatment. Prior to placing the 10720
defendant, the department of mental health and addiction 10721
services shall obtain court approval for that placement 10722
following a hearing. The court order for the defendant to 10723
undergo treatment or continuing evaluation and treatment under 10724
division (B) (1) (a) of this section shall specify that the 10725
defendant, if determined to require treatment or continuing 10726
evaluation and treatment for an intellectual disability, shall 10727
receive treatment or continuing evaluation and treatment at an 10728

institution or facility operated by the department of 10729
developmental disabilities, at a facility certified by the 10730
department of developmental disabilities as being qualified to 10731
treat intellectual disabilities, at a public or private 10732
intellectual disabilities facility, or by a psychiatrist or 10733
another intellectual disabilities professional. In any case, the 10734
order may restrict the defendant's freedom of movement as the 10735
court considers necessary. The prosecutor in the defendant's 10736
case shall send to the chief clinical officer of the hospital, 10737
facility, or agency where the defendant is placed by the 10738
department of mental health and addiction services, or to the 10739
managing officer of the institution, the director of the program 10740
or facility, or the person to which the defendant is committed, 10741
copies of relevant police reports and other background 10742
information that pertains to the defendant and is available to 10743
the prosecutor unless the prosecutor determines that the release 10744
of any of the information in the police reports or any of the 10745
other background information to unauthorized persons would 10746
interfere with the effective prosecution of any person or would 10747
create a substantial risk of harm to any person. 10748

In determining the place of commitment, the court shall 10749
consider the extent to which the person is a danger to the 10750
person and to others, the need for security, and the type of 10751
crime involved and shall order the least restrictive alternative 10752
available that is consistent with public safety and treatment 10753
goals. In weighing these factors, the court shall give 10754
preference to protecting public safety. 10755

(c) If the defendant is found incompetent to stand trial, 10756
if the chief clinical officer of the hospital, facility, or 10757
agency where the defendant is placed, or the managing officer of 10758
the institution, the director of the program or facility, or the 10759

person to which the defendant is committed for treatment or 10760
continuing evaluation and treatment under division (B) (1) (b) of 10761
this section determines that medication is necessary to restore 10762
the defendant's competency to stand trial, and if the defendant 10763
lacks the capacity to give informed consent or refuses 10764
medication, the chief clinical officer of the hospital, 10765
facility, or agency where the defendant is placed, or the 10766
managing officer of the institution, the director of the program 10767
or facility, or the person to which the defendant is committed 10768
for treatment or continuing evaluation and treatment may 10769
petition the court for authorization for the involuntary 10770
administration of medication. The court shall hold a hearing on 10771
the petition within five days of the filing of the petition if 10772
the petition was filed in a municipal court or a county court 10773
regarding an incompetent defendant charged with a misdemeanor or 10774
within ten days of the filing of the petition if the petition 10775
was filed in a court of common pleas regarding an incompetent 10776
defendant charged with a felony offense. Following the hearing, 10777
the court may authorize the involuntary administration of 10778
medication or may dismiss the petition. 10779

(2) If the court finds that the defendant is incompetent 10780
to stand trial and that, even if the defendant is provided with 10781
a course of treatment, there is not a substantial probability 10782
that the defendant will become competent to stand trial within 10783
one year, the court shall order the discharge of the defendant, 10784
unless upon motion of the prosecutor or on its own motion, the 10785
court either seeks to retain jurisdiction over the defendant 10786
pursuant to section 2945.39 of the Revised Code or files an 10787
affidavit in the probate court for the civil commitment of the 10788
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 10789
alleging that the defendant is a mentally ill person subject to 10790

court order or a person with an intellectual disability subject 10791
to institutionalization by court order. If an affidavit is filed 10792
in the probate court, the trial court shall send to the probate 10793
court copies of all written reports of the defendant's mental 10794
condition that were prepared pursuant to section 2945.371 of the 10795
Revised Code. 10796

The trial court may issue the temporary order of detention 10797
that a probate court may issue under section 5122.11 or 5123.71 10798
of the Revised Code, to remain in effect until the probable 10799
cause or initial hearing in the probate court. Further 10800
proceedings in the probate court are civil proceedings governed 10801
by Chapter 5122. or 5123. of the Revised Code. 10802

(C) No defendant shall be required to undergo treatment, 10803
including any continuing evaluation and treatment, under 10804
division (B) (1) of this section for longer than whichever of the 10805
following periods is applicable: 10806

(1) One year, if the most serious offense with which the 10807
defendant is charged is one of the following offenses: 10808

(a) Aggravated murder, murder, aggravated abortion murder, 10809
abortion murder, or an offense of violence for which a sentence 10810
of death or life imprisonment may be imposed; 10811

(b) An offense of violence that is a felony of the first 10812
or second degree; 10813

(c) A conspiracy to commit, an attempt to commit, or 10814
complicity in the commission of an offense described in division 10815
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 10816
complicity is a felony of the first or second degree. 10817

(2) Six months, if the most serious offense with which the 10818
defendant is charged is a felony other than a felony described 10819

in division (C) (1) of this section; 10820

(3) Sixty days, if the most serious offense with which the 10821
defendant is charged is a misdemeanor of the first or second 10822
degree; 10823

(4) Thirty days, if the most serious offense with which 10824
the defendant is charged is a misdemeanor of the third or fourth 10825
degree, a minor misdemeanor, or an unclassified misdemeanor. 10826

(D) Any defendant who is committed pursuant to this 10827
section shall not voluntarily admit the defendant or be 10828
voluntarily admitted to a hospital or institution pursuant to 10829
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 10830
Code. 10831

(E) Except as otherwise provided in this division, a 10832
defendant who is charged with an offense and is committed by the 10833
court under this section to the department of mental health and 10834
addiction services or is committed to an institution or facility 10835
for the treatment of intellectual disabilities shall not be 10836
granted unsupervised on-grounds movement, supervised off-grounds 10837
movement, or nonsecured status except in accordance with the 10838
court order. The court may grant a defendant supervised off- 10839
grounds movement to obtain medical treatment or specialized 10840
habilitation treatment services if the person who supervises the 10841
treatment or the continuing evaluation and treatment of the 10842
defendant ordered under division (B) (1) (a) of this section 10843
informs the court that the treatment or continuing evaluation 10844
and treatment cannot be provided at the hospital or facility 10845
where the defendant is placed by the department of mental health 10846
and addiction services or the institution or facility to which 10847
the defendant is committed. The chief clinical officer of the 10848
hospital or facility where the defendant is placed by the 10849

department of mental health and addiction services or the 10850
managing officer of the institution or director of the facility 10851
to which the defendant is committed, or a designee of any of 10852
those persons, may grant a defendant movement to a medical 10853
facility for an emergency medical situation with appropriate 10854
supervision to ensure the safety of the defendant, staff, and 10855
community during that emergency medical situation. The chief 10856
clinical officer of the hospital or facility where the defendant 10857
is placed by the department of mental health and addiction 10858
services or the managing officer of the institution or director 10859
of the facility to which the defendant is committed shall notify 10860
the court within twenty-four hours of the defendant's movement 10861
to the medical facility for an emergency medical situation under 10862
this division. 10863

(F) The person who supervises the treatment or continuing 10864
evaluation and treatment of a defendant ordered to undergo 10865
treatment or continuing evaluation and treatment under division 10866
(B) (1) (a) of this section shall file a written report with the 10867
court at the following times: 10868

(1) Whenever the person believes the defendant is capable 10869
of understanding the nature and objective of the proceedings 10870
against the defendant and of assisting in the defendant's 10871
defense; 10872

(2) For a felony offense, fourteen days before expiration 10873
of the maximum time for treatment as specified in division (C) 10874
of this section and fourteen days before the expiration of the 10875
maximum time for continuing evaluation and treatment as 10876
specified in division (B) (1) (a) of this section, and, for a 10877
misdemeanor offense, ten days before the expiration of the 10878
maximum time for treatment, as specified in division (C) of this 10879

section; 10880

(3) At a minimum, after each six months of treatment; 10881

(4) Whenever the person who supervises the treatment or 10882
continuing evaluation and treatment of a defendant ordered under 10883
division (B) (1) (a) of this section believes that there is not a 10884
substantial probability that the defendant will become capable 10885
of understanding the nature and objective of the proceedings 10886
against the defendant or of assisting in the defendant's defense 10887
even if the defendant is provided with a course of treatment. 10888

(G) A report under division (F) of this section shall 10889
contain the examiner's findings, the facts in reasonable detail 10890
on which the findings are based, and the examiner's opinion as 10891
to the defendant's capability of understanding the nature and 10892
objective of the proceedings against the defendant and of 10893
assisting in the defendant's defense. If, in the examiner's 10894
opinion, the defendant remains incapable of understanding the 10895
nature and objective of the proceedings against the defendant 10896
and of assisting in the defendant's defense and there is a 10897
substantial probability that the defendant will become capable 10898
of understanding the nature and objective of the proceedings 10899
against the defendant and of assisting in the defendant's 10900
defense if the defendant is provided with a course of treatment, 10901
if in the examiner's opinion the defendant remains mentally ill 10902
or continues to have an intellectual disability, and if the 10903
maximum time for treatment as specified in division (C) of this 10904
section has not expired, the report also shall contain the 10905
examiner's recommendation as to the least restrictive placement 10906
or commitment alternative that is consistent with the 10907
defendant's treatment needs for restoration to competency and 10908
with the safety of the community. The court shall provide copies 10909

of the report to the prosecutor and defense counsel. 10910

(H) If a defendant is committed pursuant to division (B) 10911
(1) of this section, within ten days after the treating 10912
physician of the defendant or the examiner of the defendant who 10913
is employed or retained by the treating facility advises that 10914
there is not a substantial probability that the defendant will 10915
become capable of understanding the nature and objective of the 10916
proceedings against the defendant or of assisting in the 10917
defendant's defense even if the defendant is provided with a 10918
course of treatment, within ten days after the expiration of the 10919
maximum time for treatment as specified in division (C) of this 10920
section, within ten days after the expiration of the maximum 10921
time for continuing evaluation and treatment as specified in 10922
division (B) (1) (a) of this section, within thirty days after a 10923
defendant's request for a hearing that is made after six months 10924
of treatment, or within thirty days after being advised by the 10925
treating physician or examiner that the defendant is competent 10926
to stand trial, whichever is the earliest, the court shall 10927
conduct another hearing to determine if the defendant is 10928
competent to stand trial and shall do whichever of the following 10929
is applicable: 10930

(1) If the court finds that the defendant is competent to 10931
stand trial, the defendant shall be proceeded against as 10932
provided by law. 10933

(2) If the court finds that the defendant is incompetent 10934
to stand trial, but that there is a substantial probability that 10935
the defendant will become competent to stand trial if the 10936
defendant is provided with a course of treatment, and the 10937
maximum time for treatment as specified in division (C) of this 10938
section has not expired, the court, after consideration of the 10939

examiner's recommendation, shall order that treatment be 10940
continued, may change the facility or program at which the 10941
treatment is to be continued, and shall specify whether the 10942
treatment is to be continued at the same or a different facility 10943
or program. 10944

(3) If the court finds that the defendant is incompetent 10945
to stand trial, if the defendant is charged with an offense 10946
listed in division (C) (1) of this section, and if the court 10947
finds that there is not a substantial probability that the 10948
defendant will become competent to stand trial even if the 10949
defendant is provided with a course of treatment, or if the 10950
maximum time for treatment relative to that offense as specified 10951
in division (C) of this section has expired, further proceedings 10952
shall be as provided in sections 2945.39, 2945.401, and 2945.402 10953
of the Revised Code. 10954

(4) If the court finds that the defendant is incompetent 10955
to stand trial, if the most serious offense with which the 10956
defendant is charged is a misdemeanor or a felony other than a 10957
felony listed in division (C) (1) of this section, and if the 10958
court finds that there is not a substantial probability that the 10959
defendant will become competent to stand trial even if the 10960
defendant is provided with a course of treatment, or if the 10961
maximum time for treatment relative to that offense as specified 10962
in division (C) of this section has expired, the court shall 10963
dismiss the indictment, information, or complaint against the 10964
defendant. A dismissal under this division is not a bar to 10965
further prosecution based on the same conduct. The court shall 10966
discharge the defendant unless the court or prosecutor files an 10967
affidavit in probate court for civil commitment pursuant to 10968
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 10969
civil commitment is filed, the court may detain the defendant 10970

for ten days pending civil commitment. All of the following 10971
provisions apply to persons charged with a misdemeanor or a 10972
felony other than a felony listed in division (C)(1) of this 10973
section who are committed by the probate court subsequent to the 10974
court's or prosecutor's filing of an affidavit for civil 10975
commitment under authority of this division: 10976

(a) The chief clinical officer of the entity, hospital, or 10977
facility, the managing officer of the institution, the director 10978
of the program, or the person to which the defendant is 10979
committed or admitted shall do all of the following: 10980

(i) Notify the prosecutor, in writing, of the discharge of 10981
the defendant, send the notice at least ten days prior to the 10982
discharge unless the discharge is by the probate court, and 10983
state in the notice the date on which the defendant will be 10984
discharged; 10985

(ii) Notify the prosecutor, in writing, when the defendant 10986
is absent without leave or is granted unsupervised, off-grounds 10987
movement, and send this notice promptly after the discovery of 10988
the absence without leave or prior to the granting of the 10989
unsupervised, off-grounds movement, whichever is applicable; 10990

(iii) Notify the prosecutor, in writing, of the change of 10991
the defendant's commitment or admission to voluntary status, 10992
send the notice promptly upon learning of the change to 10993
voluntary status, and state in the notice the date on which the 10994
defendant was committed or admitted on a voluntary status. 10995

(b) Upon receiving notice that the defendant will be 10996
granted unsupervised, off-grounds movement, the prosecutor 10997
either shall re-indict the defendant or promptly notify the 10998
court that the prosecutor does not intend to prosecute the 10999

charges against the defendant. 11000

(I) If a defendant is convicted of a crime and sentenced 11001
to a jail or workhouse, the defendant's sentence shall be 11002
reduced by the total number of days the defendant is confined 11003
for evaluation to determine the defendant's competence to stand 11004
trial or treatment under this section and sections 2945.37 and 11005
2945.371 of the Revised Code or by the total number of days the 11006
defendant is confined for evaluation to determine the 11007
defendant's mental condition at the time of the offense charged. 11008

Sec. 2945.57. The number of witnesses who are expected to 11009
testify upon the subject of character or reputation, for whom 11010
subpoenas are issued, shall be designated upon the praecipe and, 11011
except in cases of aggravated murder ~~in the first and second~~ 11012
~~degree, murder, aggravated abortion murder, abortion murder,~~ 11013
manslaughter, rape, assault with intent to commit rape, or 11014
selling intoxicating liquor to a person in the habit of becoming 11015
intoxicated, shall not exceed ten upon each side, unless a 11016
deposit of at least one per diem and mileage fee for each of 11017
such additional witnesses is first made with the clerk of the 11018
court of common pleas. Not more than ten witnesses upon each 11019
side shall be permitted to testify upon the question of 11020
character or reputation in a criminal cause unless their full 11021
per diem and mileage fees have been deposited or paid by the 11022
party in whose behalf they are sworn, and the clerk shall not 11023
issue a certificate for compensation to be paid out of the 11024
county treasury to a witness who has testified upon the subject 11025
of character or reputation, except as provided in this section. 11026

Sec. 2945.74. The jury may find the defendant not guilty 11027
of the offense charged, but guilty of an attempt to commit it if 11028
such attempt is an offense at law. When the indictment or 11029

information charges an offense, including different degrees, or 11030
if other offenses are included within the offense charged, the 11031
jury may find the defendant not guilty of the degree charged but 11032
guilty of an inferior degree thereof or lesser included offense. 11033

If the offense charged is murder or abortion murder and 11034
the accused is convicted by confession in open court, the court 11035
shall examine the witnesses, determine the degree of the crime, 11036
and pronounce sentence accordingly. 11037

Sec. 2949.02. (A) If a person is convicted of any bailable 11038
offense, including, but not limited to, a violation of an 11039
ordinance of a municipal corporation, in a municipal or county 11040
court or in a court of common pleas and if the person gives to 11041
the trial judge or magistrate a written notice of the person's 11042
intention to file or apply for leave to file an appeal to the 11043
court of appeals, the trial judge or magistrate may suspend, 11044
subject to division (A) (2) (b) of section 2953.09 of the Revised 11045
Code, execution of the sentence or judgment imposed for any 11046
fixed time that will give the person time either to prepare and 11047
file, or to apply for leave to file, the appeal. In all bailable 11048
cases, except as provided in division (B) of this section, the 11049
trial judge or magistrate may release the person on bail in 11050
accordance with Criminal Rule 46, and the bail shall at least be 11051
conditioned that the person will appeal without delay and abide 11052
by the judgment and sentence of the court. 11053

(B) Notwithstanding any provision of Criminal Rule 46 to 11054
the contrary, a trial judge of a court of common pleas shall not 11055
release on bail pursuant to division (A) of this section a 11056
person who is convicted of a bailable offense if the person is 11057
sentenced to imprisonment for life or if that offense is a 11058
violation of section 2903.01, 2903.02, 2903.03, 2903.04, 11059

2903.11, 2904.03, 2904.04, 2905.01, 2905.02, 2905.11, 2907.02, 11060
2909.02, 2911.01, 2911.02, or 2911.11 of the Revised Code or is 11061
felonious sexual penetration in violation of former section 11062
2907.12 of the Revised Code. 11063

(C) If a trial judge of a court of common pleas is 11064
prohibited by division (B) of this section from releasing on 11065
bail pursuant to division (A) of this section a person who is 11066
convicted of a bailable offense and not sentenced to 11067
imprisonment for life, the appropriate court of appeals or two 11068
judges of it, upon motion of such a person and for good cause 11069
shown, may release the person on bail in accordance with 11070
Appellate Rule 8 and Criminal Rule 46, and the bail shall at 11071
least be conditioned as described in division (A) of this 11072
section. 11073

Sec. 2950.01. As used in this chapter, unless the context 11074
clearly requires otherwise: 11075

(A) "Sexually oriented offense" means any of the following 11076
violations or offenses committed by a person, regardless of the 11077
person's age: 11078

(1) A violation of section 2907.02, 2907.03, 2907.05, 11079
2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 11080
2907.322, or 2907.323 of the Revised Code; 11081

(2) A violation of section 2907.04 of the Revised Code 11082
when the offender is less than four years older than the other 11083
person with whom the offender engaged in sexual conduct, the 11084
other person did not consent to the sexual conduct, and the 11085
offender previously has not been convicted of or pleaded guilty 11086
to a violation of section 2907.02, 2907.03, or 2907.04 of the 11087
Revised Code or a violation of former section 2907.12 of the 11088

Revised Code;	11089
(3) A violation of section 2907.04 of the Revised Code	11090
when the offender is at least four years older than the other	11091
person with whom the offender engaged in sexual conduct or when	11092
the offender is less than four years older than the other person	11093
with whom the offender engaged in sexual conduct and the	11094
offender previously has been convicted of or pleaded guilty to a	11095
violation of section 2907.02, 2907.03, or 2907.04 of the Revised	11096
Code or a violation of former section 2907.12 of the Revised	11097
Code;	11098
(4) A violation of section 2903.01, 2903.02, or 2903.11,	11099
<u>2904.03, or 2904.04</u> of the Revised Code when the violation was	11100
committed with a sexual motivation;	11101
(5) A violation of division (A) of section 2903.04 of the	11102
Revised Code when the offender committed or attempted to commit	11103
the felony that is the basis of the violation with a sexual	11104
motivation;	11105
(6) A violation of division (A) (3) of section 2903.211 of	11106
the Revised Code;	11107
(7) A violation of division (A) (1), (2), (3), or (5) of	11108
section 2905.01 of the Revised Code when the offense is	11109
committed with a sexual motivation;	11110
(8) A violation of division (A) (4) of section 2905.01 of	11111
the Revised Code;	11112
(9) A violation of division (B) of section 2905.01 of the	11113
Revised Code when the victim of the offense is under eighteen	11114
years of age and the offender is not a parent of the victim of	11115
the offense;	11116

(10) A violation of division (B) of section 2903.03, of 11117
division (B) of section 2905.02, of division (B) of section 11118
2905.03, of division (B) of section 2905.05, or of division (B) 11119
(5) of section 2919.22 of the Revised Code; 11120

(11) A violation of section 2905.32 of the Revised Code 11121
when any of the following applies: 11122

(a) The violation is a violation of division (A) (1) of 11123
that section and the offender knowingly recruited, lured, 11124
enticed, isolated, harbored, transported, provided, obtained, or 11125
maintained, or knowingly attempted to recruit, lure, entice, 11126
isolate, harbor, transport, provide, obtain, or maintain, 11127
another person knowing that the person would be compelled to 11128
engage in sexual activity for hire, engage in a performance that 11129
was obscene, sexually oriented, or nudity oriented, or be a 11130
model or participant in the production of material that was 11131
obscene, sexually oriented, or nudity oriented. 11132

(b) The violation is a violation of division (A) (2) of 11133
that section and the offender knowingly recruited, lured, 11134
enticed, isolated, harbored, transported, provided, obtained, or 11135
maintained, or knowingly attempted to recruit, lure, entice, 11136
isolate, harbor, transport, provide, obtain, or maintain a 11137
person who is less than sixteen years of age or is a person with 11138
a developmental disability whom the offender knows or has 11139
reasonable cause to believe is a person with a developmental 11140
disability for any purpose listed in divisions (A) (2) (a) to (c) 11141
of that section. 11142

(c) The violation is a violation of division (A) (3) of 11143
that section, the offender knowingly recruited, lured, enticed, 11144
isolated, harbored, transported, provided, obtained, or 11145
maintained, or knowingly attempted to recruit, lure, entice, 11146

isolate, harbor, transport, provide, obtain, or maintain a 11147
person who is sixteen or seventeen years of age for any purpose 11148
listed in divisions (A) (2) (a) to (c) of that section, and the 11149
circumstances described in division (A) (5), (6), (7), (8), (9), 11150
(10), (11), (12), or (13) of section 2907.03 of the Revised Code 11151
apply with respect to the offender and the other person. 11152

(12) A violation of division (B) (4) of section 2907.09 of 11153
the Revised Code if the sentencing court classifies the offender 11154
as a tier I sex offender/child-victim offender relative to that 11155
offense pursuant to division (D) of that section; 11156

(13) A violation of any former law of this state, any 11157
existing or former municipal ordinance or law of another state 11158
or the United States, any existing or former law applicable in a 11159
military court or in an Indian tribal court, or any existing or 11160
former law of any nation other than the United States that is or 11161
was substantially equivalent to any offense listed in division 11162
(A) (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or 11163
(12) of this section; 11164

(14) A violation of division (A) (3) of section 2907.24 of 11165
the Revised Code; 11166

(15) Any attempt to commit, conspiracy to commit, or 11167
complicity in committing any offense listed in division (A) (1), 11168
(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), 11169
or (14) of this section. 11170

(B) (1) "Sex offender" means, subject to division (B) (2) of 11171
this section, a person who is convicted of, pleads guilty to, 11172
has been convicted of, has pleaded guilty to, is adjudicated a 11173
delinquent child for committing, or has been adjudicated a 11174
delinquent child for committing any sexually oriented offense. 11175

(2) "Sex offender" does not include a person who is 11176
convicted of, pleads guilty to, has been convicted of, has 11177
pleaded guilty to, is adjudicated a delinquent child for 11178
committing, or has been adjudicated a delinquent child for 11179
committing a sexually oriented offense if the offense involves 11180
consensual sexual conduct or consensual sexual contact and 11181
either of the following applies: 11182

(a) The victim of the sexually oriented offense was 11183
eighteen years of age or older and at the time of the sexually 11184
oriented offense was not under the custodial authority of the 11185
person who is convicted of, pleads guilty to, has been convicted 11186
of, has pleaded guilty to, is adjudicated a delinquent child for 11187
committing, or has been adjudicated a delinquent child for 11188
committing the sexually oriented offense. 11189

(b) The victim of the offense was thirteen years of age or 11190
older, and the person who is convicted of, pleads guilty to, has 11191
been convicted of, has pleaded guilty to, is adjudicated a 11192
delinquent child for committing, or has been adjudicated a 11193
delinquent child for committing the sexually oriented offense is 11194
not more than four years older than the victim. 11195

(C) "Child-victim oriented offense" means any of the 11196
following violations or offenses committed by a person, 11197
regardless of the person's age, when the victim is under 11198
eighteen years of age and is not a child of the person who 11199
commits the violation: 11200

(1) A violation of division (A)(1), (2), (3), or (5) of 11201
section 2905.01 of the Revised Code when the violation is not 11202
included in division (A)(7) of this section; 11203

(2) A violation of division (A) of section 2905.02, 11204

division (A) of section 2905.03, or division (A) of section 11205
2905.05 of the Revised Code; 11206

(3) A violation of any former law of this state, any 11207
existing or former municipal ordinance or law of another state 11208
or the United States, any existing or former law applicable in a 11209
military court or in an Indian tribal court, or any existing or 11210
former law of any nation other than the United States that is or 11211
was substantially equivalent to any offense listed in division 11212
(C) (1) or (2) of this section; 11213

(4) Any attempt to commit, conspiracy to commit, or 11214
complicity in committing any offense listed in division (C) (1), 11215
(2), or (3) of this section. 11216

(D) "Child-victim offender" means a person who is 11217
convicted of, pleads guilty to, has been convicted of, has 11218
pleaded guilty to, is adjudicated a delinquent child for 11219
committing, or has been adjudicated a delinquent child for 11220
committing any child-victim oriented offense. 11221

(E) "Tier I sex offender/child-victim offender" means any 11222
of the following: 11223

(1) A sex offender who is convicted of, pleads guilty to, 11224
has been convicted of, or has pleaded guilty to any of the 11225
following sexually oriented offenses: 11226

(a) A violation of section 2907.06, 2907.07, 2907.08, 11227
2907.22, or 2907.32 of the Revised Code; 11228

(b) A violation of section 2907.04 of the Revised Code 11229
when the offender is less than four years older than the other 11230
person with whom the offender engaged in sexual conduct, the 11231
other person did not consent to the sexual conduct, and the 11232
offender previously has not been convicted of or pleaded guilty 11233

to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code;

(c) A violation of division (A) (1), (2), (3), or (5) of section 2907.05 of the Revised Code;

(d) A violation of division (A) (3) of section 2907.323 of the Revised Code;

(e) A violation of division (A) (3) of section 2903.211, of division (B) of section 2905.03, or of division (B) of section 2905.05 of the Revised Code;

(f) A violation of division (B) (4) of section 2907.09 of the Revised Code if the sentencing court classifies the offender as a tier I sex offender/child-victim offender relative to that offense pursuant to division (D) of that section;

(g) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in division (E) (1) (a), (b), (c), (d), (e), or (f) of this section;

(h) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (E) (1) (a), (b), (c), (d), (e), (f), or (g) of this section.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not within either category of child-victim offender described in division (F) (2) or (G) (2) of this section.

(3) A sex offender who is adjudicated a delinquent child 11263
for committing or has been adjudicated a delinquent child for 11264
committing any sexually oriented offense and who a juvenile 11265
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 11266
of the Revised Code, classifies a tier I sex offender/child- 11267
victim offender relative to the offense. 11268

(4) A child-victim offender who is adjudicated a 11269
delinquent child for committing or has been adjudicated a 11270
delinquent child for committing any child-victim oriented 11271
offense and who a juvenile court, pursuant to section 2152.82, 11272
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 11273
tier I sex offender/child-victim offender relative to the 11274
offense. 11275

(F) "Tier II sex offender/child-victim offender" means any 11276
of the following: 11277

(1) A sex offender who is convicted of, pleads guilty to, 11278
has been convicted of, or has pleaded guilty to any of the 11279
following sexually oriented offenses: 11280

(a) A violation of section 2907.21, 2907.321, or 2907.322 11281
of the Revised Code; 11282

(b) A violation of section 2907.04 of the Revised Code 11283
when the offender is at least four years older than the other 11284
person with whom the offender engaged in sexual conduct, or when 11285
the offender is less than four years older than the other person 11286
with whom the offender engaged in sexual conduct and the 11287
offender previously has been convicted of or pleaded guilty to a 11288
violation of section 2907.02, 2907.03, or 2907.04 of the Revised 11289
Code or former section 2907.12 of the Revised Code; 11290

(c) A violation of division (A)(4) of section 2907.05, of 11291

division (A) (3) of section 2907.24, or of division (A) (1) or (2)	11292
of section 2907.323 of the Revised Code;	11293
(d) A violation of division (A) (1), (2), (3), or (5) of	11294
section 2905.01 of the Revised Code when the offense is	11295
committed with a sexual motivation;	11296
(e) A violation of division (A) (4) of section 2905.01 of	11297
the Revised Code when the victim of the offense is eighteen	11298
years of age or older;	11299
(f) A violation of division (B) of section 2905.02 or of	11300
division (B) (5) of section 2919.22 of the Revised Code;	11301
(g) A violation of section 2905.32 of the Revised Code	11302
that is described in division (A) (11) (a), (b), or (c) of this	11303
section;	11304
(h) A violation of any former law of this state, any	11305
existing or former municipal ordinance or law of another state	11306
or the United States, any existing or former law applicable in a	11307
military court or in an Indian tribal court, or any existing or	11308
former law of any nation other than the United States that is or	11309
was substantially equivalent to any offense listed in division	11310
(F) (1) (a), (b), (c), (d), (e), (f), or (g) of this section;	11311
(i) Any attempt to commit, conspiracy to commit, or	11312
complicity in committing any offense listed in division (F) (1)	11313
(a), (b), (c), (d), (e), (f), (g), or (h) of this section;	11314
(j) Any sexually oriented offense that is committed after	11315
the sex offender previously has been convicted of, pleaded	11316
guilty to, or has been adjudicated a delinquent child for	11317
committing any sexually oriented offense or child-victim	11318
oriented offense for which the offender was classified a tier I	11319
sex offender/child-victim offender.	11320

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier II sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier II sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier II sex offender/child-victim offender set forth in division (F)(1), (2), (3), or (4) of this section, who prior to January 1, 2008, was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense, and who prior to that date was determined to be a habitual sex offender or determined to be a habitual child-victim offender, unless either of the following applies:

(a) The sex offender or child-victim offender is

reclassified pursuant to section 2950.031 or 2950.032 of the Revised Code as a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(b) A juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the child a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(G) "Tier III sex offender/child-victim offender" means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

(a) A violation of section 2907.02 or 2907.03 of the Revised Code;

(b) A violation of division (B) of section 2907.05 of the Revised Code;

(c) A violation of section 2903.01, 2903.02, ~~or 2903.11,~~ 2904.03, or 2904.04 of the Revised Code when the violation was committed with a sexual motivation;

(d) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(e) A violation of division (A) (4) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age;

(f) A violation of division (B) of section 2905.01 of the

Revised Code when the victim of the offense is under eighteen 11379
years of age and the offender is not a parent of the victim of 11380
the offense; 11381

(g) A violation of division (B) of section 2903.03 of the 11382
Revised Code; 11383

(h) A violation of any former law of this state, any 11384
existing or former municipal ordinance or law of another state 11385
or the United States, any existing or former law applicable in a 11386
military court or in an Indian tribal court, or any existing or 11387
former law of any nation other than the United States that is or 11388
was substantially equivalent to any offense listed in division 11389
(G) (1) (a), (b), (c), (d), (e), (f), or (g) of this section; 11390

(i) Any attempt to commit, conspiracy to commit, or 11391
complicity in committing any offense listed in division (G) (1) 11392
(a), (b), (c), (d), (e), (f), (g), or (h) of this section; 11393

(j) Any sexually oriented offense that is committed after 11394
the sex offender previously has been convicted of, pleaded 11395
guilty to, or been adjudicated a delinquent child for committing 11396
any sexually oriented offense or child-victim oriented offense 11397
for which the offender was classified a tier II sex 11398
offender/child-victim offender or a tier III sex offender/child- 11399
victim offender. 11400

(2) A child-victim offender who is convicted of, pleads 11401
guilty to, has been convicted of, or has pleaded guilty to any 11402
child-victim oriented offense when the child-victim oriented 11403
offense is committed after the child-victim offender previously 11404
has been convicted of, pleaded guilty to, or been adjudicated a 11405
delinquent child for committing any sexually oriented offense or 11406
child-victim oriented offense for which the offender was 11407

classified a tier II sex offender/child-victim offender or a 11408
tier III sex offender/child-victim offender. 11409

(3) A sex offender who is adjudicated a delinquent child 11410
for committing or has been adjudicated a delinquent child for 11411
committing any sexually oriented offense and who a juvenile 11412
court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 11413
of the Revised Code, classifies a tier III sex offender/child- 11414
victim offender relative to the offense. 11415

(4) A child-victim offender who is adjudicated a 11416
delinquent child for committing or has been adjudicated a 11417
delinquent child for committing any child-victim oriented 11418
offense and whom a juvenile court, pursuant to section 2152.82, 11419
2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a 11420
tier III sex offender/child-victim offender relative to the 11421
current offense. 11422

(5) A sex offender or child-victim offender who is not in 11423
any category of tier III sex offender/child-victim offender set 11424
forth in division (G) (1), (2), (3), or (4) of this section, who 11425
prior to January 1, 2008, was convicted of or pleaded guilty to 11426
a sexually oriented offense or child-victim oriented offense or 11427
was adjudicated a delinquent child for committing a sexually 11428
oriented offense or child-victim oriented offense and classified 11429
a juvenile offender registrant, and who prior to that date was 11430
adjudicated a sexual predator or adjudicated a child-victim 11431
predator, unless either of the following applies: 11432

(a) The sex offender or child-victim offender is 11433
reclassified pursuant to section 2950.031 or 2950.032 of the 11434
Revised Code as a tier I sex offender/child-victim offender or a 11435
tier II sex offender/child-victim offender relative to the 11436
offense. 11437

(b) The sex offender or child-victim offender is a 11438
delinquent child, and a juvenile court, pursuant to section 11439
2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, 11440
classifies the child a tier I sex offender/child-victim offender 11441
or a tier II sex offender/child-victim offender relative to the 11442
offense. 11443

(6) A sex offender who is convicted of, pleads guilty to, 11444
was convicted of, or pleaded guilty to a sexually oriented 11445
offense, if the sexually oriented offense and the circumstances 11446
in which it was committed are such that division (F) of section 11447
2971.03 of the Revised Code automatically classifies the 11448
offender as a tier III sex offender/child-victim offender; 11449

(7) A sex offender or child-victim offender who is 11450
convicted of, pleads guilty to, was convicted of, pleaded guilty 11451
to, is adjudicated a delinquent child for committing, or was 11452
adjudicated a delinquent child for committing a sexually 11453
oriented offense or child-victim offense in another state, in a 11454
federal court, military court, or Indian tribal court, or in a 11455
court in any nation other than the United States if both of the 11456
following apply: 11457

(a) Under the law of the jurisdiction in which the 11458
offender was convicted or pleaded guilty or the delinquent child 11459
was adjudicated, the offender or delinquent child is in a 11460
category substantially equivalent to a category of tier III sex 11461
offender/child-victim offender described in division (G) (1), 11462
(2), (3), (4), (5), or (6) of this section. 11463

(b) Subsequent to the conviction, plea of guilty, or 11464
adjudication in the other jurisdiction, the offender or 11465
delinquent child resides, has temporary domicile, attends school 11466
or an institution of higher education, is employed, or intends 11467

to reside in this state in any manner and for any period of time 11468
that subjects the offender or delinquent child to a duty to 11469
register or provide notice of intent to reside under section 11470
2950.04 or 2950.041 of the Revised Code. 11471

(H) "Confinement" includes, but is not limited to, a 11472
community residential sanction imposed pursuant to section 11473
2929.16 or 2929.26 of the Revised Code. 11474

(I) "Prosecutor" has the same meaning as in section 11475
2935.01 of the Revised Code. 11476

(J) "Supervised release" means a release of an offender 11477
from a prison term, a term of imprisonment, or another type of 11478
confinement that satisfies either of the following conditions: 11479

(1) The release is on parole, a conditional pardon, under 11480
a community control sanction, under transitional control, or 11481
under a post-release control sanction, and it requires the 11482
person to report to or be supervised by a parole officer, 11483
probation officer, field officer, or another type of supervising 11484
officer. 11485

(2) The release is any type of release that is not 11486
described in division (J)(1) of this section and that requires 11487
the person to report to or be supervised by a probation officer, 11488
a parole officer, a field officer, or another type of 11489
supervising officer. 11490

(K) "Sexually violent predator specification," "sexually 11491
violent predator," "sexually violent offense," "sexual 11492
motivation specification," "designated homicide, assault, or 11493
kidnapping offense," and "violent sex offense" have the same 11494
meanings as in section 2971.01 of the Revised Code. 11495

(L) "Post-release control sanction" and "transitional 11496

control" have the same meanings as in section 2967.01 of the Revised Code.

(M) "Juvenile offender registrant" means a person who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense or a child-victim oriented offense, who is fourteen years of age or older at the time of committing the offense, and who a juvenile court judge, pursuant to an order issued under section 2152.82, 2152.83, 2152.84, 2152.85, or 2152.86 of the Revised Code, classifies a juvenile offender registrant and specifies has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code. "Juvenile offender registrant" includes a person who prior to January 1, 2008, was a "juvenile offender registrant" under the definition of the term in existence prior to January 1, 2008, and a person who prior to July 31, 2003, was a "juvenile sex offender registrant" under the former definition of that former term.

(N) "Public registry-qualified juvenile offender registrant" means a person who is adjudicated a delinquent child and on whom a juvenile court has imposed a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code before, on, or after January 1, 2008, and to whom all of the following apply:

(1) The person is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing one of the following acts:

(a) A violation of section 2907.02 of the Revised Code, division (B) of section 2907.05 of the Revised Code, or section 2907.03 of the Revised Code if the victim of the violation was less than twelve years of age;

(b) A violation of section 2903.01, 2903.02, 2904.03, 11527
2904.04, or 2905.01 of the Revised Code that was committed with 11528
a purpose to gratify the sexual needs or desires of the child; 11529

(c) A violation of division (B) of section 2903.03 of the 11530
Revised Code. 11531

(2) The person was fourteen, fifteen, sixteen, or 11532
seventeen years of age at the time of committing the act. 11533

(3) A juvenile court judge, pursuant to an order issued 11534
under section 2152.86 of the Revised Code, classifies the person 11535
a juvenile offender registrant, specifies the person has a duty 11536
to comply with sections 2950.04, 2950.05, and 2950.06 of the 11537
Revised Code, and classifies the person a public registry- 11538
qualified juvenile offender registrant, and the classification 11539
of the person as a public registry-qualified juvenile offender 11540
registrant has not been terminated pursuant to division (D) of 11541
section 2152.86 of the Revised Code. 11542

(O) "Secure facility" means any facility that is designed 11543
and operated to ensure that all of its entrances and exits are 11544
locked and under the exclusive control of its staff and to 11545
ensure that, because of that exclusive control, no person who is 11546
institutionalized or confined in the facility may leave the 11547
facility without permission or supervision. 11548

(P) "Out-of-state juvenile offender registrant" means a 11549
person who is adjudicated a delinquent child in a court in 11550
another state, in a federal court, military court, or Indian 11551
tribal court, or in a court in any nation other than the United 11552
States for committing a sexually oriented offense or a child- 11553
victim oriented offense, who on or after January 1, 2002, moves 11554
to and resides in this state or temporarily is domiciled in this 11555

state for more than five days, and who has a duty under section 11556
2950.04 or 2950.041 of the Revised Code to register in this 11557
state and the duty to otherwise comply with that applicable 11558
section and sections 2950.05 and 2950.06 of the Revised Code. 11559
"Out-of-state juvenile offender registrant" includes a person 11560
who prior to January 1, 2008, was an "out-of-state juvenile 11561
offender registrant" under the definition of the term in 11562
existence prior to January 1, 2008, and a person who prior to 11563
July 31, 2003, was an "out-of-state juvenile sex offender 11564
registrant" under the former definition of that former term. 11565

(Q) "Juvenile court judge" includes a magistrate to whom 11566
the juvenile court judge confers duties pursuant to division (A) 11567
(15) of section 2151.23 of the Revised Code. 11568

(R) "Adjudicated a delinquent child for committing a 11569
sexually oriented offense" includes a child who receives a 11570
serious youthful offender dispositional sentence under section 11571
2152.13 of the Revised Code for committing a sexually oriented 11572
offense. 11573

(S) "School" and "school premises" have the same meanings 11574
as in section 2925.01 of the Revised Code. 11575

(T) "Residential premises" means the building in which a 11576
residential unit is located and the grounds upon which that 11577
building stands, extending to the perimeter of the property. 11578
"Residential premises" includes any type of structure in which a 11579
residential unit is located, including, but not limited to, 11580
multi-unit buildings and mobile and manufactured homes. 11581

(U) "Residential unit" means a dwelling unit for 11582
residential use and occupancy, and includes the structure or 11583
part of a structure that is used as a home, residence, or 11584

sleeping place by one person who maintains a household or two or more persons who maintain a common household. "Residential unit" does not include a halfway house or a community-based correctional facility.

(V) "Multi-unit building" means a building in which is located more than twelve residential units that have entry doors that open directly into the unit from a hallway that is shared with one or more other units. A residential unit is not considered located in a multi-unit building if the unit does not have an entry door that opens directly into the unit from a hallway that is shared with one or more other units or if the unit is in a building that is not a multi-unit building as described in this division.

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

(X) "Halfway house" and "community-based correctional facility" have the same meanings as in section 2929.01 of the Revised Code.

Sec. 2950.99. (A) (1) (a) Except as otherwise provided in division (A) (1) (b) of this section, whoever violates a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code shall be punished as follows:

(i) If the most serious sexually oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is aggravated murder ~~or~~, murder, aggravated abortion murder, or abortion murder if committed by an adult or a comparable category of offense committed in another jurisdiction, the

offender is guilty of a felony of the first degree. 11614

(ii) If the most serious sexually oriented offense or 11615
child-victim oriented offense that was the basis of the 11616
registration, notice of intent to reside, change of address 11617
notification, or address verification requirement that was 11618
violated under the prohibition is a felony of the first, second, 11619
third, or fourth degree if committed by an adult or a comparable 11620
category of offense committed in another jurisdiction, the 11621
offender is guilty of a felony of the same degree as the most 11622
serious sexually oriented offense or child-victim oriented 11623
offense that was the basis of the registration, notice of intent 11624
to reside, change of address, or address verification 11625
requirement that was violated under the prohibition, or, if the 11626
most serious sexually oriented offense or child-victim oriented 11627
offense that was the basis of the registration, notice of intent 11628
to reside, change of address, or address verification 11629
requirement that was violated under the prohibition is a 11630
comparable category of offense committed in another 11631
jurisdiction, the offender is guilty of a felony of the same 11632
degree as that offense committed in the other jurisdiction would 11633
constitute if committed in this state. 11634

(iii) If the most serious sexually oriented offense or 11635
child-victim oriented offense that was the basis of the 11636
registration, notice of intent to reside, change of address 11637
notification, or address verification requirement that was 11638
violated under the prohibition is a felony of the fifth degree 11639
or a misdemeanor if committed by an adult or a comparable 11640
category of offense committed in another jurisdiction, the 11641
offender is guilty of a felony of the fourth degree. 11642

(b) If the offender previously has been convicted of or 11643

pleaded guilty to, or previously has been adjudicated a 11644
delinquent child for committing, a violation of a prohibition in 11645
section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised 11646
Code, whoever violates a prohibition in section 2950.04, 11647
2950.041, 2950.05, or 2950.06 of the Revised Code shall be 11648
punished as follows: 11649

(i) If the most serious sexually oriented offense that was 11650
the basis of the registration, notice of intent to reside, 11651
change of address notification, or address verification 11652
requirement that was violated under the prohibition is 11653
aggravated murder ~~or, murder, aggravated abortion murder, or~~ 11654
abortion murder if committed by an adult or a comparable 11655
category of offense committed in another jurisdiction, the 11656
offender is guilty of a felony of the first degree. 11657

(ii) If the most serious sexually oriented offense or 11658
child-victim oriented offense that was the basis of the 11659
registration, notice of intent to reside, change of address 11660
notification, or address verification requirement that was 11661
violated under the prohibition is a felony of the first, second, 11662
or third degree if committed by an adult or a comparable 11663
category of offense committed in another jurisdiction, the 11664
offender is guilty of a felony of the same degree as the most 11665
serious sexually oriented offense or child-victim oriented 11666
offense that was the basis of the registration, notice of intent 11667
to reside, change of address, or address verification 11668
requirement that was violated under the prohibition, or, if the 11669
most serious sexually oriented offense or child-victim oriented 11670
offense that was the basis of the registration, notice of intent 11671
to reside, change of address, or address verification 11672
requirement that was violated under the prohibition is a 11673
comparable category of offense committed in another 11674

jurisdiction, the offender is guilty of a felony of the same 11675
degree as that offense committed in the other jurisdiction would 11676
constitute if committed in this state. 11677

(iii) If the most serious sexually oriented offense or 11678
child-victim oriented offense that was the basis of the 11679
registration, notice of intent to reside, change of address 11680
notification, or address verification requirement that was 11681
violated under the prohibition is a felony of the fourth or 11682
fifth degree if committed by an adult or a comparable category 11683
of offense committed in another jurisdiction, the offender is 11684
guilty of a felony of the third degree. 11685

(iv) If the most serious sexually oriented offense or 11686
child-victim oriented offense that was the basis of the 11687
registration, notice of intent to reside, change of address 11688
notification, or address verification requirement that was 11689
violated under the prohibition is a misdemeanor if committed by 11690
an adult or a comparable category of offense committed in 11691
another jurisdiction, the offender is guilty of a felony of the 11692
fourth degree. 11693

(2) (a) In addition to any penalty or sanction imposed 11694
under division (A) (1) of this section or any other provision of 11695
law for a violation of a prohibition in section 2950.04, 11696
2950.041, 2950.05, or 2950.06 of the Revised Code, if the 11697
offender or delinquent child is subject to a community control 11698
sanction, is on parole, is subject to one or more post-release 11699
control sanctions, or is subject to any other type of supervised 11700
release at the time of the violation, the violation shall 11701
constitute a violation of the terms and conditions of the 11702
community control sanction, parole, post-release control 11703
sanction, or other type of supervised release. 11704

(b) In addition to any penalty or sanction imposed under 11705
division (A)(1)(b)(i), (ii), or (iii) of this section or any 11706
other provision of law for a violation of a prohibition in 11707
section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised 11708
Code, if the offender previously has been convicted of or 11709
pleaded guilty to, or previously has been adjudicated a 11710
delinquent child for committing, a violation of a prohibition in 11711
section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised 11712
Code when the most serious sexually oriented offense or child- 11713
victim oriented offense that was the basis of the requirement 11714
that was violated under the prohibition is a felony if committed 11715
by an adult or a comparable category of offense committed in 11716
another jurisdiction, the court imposing a sentence upon the 11717
offender shall impose a definite prison term of no less than 11718
three years. The definite prison term imposed under this 11719
section, subject to divisions (C) to (I) of section 2967.19 of 11720
the Revised Code, shall not be reduced to less than three years 11721
pursuant to any provision of Chapter 2967. or any other 11722
provision of the Revised Code. 11723

(3) As used in division (A)(1) of this section, 11724
"comparable category of offense committed in another 11725
jurisdiction" means a sexually oriented offense or child-victim 11726
oriented offense that was the basis of the registration, notice 11727
of intent to reside, change of address notification, or address 11728
verification requirement that was violated, that is a violation 11729
of an existing or former law of another state or the United 11730
States, an existing or former law applicable in a military court 11731
or in an Indian tribal court, or an existing or former law of 11732
any nation other than the United States, and that, if it had 11733
been committed in this state, would constitute or would have 11734
constituted aggravated murder ~~or~~, murder, aggravated abortion 11735

murder, or abortion murder for purposes of division (A) (1) (a) (i) 11736
of this section, a felony of the first, second, third, or fourth 11737
degree for purposes of division (A) (1) (a) (ii) of this section, a 11738
felony of the fifth degree or a misdemeanor for purposes of 11739
division (A) (1) (a) (iii) of this section, aggravated murder ~~or,~~ 11740
murder, aggravated abortion murder, or abortion murder for 11741
purposes of division (A) (1) (b) (i) of this section, a felony of 11742
the first, second, or third degree for purposes of division (A) 11743
(1) (b) (ii) of this section, a felony of the fourth or fifth 11744
degree for purposes of division (A) (1) (b) (iii) of this section, 11745
or a misdemeanor for purposes of division (A) (1) (b) (iv) of this 11746
section. 11747

(B) If a person violates a prohibition in section 2950.04, 11748
2950.041, 2950.05, or 2950.06 of the Revised Code that applies 11749
to the person as a result of the person being adjudicated a 11750
delinquent child and being classified a juvenile offender 11751
registrant or an out-of-state juvenile offender registrant, both 11752
of the following apply: 11753

(1) If the violation occurs while the person is under 11754
eighteen years of age, the person is subject to proceedings 11755
under Chapter 2152. of the Revised Code based on the violation. 11756

(2) If the violation occurs while the person is eighteen 11757
years of age or older, the person is subject to criminal 11758
prosecution based on the violation. 11759

(C) Whoever violates division (C) of section 2950.13 of 11760
the Revised Code is guilty of a misdemeanor of the first degree. 11761

Sec. 2953.08. (A) In addition to any other right to appeal 11762
and except as provided in division (D) of this section, a 11763
defendant who is convicted of or pleads guilty to a felony may 11764

appeal as a matter of right the sentence imposed upon the 11765
defendant on one of the following grounds: 11766

(1) The sentence consisted of or included the maximum 11767
definite prison term allowed for the offense by division (A) of 11768
section 2929.14 or section 2929.142 of the Revised Code or, with 11769
respect to a non-life felony indefinite prison term, the longest 11770
minimum prison term allowed for the offense by division (A) (1) 11771
(a) or (2) (a) of section 2929.14 of the Revised Code, the 11772
maximum definite prison term or longest minimum prison term was 11773
not required for the offense pursuant to Chapter 2925. or any 11774
other provision of the Revised Code, and the court imposed the 11775
sentence under one of the following circumstances: 11776

(a) The sentence was imposed for only one offense. 11777

(b) The sentence was imposed for two or more offenses 11778
arising out of a single incident, and the court imposed the 11779
maximum definite prison term or longest minimum prison term for 11780
the offense of the highest degree. 11781

(2) The sentence consisted of or included a prison term 11782
and the offense for which it was imposed is a felony of the 11783
fourth or fifth degree or is a felony drug offense that is a 11784
violation of a provision of Chapter 2925. of the Revised Code 11785
and that is specified as being subject to division (B) of 11786
section 2929.13 of the Revised Code for purposes of sentencing. 11787
If the court specifies that it found one or more of the factors 11788
in division (B) (1) (b) of section 2929.13 of the Revised Code to 11789
apply relative to the defendant, the defendant is not entitled 11790
under this division to appeal as a matter of right the sentence 11791
imposed upon the offender. 11792

(3) The person was convicted of or pleaded guilty to a 11793

violent sex offense or a designated homicide, assault, or kidnapping offense, was adjudicated a sexually violent predator in relation to that offense, and was sentenced pursuant to division (A) (3) of section 2971.03 of the Revised Code, if the minimum term of the indefinite term imposed pursuant to division (A) (3) of section 2971.03 of the Revised Code is the longest term available for the offense from among the range of definite terms listed in section 2929.14 of the Revised Code or, with respect to a non-life felony indefinite prison term, the longest minimum prison term allowed for the offense by division (A) (1) (a) or (2) (a) of section 2929.14 of the Revised Code. As used in this division, "designated homicide, assault, or kidnapping offense" and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code. As used in this division, "adjudicated a sexually violent predator" has the same meaning as in section 2929.01 of the Revised Code, and a person is "adjudicated a sexually violent predator" in the same manner and the same circumstances as are described in that section.

(4) The sentence is contrary to law.

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

(B) In addition to any other right to appeal and except as provided in division (D) of this section, a prosecuting attorney, a city director of law, village solicitor, or similar chief legal officer of a municipal corporation, or the attorney general, if one of those persons prosecuted the case, may appeal as a matter of right a sentence imposed upon a defendant who is convicted of or pleads guilty to a felony or, in the circumstances described in division (B) (3) of this section the

modification of a sentence imposed upon such a defendant, on any 11824
of the following grounds: 11825

(1) The sentence did not include a prison term despite a 11826
presumption favoring a prison term for the offense for which it 11827
was imposed, as set forth in section 2929.13 or Chapter 2925. of 11828
the Revised Code. 11829

(2) The sentence is contrary to law. 11830

(3) The sentence is a modification under section 2929.20 11831
of the Revised Code of a sentence that was imposed for a felony 11832
of the first or second degree. 11833

(C) (1) In addition to the right to appeal a sentence 11834
granted under division (A) or (B) of this section, a defendant 11835
who is convicted of or pleads guilty to a felony may seek leave 11836
to appeal a sentence imposed upon the defendant on the basis 11837
that the sentencing judge has imposed consecutive sentences 11838
under division (C) (3) of section 2929.14 of the Revised Code and 11839
that the consecutive sentences exceed the maximum definite 11840
prison term allowed by division (A) of that section for the most 11841
serious offense of which the defendant was convicted or, with 11842
respect to a non-life felony indefinite prison term, exceed the 11843
longest minimum prison term allowed by division (A) (1) (a) or (2) 11844
(a) of that section for the most serious such offense. Upon the 11845
filing of a motion under this division, the court of appeals may 11846
grant leave to appeal the sentence if the court determines that 11847
the allegation included as the basis of the motion is true. 11848

(2) A defendant may seek leave to appeal an additional 11849
sentence imposed upon the defendant pursuant to division (B) (2) 11850
(a) or (b) of section 2929.14 of the Revised Code if the 11851
additional sentence is for a definite prison term that is longer 11852

than five years. 11853

(D) (1) A sentence imposed upon a defendant is not subject 11854
to review under this section if the sentence is authorized by 11855
law, has been recommended jointly by the defendant and the 11856
prosecution in the case, and is imposed by a sentencing judge. 11857

(2) Except as provided in division (C) (2) of this section, 11858
a sentence imposed upon a defendant is not subject to review 11859
under this section if the sentence is imposed pursuant to 11860
division (B) (2) (b) of section 2929.14 of the Revised Code. 11861
Except as otherwise provided in this division, a defendant 11862
retains all rights to appeal as provided under this chapter or 11863
any other provision of the Revised Code. A defendant has the 11864
right to appeal under this chapter or any other provision of the 11865
Revised Code the court's application of division (B) (2) (c) of 11866
section 2929.14 of the Revised Code. 11867

(3) A sentence imposed for aggravated murder ~~or, murder,~~ 11868
aggravated abortion murder, or abortion murder pursuant to 11869
sections 2929.02 to 2929.06 of the Revised Code is not subject 11870
to review under this section. 11871

(E) A defendant, prosecuting attorney, city director of 11872
law, village solicitor, or chief municipal legal officer shall 11873
file an appeal of a sentence under this section to a court of 11874
appeals within the time limits specified in Rule 4(B) of the 11875
Rules of Appellate Procedure, provided that if the appeal is 11876
pursuant to division (B) (3) of this section, the time limits 11877
specified in that rule shall not commence running until the 11878
court grants the motion that makes the sentence modification in 11879
question. A sentence appeal under this section shall be 11880
consolidated with any other appeal in the case. If no other 11881
appeal is filed, the court of appeals may review only the 11882

portions of the trial record that pertain to sentencing. 11883

(F) On the appeal of a sentence under this section, the 11884
record to be reviewed shall include all of the following, as 11885
applicable: 11886

(1) Any presentence, psychiatric, or other investigative 11887
report that was submitted to the court in writing before the 11888
sentence was imposed. An appellate court that reviews a 11889
presentence investigation report prepared pursuant to section 11890
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 11891
connection with the appeal of a sentence under this section 11892
shall comply with division (D) (3) of section 2951.03 of the 11893
Revised Code when the appellate court is not using the 11894
presentence investigation report, and the appellate court's use 11895
of a presentence investigation report of that nature in 11896
connection with the appeal of a sentence under this section does 11897
not affect the otherwise confidential character of the contents 11898
of that report as described in division (D) (1) of section 11899
2951.03 of the Revised Code and does not cause that report to 11900
become a public record, as defined in section 149.43 of the 11901
Revised Code, following the appellate court's use of the report. 11902

(2) The trial record in the case in which the sentence was 11903
imposed; 11904

(3) Any oral or written statements made to or by the court 11905
at the sentencing hearing at which the sentence was imposed; 11906

(4) Any written findings that the court was required to 11907
make in connection with the modification of the sentence 11908
pursuant to a judicial release under division (I) of section 11909
2929.20 of the Revised Code. 11910

(G) (1) If the sentencing court was required to make the 11911

findings required by division (B) or (D) of section 2929.13 or 11912
division (I) of section 2929.20 of the Revised Code, or to state 11913
the findings of the trier of fact required by division (B) (2) (e) 11914
of section 2929.14 of the Revised Code, relative to the 11915
imposition or modification of the sentence, and if the 11916
sentencing court failed to state the required findings on the 11917
record, the court hearing an appeal under division (A), (B), or 11918
(C) of this section shall remand the case to the sentencing 11919
court and instruct the sentencing court to state, on the record, 11920
the required findings. 11921

(2) The court hearing an appeal under division (A), (B), 11922
or (C) of this section shall review the record, including the 11923
findings underlying the sentence or modification given by the 11924
sentencing court. 11925

The appellate court may increase, reduce, or otherwise 11926
modify a sentence that is appealed under this section or may 11927
vacate the sentence and remand the matter to the sentencing 11928
court for resentencing. The appellate court's standard for 11929
review is not whether the sentencing court abused its 11930
discretion. The appellate court may take any action authorized 11931
by this division if it clearly and convincingly finds either of 11932
the following: 11933

(a) That the record does not support the sentencing 11934
court's findings under division (B) or (D) of section 2929.13, 11935
division (B) (2) (e) or (C) (4) of section 2929.14, or division (I) 11936
of section 2929.20 of the Revised Code, whichever, if any, is 11937
relevant; 11938

(b) That the sentence is otherwise contrary to law. 11939

(H) A judgment or final order of a court of appeals under 11940

this section may be appealed, by leave of court, to the supreme court. 11941
11942

(I) As used in this section, "non-life felony indefinite prison term" has the same meaning as in section 2929.01 of the Revised Code. 11943
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Sec. 2953.09. (A) (1) Upon filing an appeal in the supreme court, the execution of the sentence or judgment imposed in cases of felony is suspended. 11946
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(2) (a) If a notice of appeal is filed pursuant to the Rules of Appellate Procedure by a defendant who is convicted in a municipal or county court or a court of common pleas of a felony or misdemeanor under the Revised Code or an ordinance of a municipal corporation, the filing of the notice of appeal does not suspend execution of the sentence or judgment imposed. 11949
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However, consistent with divisions (A) (2) (b), (B), and (C) of this section, Appellate Rule 8, and Criminal Rule 46, the municipal or county court, court of common pleas, or court of appeals may suspend execution of the sentence or judgment imposed during the pendency of the appeal and shall determine whether that defendant is entitled to bail and the amount and nature of any bail that is required. The bail shall at least be conditioned that the defendant will prosecute the appeal without delay and abide by the judgment and sentence of the court.

(b) (i) A court of common pleas or court of appeals may suspend the execution of a sentence of death imposed for an offense committed before January 1, 1995, only if no date for execution has been set by the supreme court, good cause is shown for the suspension, the defendant files a motion requesting the suspension, and notice has been given to the prosecuting attorney of the appropriate county. 11964
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(ii) A court of common pleas may suspend the execution of a sentence of death imposed for an offense committed on or after January 1, 1995, only if no date for execution has been set by the supreme court, good cause is shown, the defendant files a motion requesting the suspension, and notice has been given to the prosecuting attorney of the appropriate county.

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

(B) Notwithstanding any provision of Criminal Rule 46 to the contrary, a trial judge of a court of common pleas shall not release on bail pursuant to division (A)(2)(a) of this section a defendant who is convicted of a bailable offense if the defendant is sentenced to imprisonment for life or if that offense is a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2904.03, 2904.04, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious sexual penetration in violation of former section 2907.12 of the Revised Code.

(C) If a trial judge of a court of common pleas is prohibited by division (B) of this section from releasing on bail pursuant to division (A)(2)(a) of this section a defendant who is convicted of a bailable offense and not sentenced to imprisonment for life, the appropriate court of appeals or two judges of it, upon motion of the defendant and for good cause

shown, may release the defendant on bail in accordance with 12001
division (A) (2) of this section. 12002

Sec. 2953.11. In cases of conviction of felony, except for 12003
aggravated murder ~~or~~, murder, aggravated abortion murder, or 12004
abortion murder, if the defendant has been committed to a state 12005
correctional institution and sentence is suspended, the clerk of 12006
the court in which the entry is made suspending the sentence 12007
under the seal of the court shall forthwith certify the 12008
suspension to the warden of the state correctional institution, 12009
who shall deliver the defendant to the sheriff of the county in 12010
which the defendant was convicted. The sheriff thereupon shall 12011
convey the defendant to the jail of the county in which the 12012
defendant was convicted and keep the defendant in custody unless 12013
admitted to bail pending the decision on the appeal or the 12014
termination of the suspension of sentence. If the judgment is 12015
affirmed or if the suspension of sentence is terminated, the 12016
sheriff shall convey the defendant to the state correctional 12017
institution to serve the balance of the defendant's term of 12018
sentence. The supreme court in the order allowing the filing of 12019
an appeal may provide that the defendant shall remain in the 12020
custody of the warden of the state correctional institution 12021
pending the decision of the court in such case. 12022

Sec. 2953.21. (A) (1) (a) Any person who has been convicted 12023
of a criminal offense or adjudicated a delinquent child and who 12024
claims that there was such a denial or infringement of the 12025
person's rights as to render the judgment void or voidable under 12026
the Ohio Constitution or the Constitution of the United States, 12027
any person who has been convicted of a criminal offense and 12028
sentenced to death and who claims that there was a denial or 12029
infringement of the person's rights under either of those 12030
Constitutions that creates a reasonable probability of an 12031

altered verdict, and any person who has been convicted of a 12032
criminal offense that is a felony and who is an offender for 12033
whom DNA testing that was performed under sections 2953.71 to 12034
2953.81 of the Revised Code or under former section 2953.82 of 12035
the Revised Code and analyzed in the context of and upon 12036
consideration of all available admissible evidence related to 12037
the person's case as described in division (D) of section 12038
2953.74 of the Revised Code provided results that establish, by 12039
clear and convincing evidence, actual innocence of that felony 12040
offense or, if the person was sentenced to death, establish, by 12041
clear and convincing evidence, actual innocence of the 12042
aggravating circumstance or circumstances the person was found 12043
guilty of committing and that is or are the basis of that 12044
sentence of death, may file a petition in the court that imposed 12045
sentence, stating the grounds for relief relied upon, and asking 12046
the court to vacate or set aside the judgment or sentence or to 12047
grant other appropriate relief. The petitioner may file a 12048
supporting affidavit and other documentary evidence in support 12049
of the claim for relief. 12050

(b) As used in division (A)(1)(a) of this section, "actual 12051
innocence" means that, had the results of the DNA testing 12052
conducted under sections 2953.71 to 2953.81 of the Revised Code 12053
or under former section 2953.82 of the Revised Code been 12054
presented at trial, and had those results been analyzed in the 12055
context of and upon consideration of all available admissible 12056
evidence related to the person's case as described in division 12057
(D) of section 2953.74 of the Revised Code, no reasonable 12058
factfinder would have found the petitioner guilty of the offense 12059
of which the petitioner was convicted, or, if the person was 12060
sentenced to death, no reasonable factfinder would have found 12061
the petitioner guilty of the aggravating circumstance or 12062

circumstances the petitioner was found guilty of committing and 12063
that is or are the basis of that sentence of death. 12064

(c) As used in divisions (A) (1) (a) and (b) of this 12065
section, "former section 2953.82 of the Revised Code" means 12066
section 2953.82 of the Revised Code as it existed prior to July 12067
6, 2010. 12068

(d) At any time in conjunction with the filing of a 12069
petition for postconviction relief under division (A) of this 12070
section by a person who has been sentenced to death, or with the 12071
litigation of a petition so filed, the court, for good cause 12072
shown, may authorize the petitioner in seeking the 12073
postconviction relief and the prosecuting attorney of the county 12074
served by the court in defending the proceeding, to take 12075
depositions and to issue subpoenas and subpoenas duces tecum in 12076
accordance with divisions (A) (1) (d), (A) (1) (e), and (C) of this 12077
section, and to any other form of discovery as in a civil action 12078
that the court in its discretion permits. The court may limit 12079
the extent of discovery under this division. In addition to 12080
discovery that is relevant to the claim and was available under 12081
Criminal Rule 16 through conclusion of the original criminal 12082
trial, the court, for good cause shown, may authorize the 12083
petitioner or prosecuting attorney to take depositions and issue 12084
subpoenas and subpoenas duces tecum in either of the following 12085
circumstances: 12086

(i) For any witness who testified at trial or who was 12087
disclosed by the state prior to trial, except as otherwise 12088
provided in this division, the petitioner or prosecuting 12089
attorney shows clear and convincing evidence that the witness is 12090
material and that a deposition of the witness or the issuing of 12091
a subpoena or subpoena duces tecum is of assistance in order to 12092

substantiate or refute the petitioner's claim that there is a 12093
reasonable probability of an altered verdict. This division does 12094
not apply if the witness was unavailable for trial or would not 12095
voluntarily be interviewed by the defendant or prosecuting 12096
attorney. 12097

(ii) For any witness with respect to whom division (A) (1) 12098
(d) (i) of this section does not apply, the petitioner or 12099
prosecuting attorney shows good cause that the witness is 12100
material and that a deposition of the witness or the issuing of 12101
a subpoena or subpoena duces tecum is of assistance in order to 12102
substantiate or refute the petitioner's claim that there is a 12103
reasonable probability of an altered verdict. 12104

(e) If a person who has been sentenced to death and who 12105
files a petition for postconviction relief under division (A) of 12106
this section requests postconviction discovery as described in 12107
division (A) (1) (d) of this section or if the prosecuting 12108
attorney of the county served by the court requests 12109
postconviction discovery as described in that division, within 12110
ten days after the docketing of the request, or within any other 12111
time that the court sets for good cause shown, the prosecuting 12112
attorney shall respond by answer or motion to the petitioner's 12113
request or the petitioner shall respond by answer or motion to 12114
the prosecuting attorney's request, whichever is applicable. 12115

(f) If a person who has been sentenced to death and who 12116
files a petition for postconviction relief under division (A) of 12117
this section requests postconviction discovery as described in 12118
division (A) (1) (d) of this section or if the prosecuting 12119
attorney of the county served by the court requests 12120
postconviction discovery as described in that division, upon 12121
motion by the petitioner, the prosecuting attorney, or the 12122

person from whom discovery is sought, and for good cause shown, 12123
the court in which the action is pending may make any order that 12124
justice requires to protect a party or person from oppression or 12125
undue burden or expense, including but not limited to the orders 12126
described in divisions (A)(1)(g)(i) to (viii) of this section. 12127
The court also may make any such order if, in its discretion, it 12128
determines that the discovery sought would be irrelevant to the 12129
claims made in the petition; and if the court makes any such 12130
order on that basis, it shall explain in the order the reasons 12131
why the discovery would be irrelevant. 12132

(g) If a petitioner, prosecuting attorney, or person from 12133
whom discovery is sought makes a motion for an order under 12134
division (A)(1)(f) of this section and the order is denied in 12135
whole or in part, the court, on terms and conditions as are 12136
just, may order that any party or person provide or permit 12137
discovery as described in division (A)(1)(d) of this section. 12138
The provisions of Civil Rule 37(A)(4) apply to the award of 12139
expenses incurred in relation to the motion, except that in no 12140
case shall a court require a petitioner who is indigent to pay 12141
expenses under those provisions. 12142

Before any person moves for an order under division (A)(1) 12143
(f) of this section, that person shall make a reasonable effort 12144
to resolve the matter through discussion with the petitioner or 12145
prosecuting attorney seeking discovery. A motion for an order 12146
under division (A)(1)(f) of this section shall be accompanied by 12147
a statement reciting the effort made to resolve the matter in 12148
accordance with this paragraph. 12149

The orders that may be made under division (A)(1)(f) of 12150
this section include, but are not limited to, any of the 12151
following: 12152

(i) That the discovery not be had;	12153
(ii) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;	12154 12155
(iii) That the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;	12156 12157 12158
(iv) That certain matters not be inquired into or that the scope of the discovery be limited to certain matters;	12159 12160
(v) That discovery be conducted with no one present except persons designated by the court;	12161 12162
(vi) That a deposition after being sealed be opened only by order of the court;	12163 12164
(vii) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;	12165 12166 12167
(viii) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.	12168 12169 12170
(h) Any postconviction discovery authorized under division (A) (1) (d) of this section shall be completed not later than eighteen months after the start of the discovery proceedings unless, for good cause shown, the court extends that period for completing the discovery.	12171 12172 12173 12174 12175
(i) Nothing in division (A) (1) (d) of this section authorizes, or shall be construed as authorizing, the relitigation, or discovery in support of relitigation, of any matter barred by the doctrine of res judicata.	12176 12177 12178 12179

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

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

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

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

(5) If the petitioner in a petition filed under division (A) of this section was convicted of or pleaded guilty to a felony, the petition may include a claim that the petitioner was denied the equal protection of the laws in violation of the Ohio

Constitution or the United States Constitution because the 12210
sentence imposed upon the petitioner for the felony was part of 12211
a consistent pattern of disparity in sentencing by the judge who 12212
imposed the sentence, with regard to the petitioner's race, 12213
gender, ethnic background, or religion. If the supreme court 12214
adopts a rule requiring a court of common pleas to maintain 12215
information with regard to an offender's race, gender, ethnic 12216
background, or religion, the supporting evidence for the 12217
petition shall include, but shall not be limited to, a copy of 12218
that type of information relative to the petitioner's sentence 12219
and copies of that type of information relative to sentences 12220
that the same judge imposed upon other persons. 12221

(6) Notwithstanding any law or court rule to the contrary, 12222
there is no limit on the number of pages in, or on the length 12223
of, a petition filed under division (A) of this section by a 12224
person who has been sentenced to death. If any court rule 12225
specifies a limit on the number of pages in, or on the length 12226
of, a petition filed under division (A) of this section or on a 12227
prosecuting attorney's response to such a petition by answer or 12228
motion and a person who has been sentenced to death files a 12229
petition that exceeds the limit specified for the petition, the 12230
prosecuting attorney may respond by an answer or motion that 12231
exceeds the limit specified for the response. 12232

(B) The clerk of the court in which the petition for 12233
postconviction relief and, if applicable, a request for 12234
postconviction discovery described in division (A) (1) (d) of this 12235
section is filed shall docket the petition and the request and 12236
bring them promptly to the attention of the court. The clerk of 12237
the court in which the petition for postconviction relief and, 12238
if applicable, a request for postconviction discovery described 12239
in division (A) (1) (d) of this section is filed immediately shall 12240

forward a copy of the petition and a copy of the request if 12241
filed by the petitioner to the prosecuting attorney of the 12242
county served by the court. If the request for postconviction 12243
discovery is filed by the prosecuting attorney, the clerk of the 12244
court immediately shall forward a copy of the request to the 12245
petitioner or the petitioner's counsel. 12246

(C) If a person who has been sentenced to death and who 12247
files a petition for postconviction relief under division (A) of 12248
this section requests a deposition or the prosecuting attorney 12249
in the case requests a deposition, and if the court grants the 12250
request under division (A)(1)(d) of this section, the court 12251
shall notify the petitioner or the petitioner's counsel and the 12252
prosecuting attorney. The deposition shall be conducted pursuant 12253
to divisions (B), (D), and (E) of Criminal Rule 15. 12254
Notwithstanding division (C) of Criminal Rule 15, the petitioner 12255
is not entitled to attend the deposition. The prosecuting 12256
attorney shall be permitted to attend and participate in any 12257
deposition. 12258

(D) The court shall consider a petition that is timely 12259
filed under division (A)(2) of this section even if a direct 12260
appeal of the judgment is pending. Before granting a hearing on 12261
a petition filed under division (A) of this section, the court 12262
shall determine whether there are substantive grounds for 12263
relief. In making such a determination, the court shall 12264
consider, in addition to the petition, the supporting 12265
affidavits, and the documentary evidence, all the files and 12266
records pertaining to the proceedings against the petitioner, 12267
including, but not limited to, the indictment, the court's 12268
journal entries, the journalized records of the clerk of the 12269
court, and the court reporter's transcript. The court reporter's 12270
transcript, if ordered and certified by the court, shall be 12271

taxed as court costs. If the court dismisses the petition, it 12272
shall make and file findings of fact and conclusions of law with 12273
respect to such dismissal. If the petition was filed by a person 12274
who has been sentenced to death, the findings of fact and 12275
conclusions of law shall state specifically the reasons for the 12276
dismissal of the petition and of each claim it contains. 12277

(E) Within ten days after the docketing of the petition, 12278
or within any further time that the court may fix for good cause 12279
shown, the prosecuting attorney shall respond by answer or 12280
motion. Division (A) (6) of this section applies with respect to 12281
the prosecuting attorney's response. Within twenty days from the 12282
date the issues are raised, either party may move for summary 12283
judgment. The right to summary judgment shall appear on the face 12284
of the record. 12285

(F) Unless the petition and the files and records of the 12286
case show the petitioner is not entitled to relief, the court 12287
shall proceed to a prompt hearing on the issues even if a direct 12288
appeal of the case is pending. If the court notifies the parties 12289
that it has found grounds for granting relief, either party may 12290
request an appellate court in which a direct appeal of the 12291
judgment is pending to remand the pending case to the court. 12292

(G) A petitioner who files a petition under division (A) 12293
of this section may amend the petition as follows: 12294

(1) If the petition was filed by a person who has been 12295
sentenced to death, at any time that is not later than one 12296
hundred eighty days after the petition is filed, the petitioner 12297
may amend the petition with or without leave or prejudice to the 12298
proceedings. 12299

(2) If division (G) (1) of this section does not apply, at 12300

any time before the answer or motion is filed, the petitioner 12301
may amend the petition with or without leave or prejudice to the 12302
proceedings. 12303

(3) The petitioner may amend the petition with leave of 12304
court at any time after the expiration of the applicable period 12305
specified in division (G) (1) or (2) of this section. 12306

(H) If the court does not find grounds for granting 12307
relief, it shall make and file findings of fact and conclusions 12308
of law and shall enter judgment denying relief on the petition. 12309
If the petition was filed by a person who has been sentenced to 12310
death, the findings of fact and conclusions of law shall state 12311
specifically the reasons for the denial of relief on the 12312
petition and of each claim it contains. If no direct appeal of 12313
the case is pending and the court finds grounds for relief or if 12314
a pending direct appeal of the case has been remanded to the 12315
court pursuant to a request made pursuant to division (F) of 12316
this section and the court finds grounds for granting relief, it 12317
shall make and file findings of fact and conclusions of law and 12318
shall enter a judgment that vacates and sets aside the judgment 12319
in question, and, in the case of a petitioner who is a prisoner 12320
in custody, shall discharge or resentence the petitioner or 12321
grant a new trial as the court determines appropriate. If the 12322
petitioner has been sentenced to death, the findings of fact and 12323
conclusions of law shall state specifically the reasons for the 12324
finding of grounds for granting the relief, with respect to each 12325
claim contained in the petition. The court also may make 12326
supplementary orders to the relief granted, concerning such 12327
matters as arraignment, retrial, custody, and bail. If the 12328
trial court's order granting the petition is reversed on appeal 12329
and if the direct appeal of the case has been remanded from an 12330
appellate court pursuant to a request under division (F) of this 12331

section, the appellate court reversing the order granting the 12332
petition shall notify the appellate court in which the direct 12333
appeal of the case was pending at the time of the remand of the 12334
reversal and remand of the trial court's order. Upon the 12335
reversal and remand of the trial court's order granting the 12336
petition, regardless of whether notice is sent or received, the 12337
direct appeal of the case that was remanded is reinstated. 12338

(I) Upon the filing of a petition pursuant to division (A) 12339
of this section by a person sentenced to death, only the supreme 12340
court may stay execution of the sentence of death. 12341

(J) (1) If a person sentenced to death intends to file a 12342
petition under this section, the court shall appoint counsel to 12343
represent the person upon a finding that the person is indigent 12344
and that the person either accepts the appointment of counsel or 12345
is unable to make a competent decision whether to accept or 12346
reject the appointment of counsel. The court may decline to 12347
appoint counsel for the person only upon a finding, after a 12348
hearing if necessary, that the person rejects the appointment of 12349
counsel and understands the legal consequences of that decision 12350
or upon a finding that the person is not indigent. 12351

(2) The court shall not appoint as counsel under division 12352
(J) (1) of this section an attorney who represented the 12353
petitioner at trial in the case to which the petition relates 12354
unless the person and the attorney expressly request the 12355
appointment. The court shall appoint as counsel under division 12356
(J) (1) of this section only an attorney who is certified under 12357
Rule 20 of the Rules of Superintendence for the Courts of Ohio 12358
to represent indigent defendants charged with or convicted of an 12359
offense for which the death penalty can be or has been imposed. 12360
The ineffectiveness or incompetence of counsel during 12361

proceedings under this section does not constitute grounds for 12362
relief in a proceeding under this section, in an appeal of any 12363
action under this section, or in an application to reopen a 12364
direct appeal. 12365

(3) Division (J) of this section does not preclude 12366
attorneys who represent the state of Ohio from invoking the 12367
provisions of 28 U.S.C. 154 with respect to capital cases that 12368
were pending in federal habeas corpus proceedings prior to July 12369
1, 1996, insofar as the petitioners in those cases were 12370
represented in proceedings under this section by one or more 12371
counsel appointed by the court under this section or section 12372
120.06, 120.16, 120.26, or 120.33 of the Revised Code and those 12373
appointed counsel meet the requirements of division (J) (2) of 12374
this section. 12375

(K) Subject to the appeal of a sentence for a felony that 12376
is authorized by section 2953.08 of the Revised Code, the remedy 12377
set forth in this section is the exclusive remedy by which a 12378
person may bring a collateral challenge to the validity of a 12379
conviction or sentence in a criminal case or to the validity of 12380
an adjudication of a child as a delinquent child for the 12381
commission of an act that would be a criminal offense if 12382
committed by an adult or the validity of a related order of 12383
disposition. 12384

Sec. 2953.25. (A) As used in this section: 12385

(1) "Collateral sanction" means a penalty, disability, or 12386
disadvantage that is related to employment or occupational 12387
licensing, however denominated, as a result of the individual's 12388
conviction of or plea of guilty to an offense and that applies 12389
by operation of law in this state whether or not the penalty, 12390
disability, or disadvantage is included in the sentence or 12391

judgment imposed. 12392

"Collateral sanction" does not include imprisonment, 12393
probation, parole, supervised release, forfeiture, restitution, 12394
fine, assessment, or costs of prosecution. 12395

(2) "Decision-maker" includes, but is not limited to, the 12396
state acting through a department, agency, board, commission, or 12397
instrumentality established by the law of this state for the 12398
exercise of any function of government, a political subdivision, 12399
an educational institution, or a government contractor or 12400
subcontractor made subject to this section by contract, law, or 12401
ordinance. 12402

(3) "Department-funded program" means a residential or 12403
nonresidential program that is not a term in a state 12404
correctional institution, that is funded in whole or part by the 12405
department of rehabilitation and correction, and that is imposed 12406
as a sanction for an offense, as part of a sanction that is 12407
imposed for an offense, or as a term or condition of any 12408
sanction that is imposed for an offense. 12409

(4) "Designee" means the person designated by the deputy 12410
director of the division of parole and community services to 12411
perform the duties designated in division (B) of this section. 12412

(5) "Division of parole and community services" means the 12413
division of parole and community services of the department of 12414
rehabilitation and correction. 12415

(6) "Offense" means any felony or misdemeanor under the 12416
laws of this state. 12417

(7) "Political subdivision" has the same meaning as in 12418
section 2969.21 of the Revised Code. 12419

(8) "Discretionary civil impact," "licensing agency," and 12420
"mandatory civil impact" have the same meanings as in section 12421
2961.21 of the Revised Code. 12422

(B) (1) An individual who is subject to one or more 12423
collateral sanctions as a result of being convicted of or 12424
pleading guilty to an offense and who either has served a term 12425
in a state correctional institution for any offense or has spent 12426
time in a department-funded program for any offense may file a 12427
petition with the designee of the deputy director of the 12428
division of parole and community services for a certificate of 12429
qualification for employment. 12430

(2) An individual who is subject to one or more collateral 12431
sanctions as a result of being convicted of or pleading guilty 12432
to an offense and who is not in a category described in division 12433
(B) (1) of this section may file for a certificate of 12434
qualification for employment by doing either of the following: 12435

(a) In the case of an individual who resides in this 12436
state, filing a petition with the court of common pleas of the 12437
county in which the person resides or with the designee of the 12438
deputy director of the division of parole and community 12439
services; 12440

(b) In the case of an individual who resides outside of 12441
this state, filing a petition with the court of common pleas of 12442
any county in which any conviction or plea of guilty from which 12443
the individual seeks relief was entered or with the designee of 12444
the deputy director of the division of parole and community 12445
services. 12446

(3) A petition under division (B) (1) or (2) of this 12447
section shall be made on a copy of the form prescribed by the 12448

division of parole and community services under division (J) of 12449
this section and shall contain all of the information described 12450
in division (F) of this section. 12451

(4) (a) Except as provided in division (B) (4) (b) of this 12452
section, an individual may file a petition under division (B) (1) 12453
or (2) of this section at any time after the expiration of 12454
whichever of the following is applicable: 12455

(i) If the offense that resulted in the collateral 12456
sanction from which the individual seeks relief is a felony, at 12457
any time after the expiration of one year from the date of 12458
release of the individual from any period of incarceration in a 12459
state or local correctional facility that was imposed for that 12460
offense and all periods of supervision imposed after release 12461
from the period of incarceration or, if the individual was not 12462
incarcerated for that offense, at any time after the expiration 12463
of one year from the date of the individual's final release from 12464
all other sanctions imposed for that offense. 12465

(ii) If the offense that resulted in the collateral 12466
sanction from which the individual seeks relief is a 12467
misdemeanor, at any time after the expiration of six months from 12468
the date of release of the individual from any period of 12469
incarceration in a local correctional facility that was imposed 12470
for that offense and all periods of supervision imposed after 12471
release from the period of incarceration or, if the individual 12472
was not incarcerated for that offense, at any time after the 12473
expiration of six months from the date of the final release of 12474
the individual from all sanctions imposed for that offense 12475
including any period of supervision. 12476

(b) The department of rehabilitation and correction may 12477
establish criteria by rule adopted under Chapter 119. of the 12478

Revised Code that, if satisfied by an individual, would allow 12479
the individual to file a petition before the expiration of six 12480
months or one year from the date of final release, whichever is 12481
applicable under division (B) (4) (a) of this section. 12482

(5) (a) A designee that receives a petition for a 12483
certificate of qualification for employment from an individual 12484
under division (B) (1) or (2) of this section shall review the 12485
petition to determine whether it is complete. If the petition is 12486
complete, the designee shall forward the petition, and any other 12487
information the designee possesses that relates to the petition, 12488
to the court of common pleas of the county in which the 12489
individual resides if the individual submitting the petition 12490
resides in this state or, if the individual resides outside of 12491
this state, to the court of common pleas of the county in which 12492
the conviction or plea of guilty from which the individual seeks 12493
relief was entered. 12494

(b) A court of common pleas that receives a petition for a 12495
certificate of qualification for employment from an individual 12496
under division (B) (2) of this section, or that is forwarded a 12497
petition for such a certificate under division (B) (5) (a) of this 12498
section, shall attempt to determine all other courts in this 12499
state in which the individual was convicted of or pleaded guilty 12500
to an offense other than the offense from which the individual 12501
is seeking relief. The court that receives or is forwarded the 12502
petition shall notify all other courts in this state that it 12503
determines under this division were courts in which the 12504
individual was convicted of or pleaded guilty to an offense 12505
other than the offense from which the individual is seeking 12506
relief that the individual has filed the petition and that the 12507
court may send comments regarding the possible issuance of the 12508
certificate. 12509

A court of common pleas that receives a petition for a certificate of qualification for employment under division (B) (2) of this section shall notify the county's prosecuting attorney that the individual has filed the petition.

A court of common pleas that receives a petition for a certificate of qualification for employment under division (B) (2) of this section, or that is forwarded a petition for qualification under division (B) (5) (a) of this section may direct the clerk of court to process and record all notices required in or under this section.

(C) (1) Upon receiving a petition for a certificate of qualification for employment filed by an individual under division (B) (2) of this section or being forwarded a petition for such a certificate under division (B) (5) (a) of this section, the court shall review the individual's petition, the individual's criminal history, all filings submitted by the prosecutor or by the victim in accordance with rules adopted by the division of parole and community services, the applicant's military service record, if applicable, and whether the applicant has an emotional, mental, or physical condition that is traceable to the applicant's military service in the armed forces of the United States and that was a contributing factor in the commission of the offense or offenses, and all other relevant evidence. The court may order any report, investigation, or disclosure by the individual that the court believes is necessary for the court to reach a decision on whether to approve the individual's petition for a certificate of qualification for employment.

(2) Upon receiving a petition for a certificate of qualification for employment filed by an individual under

division (B) (2) of this section or being forwarded a petition 12540
for such a certificate under division (B) (5) (a) of this section, 12541
except as otherwise provided in this division, the court shall 12542
decide whether to issue the certificate within sixty days after 12543
the court receives or is forwarded the completed petition and 12544
all information requested for the court to make that decision. 12545
Upon request of the individual who filed the petition, the court 12546
may extend the sixty-day period specified in this division. 12547

(3) Subject to division (C) (5) of this section, a court 12548
that receives an individual's petition for a certificate of 12549
qualification for employment under division (B) (2) of this 12550
section or that is forwarded a petition for such a certificate 12551
under division (B) (5) (a) of this section may issue a certificate 12552
of qualification for employment, at the court's discretion, if 12553
the court finds that the individual has established all of the 12554
following by a preponderance of the evidence: 12555

(a) Granting the petition will materially assist the 12556
individual in obtaining employment or occupational licensing. 12557

(b) The individual has a substantial need for the relief 12558
requested in order to live a law-abiding life. 12559

(c) Granting the petition would not pose an unreasonable 12560
risk to the safety of the public or any individual. 12561

(4) The submission of an incomplete petition by an 12562
individual shall not be grounds for the designee or court to 12563
deny the petition. 12564

(5) A certificate of qualification for employment shall 12565
not create relief from any of the following collateral 12566
sanctions: 12567

(a) Requirements imposed by Chapter 2950. of the Revised 12568

Code and rules adopted under sections 2950.13 and 2950.132 of
the Revised Code; 12569
12570

(b) A driver's license, commercial driver's license, or 12571
probationary license suspension, cancellation, or revocation 12572
pursuant to section 4510.037, 4510.07, 4511.19, or 4511.191 of 12573
the Revised Code if the relief sought is available pursuant to 12574
section 4510.021 or division (B) of section 4510.13 of the 12575
Revised Code; 12576

(c) Restrictions on employment as a prosecutor or law 12577
enforcement officer; 12578

(d) The denial, ineligibility, or automatic suspension of 12579
a license that is imposed upon an individual applying for or 12580
holding a license as a health care professional under Title 12581
XLVII of the Revised Code if the individual is convicted of, 12582
pleads guilty to, is subject to a judicial finding of 12583
eligibility for intervention in lieu of conviction in this state 12584
under section 2951.041 of the Revised Code, or is subject to 12585
treatment or intervention in lieu of conviction for a violation 12586
of section 2903.01, 2903.02, 2903.03, 2903.11, 2904.03, 2904.04, 12587
2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, 2911.11, 12588
or 2919.123 of the Revised Code; 12589

(e) The immediate suspension of a license, certificate, or 12590
evidence of registration that is imposed upon an individual 12591
holding a license as a health care professional under Title 12592
XLVII of the Revised Code pursuant to division (C) of section 12593
3719.121 of the Revised Code; 12594

(f) The denial or ineligibility for employment in a pain 12595
clinic under division (B) (4) of section 4729.552 of the Revised 12596
Code; 12597

(g) The mandatory suspension of a license that is imposed 12598
on an individual applying for or holding a license as a health 12599
care professional under Title XLVII of the Revised Code pursuant 12600
to section 3123.43 of the Revised Code. 12601

(6) If a court that receives an individual's petition for 12602
a certificate of qualification for employment under division (B) 12603
(2) of this section or that is forwarded a petition for such a 12604
certificate under division (B) (5) (a) of this section denies the 12605
petition, the court shall provide written notice to the 12606
individual of the court's denial. The court may place conditions 12607
on the individual regarding the individual's filing of any 12608
subsequent petition for a certificate of qualification for 12609
employment. The written notice must notify the individual of any 12610
conditions placed on the individual's filing of a subsequent 12611
petition for a certificate of qualification for employment. 12612

If a court of common pleas that receives an individual's 12613
petition for a certificate of qualification for employment under 12614
division (B) (2) of this section or that is forwarded a petition 12615
for such a certificate under division (B) (5) (a) of this section 12616
denies the petition, the individual may appeal the decision to 12617
the court of appeals only if the individual alleges that the 12618
denial was an abuse of discretion on the part of the court of 12619
common pleas. 12620

(D) (1) A certificate of qualification for employment 12621
issued to an individual lifts the automatic bar of a collateral 12622
sanction, and a decision-maker shall consider on a case-by-case 12623
basis whether to grant or deny the issuance or restoration of an 12624
occupational license or an employment opportunity, 12625
notwithstanding the individual's possession of the certificate, 12626
without, however, reconsidering or rejecting any finding made by 12627

a designee or court under division (C) (3) of this section. 12628

(2) The certificate constitutes a rebuttable presumption 12629
that the person's criminal convictions are insufficient evidence 12630
that the person is unfit for the license, employment 12631
opportunity, or certification in question. Notwithstanding the 12632
presumption established under this division, the agency may deny 12633
the license or certification for the person if it determines 12634
that the person is unfit for issuance of the license. 12635

(3) If an employer that has hired a person who has been 12636
issued a certificate of qualification for employment applies to 12637
a licensing agency for a license or certification and the person 12638
has a conviction or guilty plea that otherwise would bar the 12639
person's employment with the employer or licensure for the 12640
employer because of a mandatory civil impact, the agency shall 12641
give the person individualized consideration, notwithstanding 12642
the mandatory civil impact, the mandatory civil impact shall be 12643
considered for all purposes to be a discretionary civil impact, 12644
and the certificate constitutes a rebuttable presumption that 12645
the person's criminal convictions are insufficient evidence that 12646
the person is unfit for the employment, or that the employer is 12647
unfit for the license or certification, in question. 12648

(E) A certificate of qualification for employment does not 12649
grant the individual to whom the certificate was issued relief 12650
from the mandatory civil impacts identified in division (A) (1) 12651
of section 2961.01 or division (B) of section 2961.02 of the 12652
Revised Code. 12653

(F) A petition for a certificate of qualification for 12654
employment filed by an individual under division (B) (1) or (2) 12655
of this section shall include all of the following: 12656

- (1) The individual's name, date of birth, and social security number; 12657
12658
- (2) All aliases of the individual and all social security numbers associated with those aliases; 12659
12660
- (3) The individual's residence address, including the city, county, and state of residence and zip code; 12661
12662
- (4) The length of time that the individual has resided in the individual's current state of residence, expressed in years and months of residence; 12663
12664
12665
- (5) A general statement as to why the individual has filed the petition and how the certificate of qualification for employment would assist the individual; 12666
12667
12668
- (6) A summary of the individual's criminal history with respect to each offense that is a disqualification from employment or licensing in an occupation or profession, including the years of each conviction or plea of guilty for each of those offenses; 12669
12670
12671
12672
12673
- (7) A summary of the individual's employment history, specifying the name of, and dates of employment with, each employer; 12674
12675
12676
- (8) Verifiable references and endorsements; 12677
- (9) The name of one or more immediate family members of the individual, or other persons with whom the individual has a close relationship, who support the individual's reentry plan; 12678
12679
12680
- (10) A summary of the reason the individual believes the certificate of qualification for employment should be granted; 12681
12682
- (11) Any other information required by rule by the 12683

department of rehabilitation and correction. 12684

(G) (1) In a judicial or administrative proceeding alleging 12685
negligence or other fault, a certificate of qualification for 12686
employment issued to an individual under this section may be 12687
introduced as evidence of a person's due care in hiring, 12688
retaining, licensing, leasing to, admitting to a school or 12689
program, or otherwise transacting business or engaging in 12690
activity with the individual to whom the certificate of 12691
qualification for employment was issued if the person knew of 12692
the certificate at the time of the alleged negligence or other 12693
fault. 12694

(2) In any proceeding on a claim against an employer for 12695
negligent hiring, a certificate of qualification for employment 12696
issued to an individual under this section shall provide 12697
immunity for the employer as to the claim if the employer knew 12698
of the certificate at the time of the alleged negligence. 12699

(3) If an employer hires an individual who has been issued 12700
a certificate of qualification for employment under this 12701
section, if the individual, after being hired, subsequently 12702
demonstrates dangerousness or is convicted of or pleads guilty 12703
to a felony, and if the employer retains the individual as an 12704
employee after the demonstration of dangerousness or the 12705
conviction or guilty plea, the employer may be held liable in a 12706
civil action that is based on or relates to the retention of the 12707
individual as an employee only if it is proved by a 12708
preponderance of the evidence that the person having hiring and 12709
firing responsibility for the employer had actual knowledge that 12710
the employee was dangerous or had been convicted of or pleaded 12711
guilty to the felony and was willful in retaining the individual 12712
as an employee after the demonstration of dangerousness or the 12713

conviction or guilty plea of which the person has actual 12714
knowledge. 12715

(H) A certificate of qualification for employment issued 12716
under this section shall be revoked if the individual to whom 12717
the certificate of qualification for employment was issued is 12718
convicted of or pleads guilty to a felony offense committed 12719
subsequent to the issuance of the certificate of qualification 12720
for employment. The department of rehabilitation and correction 12721
shall periodically review the certificates listed in the 12722
database described in division (K) of this section to identify 12723
those that are subject to revocation under this division. Upon 12724
identifying a certificate of qualification for employment that 12725
is subject to revocation, the department shall note in the 12726
database that the certificate has been revoked, the reason for 12727
revocation, and the effective date of revocation, which shall be 12728
the date of the conviction or plea of guilty subsequent to the 12729
issuance of the certificate. 12730

(I) A designee's forwarding, or failure to forward, a 12731
petition for a certificate of qualification for employment to a 12732
court or a court's issuance, or failure to issue, a petition for 12733
a certificate of qualification for employment to an individual 12734
under division (B) of this section does not give rise to a claim 12735
for damages against the department of rehabilitation and 12736
correction or court. 12737

(J) The division of parole and community services shall 12738
adopt rules in accordance with Chapter 119. of the Revised Code 12739
for the implementation and administration of this section and 12740
shall prescribe the form for the petition to be used under 12741
division (B)(1) or (2) of this section. The form for the 12742
petition shall include places for all of the information 12743

specified in division (F) of this section. 12744

(K) The department of rehabilitation and correction shall 12745
maintain a database that identifies granted certificates and 12746
revoked certificates and tracks the number of certificates 12747
granted and revoked, the industries, occupations, and 12748
professions with respect to which the certificates have been 12749
most applicable, and the types of employers that have accepted 12750
the certificates. The department shall annually create a report 12751
that summarizes the information maintained in the database and 12752
shall make the report available to the public on its internet 12753
web site. 12754

Sec. 2967.01. As used in this chapter: 12755

(A) "State correctional institution" includes any 12756
institution or facility that is operated by the department of 12757
rehabilitation and correction and that is used for the custody, 12758
care, or treatment of criminal, delinquent, or psychologically 12759
or psychiatrically disturbed offenders. 12760

(B) "Pardon" means the remission of penalty by the 12761
governor in accordance with the power vested in the governor by 12762
the constitution. 12763

(C) "Commutation" or "commutation of sentence" means the 12764
substitution by the governor of a lesser for a greater 12765
punishment. A stated prison term may be commuted without the 12766
consent of the convict, except when granted upon the acceptance 12767
and performance by the convict of conditions precedent. After 12768
commutation, the commuted prison term shall be the only one in 12769
existence. The commutation may be stated in terms of commuting 12770
from a named offense to a lesser included offense with a shorter 12771
prison term, in terms of commuting from a stated prison term in 12772

months and years to a shorter prison term in months and years, 12773
or in terms of commuting from any other stated prison term to a 12774
shorter prison term. 12775

(D) "Reprieve" means the temporary suspension by the 12776
governor of the execution of a sentence or prison term. The 12777
governor may grant a reprieve without the consent of and against 12778
the will of the convict. 12779

(E) "Parole" means, regarding a prisoner who is serving a 12780
prison term for aggravated murder or murder or aggravated 12781
abortion murder or abortion murder, who is serving a prison term 12782
of life imprisonment for rape or for felonious sexual 12783
penetration as it existed under section 2907.12 of the Revised 12784
Code prior to September 3, 1996, or who was sentenced prior to 12785
July 1, 1996, a release of the prisoner from confinement in any 12786
state correctional institution by the adult parole authority 12787
that is subject to the eligibility criteria specified in this 12788
chapter and that is under the terms and conditions, and for the 12789
period of time, prescribed by the authority in its published 12790
rules and official minutes or required by division (A) of 12791
section 2967.131 of the Revised Code or another provision of 12792
this chapter. 12793

(F) "Head of a state correctional institution" or "head of 12794
the institution" means the resident head of the institution and 12795
the person immediately in charge of the institution, whether 12796
designated warden, superintendent, or any other name by which 12797
the head is known. 12798

(G) "Convict" means a person who has been convicted of a 12799
felony under the laws of this state, whether or not actually 12800
confined in a state correctional institution, unless the person 12801
has been pardoned or has served the person's sentence or prison 12802

term. 12803

(H) "Prisoner" means a person who is in actual confinement 12804
in a state correctional institution. 12805

(I) "Parolee" means any inmate who has been released from 12806
confinement on parole by order of the adult parole authority or 12807
conditionally pardoned, who is under supervision of the adult 12808
parole authority and has not been granted a final release, and 12809
who has not been declared in violation of the inmate's parole by 12810
the authority or is performing the prescribed conditions of a 12811
conditional pardon. 12812

(J) "Releasee" means an inmate who has been released from 12813
confinement pursuant to section 2967.28 of the Revised Code 12814
under a period of post-release control that includes one or more 12815
post-release control sanctions. 12816

(K) "Final release" means a remission by the adult parole 12817
authority of the balance of the sentence or prison term of a 12818
parolee or prisoner or the termination by the authority of a 12819
term of post-release control of a releasee. 12820

(L) "Parole violator" or "release violator" means any 12821
parolee or releasee who has been declared to be in violation of 12822
the condition of parole or post-release control specified in 12823
division (A) or (B) of section 2967.131 of the Revised Code or 12824
in violation of any other term, condition, or rule of the 12825
parolee's or releasee's parole or of the parolee's or releasee's 12826
post-release control sanctions, the determination of which has 12827
been made by the adult parole authority and recorded in its 12828
official minutes. 12829

(M) "Administrative release" means a termination of 12830
jurisdiction over a particular sentence or prison term by the 12831

adult parole authority for administrative convenience. 12832

(N) "Post-release control" means a period of supervision 12833
by the adult parole authority after a prisoner's release from 12834
imprisonment, other than under a term of life imprisonment, that 12835
includes one or more post-release control sanctions imposed 12836
under section 2967.28 of the Revised Code. 12837

(O) "Post-release control sanction" means a sanction that 12838
is authorized under sections 2929.16 to 2929.18 of the Revised 12839
Code and that is imposed upon a prisoner upon the prisoner's 12840
release from a prison term other than a term of life 12841
imprisonment. 12842

(P) "Community control sanction," "prison term," 12843
"mandatory prison term," and "stated prison term" have the same 12844
meanings as in section 2929.01 of the Revised Code. 12845

(Q) "Transitional control" means control of a prisoner 12846
under the transitional control program established by the 12847
department of rehabilitation and correction under section 12848
2967.26 of the Revised Code, if the department establishes a 12849
program of that nature under that section. 12850

(R) "Random drug testing" has the same meaning as in 12851
section 5120.63 of the Revised Code. 12852

(S) "Non-life felony indefinite prison term" has the same 12853
meaning as in section 2929.01 of the Revised Code. 12854

Sec. 2967.05. (A) As used in this section: 12855

(1) "Imminent danger of death" means that the inmate has a 12856
medically diagnosable condition that will cause death to occur 12857
within a short period of time. 12858

As used in division (A) (1) of this section, "within a 12859

short period of time" means generally within six months. 12860

(2) (a) "Medically incapacitated" means any diagnosable 12861
medical condition, including mental dementia and severe, 12862
permanent medical or cognitive disability, that prevents the 12863
inmate from completing activities of daily living without 12864
significant assistance, that incapacitates the inmate to the 12865
extent that institutional confinement does not offer additional 12866
restrictions, that is likely to continue throughout the entire 12867
period of parole, and that is unlikely to improve noticeably. 12868

(b) "Medically incapacitated" does not include conditions 12869
related solely to mental illness unless the mental illness is 12870
accompanied by injury, disease, or organic defect. 12871

(3) (a) "Terminal illness" means a condition that satisfies 12872
all of the following criteria: 12873

(i) The condition is irreversible and incurable and is 12874
caused by disease, illness, or injury from which the inmate is 12875
unlikely to recover. 12876

(ii) In accordance with reasonable medical standards and a 12877
reasonable degree of medical certainty, the condition is likely 12878
to cause death to the inmate within twelve months. 12879

(iii) Institutional confinement of the inmate does not 12880
offer additional protections for public safety or against the 12881
inmate's risk to reoffend. 12882

(b) The department of rehabilitation and correction shall 12883
adopt rules pursuant to Chapter 119. of the Revised Code to 12884
implement the definition of "terminal illness" in division (A) 12885
(3) (a) of this section. 12886

(B) Upon the recommendation of the director of 12887

rehabilitation and correction, accompanied by a certificate of 12888
the attending physician that an inmate is terminally ill, 12889
medically incapacitated, or in imminent danger of death, the 12890
governor may order the inmate's release as if on parole, 12891
reserving the right to return the inmate to the institution 12892
pursuant to this section. If, subsequent to the inmate's 12893
release, the inmate's health improves so that the inmate is no 12894
longer terminally ill, medically incapacitated, or in imminent 12895
danger of death, the inmate shall be returned, by order of the 12896
governor, to the institution from which the inmate was released. 12897
If the inmate violates any rules or conditions applicable to the 12898
inmate, the inmate may be returned to an institution under the 12899
control of the department of rehabilitation and correction. The 12900
governor may direct the adult parole authority to investigate or 12901
cause to be investigated the inmate and make a recommendation. 12902
An inmate released under this section shall be subject to 12903
supervision by the adult parole authority in accordance with any 12904
recommendation of the adult parole authority that is approved by 12905
the governor. The adult parole authority shall adopt rules 12906
pursuant to section 119.03 of the Revised Code to establish the 12907
procedure for medical release of an inmate when an inmate is 12908
terminally ill, medically incapacitated, or in imminent danger 12909
of death. 12910

(C) No inmate is eligible for release under this section 12911
if the inmate is serving a death sentence, a sentence of life 12912
without parole, a sentence under Chapter 2971. of the Revised 12913
Code for a felony of the first or second degree, a sentence for 12914
aggravated murder or murder or aggravated abortion murder or 12915
abortion murder, or a mandatory prison term for an offense of 12916
violence or any specification described in Chapter 2941. of the 12917
Revised Code. 12918

Sec. 2967.12. (A) Except as provided in division (G) of 12919
this section, at least sixty days before the adult parole 12920
authority recommends any pardon or commutation of sentence, or 12921
grants any parole, the authority shall provide a notice of the 12922
pendency of the pardon, commutation, or parole, setting forth 12923
the name of the person on whose behalf it is made, the offense 12924
of which the person was convicted or to which the person pleaded 12925
guilty, the time of conviction or the guilty plea, and the term 12926
of the person's sentence, to the prosecuting attorney and the 12927
judge of the court of common pleas of the county in which the 12928
indictment against the person was found. If there is more than 12929
one judge of that court of common pleas, the authority shall 12930
provide the notice to the presiding judge. Upon the request of 12931
the prosecuting attorney or of any law enforcement agency, the 12932
authority shall provide to the requesting prosecuting attorney 12933
and law enforcement agencies an institutional summary report 12934
that covers the subject person's participation while confined in 12935
a state correctional institution in training, work, and other 12936
rehabilitative activities and any disciplinary action taken 12937
against the person while so confined. The department of 12938
rehabilitation and correction may utilize electronic means to 12939
provide this notice. The department of rehabilitation and 12940
correction, at the same time that it provides the notice to the 12941
prosecuting attorney and judge under this division, also shall 12942
post on the database it maintains pursuant to section 5120.66 of 12943
the Revised Code the offender's name and all of the information 12944
specified in division (A) (1) (c) (iii) of that section. 12945

(B) If a request for notification has been made pursuant 12946
to section 2930.16 of the Revised Code or if division (H) of 12947
this section applies, the office of victim services or the adult 12948
parole authority also shall provide notice to the victim or the 12949

victim's representative at least sixty days prior to 12950
recommending any pardon or commutation of sentence for, or 12951
granting any parole to, the person. The notice shall include the 12952
information required by division (A) of this section and may be 12953
provided by telephone or through electronic means. The notice 12954
also shall inform the victim or the victim's representative that 12955
the victim or representative may send a written statement 12956
relative to the victimization and the pending action to the 12957
adult parole authority and that, if the authority receives any 12958
written statement prior to recommending a pardon or commutation 12959
or granting a parole for a person, the authority will consider 12960
the statement before it recommends a pardon or commutation or 12961
grants a parole. If the person is being considered for parole, 12962
the notice shall inform the victim or the victim's 12963
representative that a full board hearing of the parole board may 12964
be held and that the victim or victim's representative may 12965
contact the office of victims' services for further information. 12966
If the person being considered for parole was convicted of or 12967
pleaded guilty to a violation of section 2903.01 ~~or,~~ 2903.02, 12968
2904.03, or 2094.04 of the Revised Code, an offense of violence 12969
that is a felony of the first, second, or third degree, or an 12970
offense punished by a sentence of life imprisonment, the notice 12971
shall inform the victim of that offense, the victim's 12972
representative, or a member of the victim's immediate family 12973
that the victim, the victim's representative, and the victim's 12974
immediate family have the right to give testimony at a full 12975
board hearing of the parole board and that the victim or 12976
victim's representative may contact the office of victims' 12977
services for further information. 12978

(C) When notice of the pendency of any pardon, commutation 12979
of sentence, or parole has been provided to a judge or 12980

prosecutor or posted on the database as required in division (A) 12981
of this section and a hearing on the pardon, commutation, or 12982
parole is continued to a date certain, the authority shall 12983
provide notice of the further consideration of the pardon, 12984
commutation, or parole at least sixty days before the further 12985
consideration. The notice of the further consideration shall be 12986
provided to the proper judge and prosecuting attorney at least 12987
sixty days before the further consideration, and may be provided 12988
using electronic means, and, if the initial notice was posted on 12989
the database as provided in division (A) of this section, the 12990
notice of the further consideration shall be posted on the 12991
database at least sixty days before the further consideration. 12992
If the prosecuting attorney or a law enforcement agency was 12993
provided a copy of the institutional summary report relative to 12994
the subject person under division (A) of this section, the 12995
authority shall include with the notice of the further 12996
consideration sent to the prosecuting attorney any new 12997
information with respect to the person that relates to 12998
activities and actions of the person that are of a type covered 12999
by the report and shall send to the law enforcement agency a 13000
report that provides notice of the further consideration and 13001
includes any such new information with respect to the person. 13002
When notice of the pendency of any pardon, commutation, or 13003
parole has been given as provided in division (B) of this 13004
section and the hearing on it is continued to a date certain, 13005
the authority shall give notice of the further consideration to 13006
the victim or the victim's representative in accordance with 13007
section 2930.03 of the Revised Code. 13008

(D) In case of an application for the pardon or 13009
commutation of sentence of a person sentenced to capital 13010
punishment, the governor may modify the requirements of 13011

notification and publication if there is not sufficient time for 13012
compliance with the requirements before the date fixed for the 13013
execution of sentence. 13014

(E) If an offender is serving a prison term imposed under 13015
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 13016
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 13017
Code and if the parole board terminates its control over the 13018
offender's service of that term pursuant to section 2971.04 of 13019
the Revised Code, the parole board immediately shall provide 13020
written notice of its termination of control or the transfer of 13021
control to the entities and persons specified in section 2971.04 13022
of the Revised Code. 13023

(F) The failure of the adult parole authority to comply 13024
with the notice or posting provisions of division (A), (B), or 13025
(C) of this section or the failure of the parole board to comply 13026
with the notice provisions of division (E) of this section do 13027
not give any rights or any grounds for appeal or post-conviction 13028
relief to the person serving the sentence. 13029

(G) Divisions (A), (B), and (C) of this section do not 13030
apply to any release of a person that is of the type described 13031
in division (B) (2) (b) of section 5120.031 of the Revised Code. 13032

(H) If a defendant is incarcerated for the commission of 13033
aggravated murder, murder, aggravated abortion murder, abortion 13034
murder, or an offense of violence that is a felony of the first, 13035
second, or third degree or is under a sentence of life 13036
imprisonment, except as otherwise provided in this division, the 13037
notice described in division (B) of this section shall be given 13038
to the victim or victim's representative regardless of whether 13039
the victim or victim's representative has made a request for 13040
notification. The notice described in division (B) of this 13041

section shall not be given under this division to a victim or 13042
victim's representative if the victim or victim's representative 13043
has requested pursuant to division (B) (2) of section 2930.03 of 13044
the Revised Code that the victim or the victim's representative 13045
not be provided the notice. The notice described in division (B) 13046
of this section does not have to be given under this division to 13047
a victim or victim's representative if notice was given to the 13048
victim or victim's representative with respect to at least two 13049
prior considerations of pardon, commutation, or parole of a 13050
person and the victim or victim's representative did not provide 13051
any written statement relative to the victimization and the 13052
pending action, did not attend any hearing conducted relative to 13053
the pending action, and did not otherwise respond to the office 13054
with respect to the pending action. Regardless of whether the 13055
victim or victim's representative has requested that the notice 13056
described in division (B) of this section be provided or not be 13057
provided, the office of victim services or adult parole 13058
authority shall give similar notice to the law enforcement 13059
agency that arrested the defendant if any officer of that agency 13060
was a victim of the offense and to any member of the victim's 13061
immediate family who requests notification. If notice is to be 13062
given under this division, the office or authority may give the 13063
notice by any reasonable means, including regular mail, 13064
telephone, and electronic mail, in accordance with division (D) 13065
(1) of section 2930.16 of the Revised Code. If the notice is 13066
based on an offense committed prior to ~~the effective date of~~ 13067
~~this amendment~~ March 22, 2013, the notice to the victim or 13068
victim's representative also shall include the opt-out 13069
information described in division (D) (1) of section 2930.16 of 13070
the Revised Code. The office or authority, in accordance with 13071
division (D) (2) of section 2930.16 of the Revised Code, shall 13072
keep a record of all attempts to provide the notice, and of all 13073

notices provided, under this division. 13074

Division (H) of this section, and the notice-related 13075
provisions of divisions (E)(2) and (K) of section 2929.20, 13076
division (D)(1) of section 2930.16, division (E)(1)(b) of 13077
section 2967.19, division (A)(3)(b) of section 2967.26, division 13078
(D)(1) of section 2967.28, and division (A)(2) of section 13079
5149.101 of the Revised Code enacted in the act in which 13080
division (H) of this section was enacted, shall be known as 13081
"Roberta's Law." 13082

(I) In addition to and independent of the right of a 13083
victim to make a statement as described in division (A) of this 13084
section or pursuant to section 2930.17 of the Revised Code or to 13085
otherwise make a statement, the authority for a judge or 13086
prosecuting attorney to furnish statements and information, make 13087
recommendations, and give testimony as described in division (A) 13088
of this section, the right of a prosecuting attorney, judge, or 13089
victim to give testimony or submit a statement at a full parole 13090
board hearing pursuant to section 5149.101 of the Revised Code, 13091
and any other right or duty of a person to present information 13092
or make a statement, any person may send to the adult parole 13093
authority at any time prior to the authority's recommending a 13094
pardon or commutation or granting a parole for the offender a 13095
written statement relative to the offense and the pending 13096
action. 13097

(J) As used in this section, "victim's immediate family" 13098
means the mother, father, spouse, sibling, or child of the 13099
victim, provided that in no case does "victim's immediate 13100
family" include the offender with respect to whom the notice in 13101
question applies. 13102

Sec. 2967.121. (A) Subject to division (D) of this 13103

section, at least two weeks before any convict who is serving a 13104
sentence for committing aggravated murder, murder, aggravated 13105
abortion murder, abortion murder, or a felony of the first, 13106
second, or third degree or who is serving a sentence of life 13107
imprisonment is released from confinement in any state 13108
correctional institution pursuant to a pardon, commutation of 13109
sentence, parole, or completed prison term, the adult parole 13110
authority shall provide notice of the release to the prosecuting 13111
attorney of the county in which the indictment of the convict 13112
was found and a separate notice of that release to the sheriff 13113
of that county. The notice to prosecuting attorneys and the 13114
notice to sheriffs required by this division may be contained in 13115
a weekly list of all convicts who are serving a sentence for 13116
aggravated murder, murder, aggravated abortion murder, abortion 13117
murder, or a felony of the first, second, or third degree or are 13118
serving a sentence of life imprisonment and who are scheduled 13119
for release. 13120

(B) Subject to division (D) of this section, if a convict 13121
who is serving a sentence for committing aggravated murder, 13122
murder, aggravated abortion murder, abortion murder, or a felony 13123
of the first, second, or third degree or who is serving a 13124
sentence of life imprisonment is released from confinement 13125
pursuant to a pardon, commutation of sentence, parole, or 13126
completed prison term, the adult parole authority shall send 13127
notice of the release to the prosecuting attorney of the county 13128
in which the indictment of the convict was filed. The notice 13129
required by this division shall be sent to the appropriate 13130
prosecuting attorney at the end of the month in which the 13131
convict is released and may be contained in a monthly list of 13132
all convicts who are released in that month and for whom this 13133
division requires a notice to be sent to that prosecuting 13134

attorney. 13135

(C) The notices required by divisions (A) and (B) of this 13136
section shall contain all of the following: 13137

(1) The name of the convict being released; 13138

(2) The date of the convict's release; 13139

(3) The offense for the violation of which the convict was 13140
convicted and incarcerated; 13141

(4) The date of the convict's conviction pursuant to which 13142
the convict was incarcerated; 13143

(5) The sentence imposed for that conviction; 13144

(6) The length of any supervision that the convict will be 13145
under; 13146

(7) The name, business address, and business phone number 13147
of the convict's supervising officer; 13148

(8) The address at which the convict will reside. 13149

(D) (1) Divisions (A) , (B), and (C) of this section do not 13150
apply to the release from confinement of an offender if the 13151
offender is serving a prison term imposed under division (A) (3), 13152
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 13153
(b), (c), or (d) of section 2971.03 of the Revised Code, if the 13154
court pursuant to section 2971.05 of the Revised Code modifies 13155
the requirement that the offender serve that entire term in a 13156
state correctional institution, and if the release from 13157
confinement is pursuant to that modification. In a case of that 13158
type, the court that modifies the requirement promptly shall 13159
provide written notice of the modification and the order that 13160
modifies the requirement or revises the modification to the 13161

offender, the department of rehabilitation and correction, the 13162
prosecuting attorney, and any state agency or political 13163
subdivision that is affected by the order. 13164

(2) Divisions (A), (B), and (C) of this section do not 13165
apply to the release from confinement of an offender if, upon 13166
admission to the state correctional institution, the offender 13167
has less than fourteen days to serve on the sentence. 13168

Sec. 2967.13. (A) Except as provided in division (G) of 13169
this section, a prisoner serving a sentence of imprisonment for 13170
life for an offense committed on or after July 1, 1996, is not 13171
entitled to any earned credit under section 2967.193 of the 13172
Revised Code and becomes eligible for parole as follows: 13173

(1) If a sentence of imprisonment for life was imposed for 13174
the offense of murder or abortion murder, at the expiration of 13175
the prisoner's minimum term; 13176

(2) If a sentence of imprisonment for life with parole 13177
eligibility after serving twenty years of imprisonment was 13178
imposed pursuant to section 2929.022 or 2929.03 of the Revised 13179
Code, after serving a term of twenty years; 13180

(3) If a sentence of imprisonment for life with parole 13181
eligibility after serving twenty-five full years of imprisonment 13182
was imposed pursuant to section 2929.022 or 2929.03 of the 13183
Revised Code, after serving a term of twenty-five full years; 13184

(4) If a sentence of imprisonment for life with parole 13185
eligibility after serving thirty full years of imprisonment was 13186
imposed pursuant to section 2929.022 or 2929.03 of the Revised 13187
Code, after serving a term of thirty full years; 13188

(5) If a sentence of imprisonment for life was imposed for 13189
rape, after serving a term of ten full years' imprisonment; 13190

(6) If a sentence of imprisonment for life with parole 13191
eligibility after serving fifteen years of imprisonment was 13192
imposed for a violation of section 2927.24 of the Revised Code, 13193
after serving a term of fifteen years. 13194

(B) Except as provided in division (G) of this section, a 13195
prisoner serving a sentence of imprisonment for life with parole 13196
eligibility after serving twenty years of imprisonment or a 13197
sentence of imprisonment for life with parole eligibility after 13198
serving twenty-five full years or thirty full years of 13199
imprisonment imposed pursuant to section 2929.022 or 2929.03 of 13200
the Revised Code for an offense committed on or after July 1, 13201
1996, consecutively to any other term of imprisonment, becomes 13202
eligible for parole after serving twenty years, twenty full 13203
years, or thirty full years, as applicable, as to each such 13204
sentence of life imprisonment, which shall not be reduced for 13205
earned credits under section 2967.193 of the Revised Code, plus 13206
the term or terms of the other sentences consecutively imposed 13207
or, if one of the other sentences is another type of life 13208
sentence with parole eligibility, the number of years before 13209
parole eligibility for that sentence. 13210

(C) Except as provided in division (G) of this section, a 13211
prisoner serving consecutively two or more sentences in which an 13212
indefinite term of imprisonment is imposed becomes eligible for 13213
parole upon the expiration of the aggregate of the minimum terms 13214
of the sentences. 13215

(D) Except as provided in division (G) of this section, a 13216
prisoner serving a term of imprisonment who is described in 13217
division (A) of section 2967.021 of the Revised Code becomes 13218
eligible for parole as described in that division or, if the 13219
prisoner is serving a definite term of imprisonment, shall be 13220

released as described in that division. 13221

(E) A prisoner serving a sentence of life imprisonment 13222
without parole imposed pursuant to section 2907.02 or section 13223
2929.03 or 2929.06 of the Revised Code is not eligible for 13224
parole and shall be imprisoned until death. 13225

(F) A prisoner serving a stated prison term that is a non- 13226
life felony indefinite prison term shall be released in 13227
accordance with sections 2967.271 and 2967.28 of the Revised 13228
Code. A prisoner serving a stated prison term of any other 13229
nature shall be released in accordance with section 2967.28 of 13230
the Revised Code. 13231

(G) A prisoner serving a prison term or term of life 13232
imprisonment without parole imposed pursuant to section 2971.03 13233
of the Revised Code never becomes eligible for parole during 13234
that term of imprisonment. 13235

Sec. 2967.18. (A) Whenever the director of rehabilitation 13236
and correction determines that the total population of the state 13237
correctional institutions for males and females, the total 13238
population of the state correctional institutions for males, or 13239
the total population of the state correctional institutions for 13240
females exceeds the capacity of those institutions and that an 13241
overcrowding emergency exists, the director shall notify the 13242
correctional institution inspection committee of the emergency 13243
and provide the committee with information in support of the 13244
director's determination. The director shall not notify the 13245
committee that an overcrowding emergency exists unless the 13246
director determines that no other reasonable method is available 13247
to resolve the overcrowding emergency. 13248

(B) On receipt of the notice given pursuant to division 13249

(A) of this section, the correctional institution inspection committee promptly shall review the determination of the director of rehabilitation and correction. Notwithstanding any other provision of the Revised Code or the Administrative Code that governs the lengths of criminal sentences, sets forth the time within which a prisoner is eligible for parole or within which a prisoner may apply for release, or regulates the procedure for granting parole or release to prisoners confined in state correctional institutions, the committee may recommend to the governor that the prison terms of eligible male, female, or all prisoners, as determined under division (E) of this section, be reduced by thirty, sixty, or ninety days, in the manner prescribed in that division.

(C) If the correctional institution inspection committee disagrees with the determination of the director of rehabilitation and correction that an overcrowding emergency exists, if the committee finds that an overcrowding emergency exists but does not make a recommendation pursuant to division (B) of this section, or if the committee does not make a finding or a recommendation pursuant to that division within thirty days of receipt of the notice given pursuant to division (A) of this section, the director may recommend to the governor that the action set forth in division (B) of this section be taken.

(D) Upon receipt of a recommendation from the correctional institution inspection committee or the director of rehabilitation and correction made pursuant to this section, the governor may declare in writing that an overcrowding emergency exists in all of the institutions within the control of the department in which men are confined, in which women are confined, or both. The declaration shall state that the adult parole authority shall take the action set forth in division (B)

of this section. After the governor makes the declaration, the 13281
director shall file a copy of it with the secretary of state, 13282
and the copy is a public record. 13283

The department may begin to implement the declaration of 13284
the governor made pursuant to this section on the date that it 13285
is filed with the secretary of state. The department shall begin 13286
to implement the declaration within thirty days after the date 13287
of filing. The declaration shall be implemented in accordance 13288
with division (E) of this section. 13289

(E) (1) No reduction of sentence pursuant to division (B) 13290
of this section shall be granted to any of the following: 13291

(a) A person who is serving a term of imprisonment for 13292
aggravated murder, murder, aggravated abortion murder, abortion 13293
murder, voluntary manslaughter, involuntary manslaughter, 13294
felonious assault, kidnapping, rape, aggravated arson, 13295
aggravated robbery, or any other offense punishable by life 13296
imprisonment or by an indefinite term of a specified number of 13297
years to life, or for conspiracy in, complicity in, or attempt 13298
to commit any of those offenses; 13299

(b) A person who is serving a term of imprisonment for any 13300
felony other than carrying a concealed weapon that was committed 13301
while the person had a firearm, as defined in section 2923.11 of 13302
the Revised Code, on or about the offender's person or under the 13303
offender's control; 13304

(c) A person who is serving a term of imprisonment for a 13305
violation of section 2925.03 of the Revised Code; 13306

(d) A person who is serving a term of imprisonment for 13307
engaging in a pattern of corrupt activity; 13308

(e) A person who is serving a prison term or term of life 13309

imprisonment without parole imposed pursuant to section 2971.03 13310
of the Revised Code; 13311

(f) A person who was denied parole or release pursuant to 13312
section 2929.20 of the Revised Code during the term of 13313
imprisonment the person currently is serving. 13314

(2) A declaration of the governor that requires the adult 13315
parole authority to take the action set forth in division (B) of 13316
this section shall be implemented only by reducing the prison 13317
terms of prisoners who are not in any of the categories set 13318
forth in division (E)(1) of this section, and only by granting 13319
reductions of prison terms in the following order: 13320

(a) Under any such declaration, prison terms initially 13321
shall be reduced only for persons who are not in any of the 13322
categories set forth in division (E)(1) of this section and who 13323
are not serving a term of imprisonment for any of the following 13324
offenses: 13325

(i) An offense of violence that is a felony of the first, 13326
second, or third degree or that, under the law in existence 13327
prior to ~~the effective date of this amendment~~ July 1, 1996, was 13328
an aggravated felony of the first, second, or third degree or a 13329
felony of the first or second degree; 13330

(ii) An offense set forth in Chapter 2925. of the Revised 13331
Code that is a felony of the first or second degree. 13332

(b) If every person serving a term of imprisonment at the 13333
time of the implementation of any such declaration who is in the 13334
class of persons eligible for the initial reduction of prison 13335
terms, as described in division (E)(2)(a) of this section, has 13336
received a total of ninety days of term reduction for each three 13337
years of imprisonment actually served, then prison terms may be 13338

reduced for all other persons serving a term of imprisonment at 13339
that time who are not in any of the categories set forth in 13340
division (E) (1) of this section. 13341

(F) An offender who is released from a state correctional 13342
institution pursuant to this section is subject to post-release 13343
control sanctions imposed by the adult parole authority as if 13344
the offender was a prisoner described in division (B) of section 13345
2967.28 of the Revised Code who was being released from 13346
imprisonment. 13347

(G) If more than one overcrowding emergency is declared 13348
while a prisoner is serving a prison term, the total term 13349
reduction for that prisoner as the result of multiple 13350
declarations shall not exceed ninety days for each three years 13351
of imprisonment actually served. 13352

Sec. 2967.19. (A) As used in this section: 13353

(1) "Deadly weapon" and "dangerous ordnance" have the same 13354
meanings as in section 2923.11 of the Revised Code. 13355

(2) "Disqualifying prison term" means any of the 13356
following: 13357

(a) A prison term imposed for aggravated murder, murder, 13358
aggravated abortion murder, abortion murder, voluntary 13359
manslaughter, involuntary manslaughter, felonious assault, 13360
kidnapping, rape, aggravated arson, aggravated burglary, or 13361
aggravated robbery; 13362

(b) A prison term imposed for complicity in, an attempt to 13363
commit, or conspiracy to commit any offense listed in division 13364
(A) (2) (a) of this section; 13365

(c) A prison term of life imprisonment, including any term 13366

of life imprisonment that has parole eligibility; 13367

(d) A prison term imposed for any felony other than 13368
carrying a concealed weapon an essential element of which is any 13369
conduct or failure to act expressly involving any deadly weapon 13370
or dangerous ordnance; 13371

(e) A prison term imposed for any violation of section 13372
2925.03 of the Revised Code that is a felony of the first or 13373
second degree; 13374

(f) A prison term imposed for engaging in a pattern of 13375
corrupt activity in violation of section 2923.32 of the Revised 13376
Code; 13377

(g) A prison term imposed pursuant to section 2971.03 of 13378
the Revised Code; 13379

(h) A prison term imposed for any sexually oriented 13380
offense. 13381

(3) "Eligible prison term" means any prison term that is 13382
not a disqualifying prison term and is not a restricting prison 13383
term. 13384

(4) "Restricting prison term" means any of the following: 13385

(a) A mandatory prison term imposed under division (B) (1) 13386
(a), (B) (1) (c), (B) (1) (f), (B) (1) (g), (B) (2), or (B) (7) of 13387
section 2929.14 of the Revised Code for a specification of the 13388
type described in that division; 13389

(b) In the case of an offender who has been sentenced to a 13390
mandatory prison term for a specification of the type described 13391
in division (A) (4) (a) of this section, the prison term imposed 13392
for the felony offense for which the specification was stated at 13393
the end of the body of the indictment, count in the indictment, 13394

or information charging the offense; 13395

(c) A prison term imposed for trafficking in persons; 13396

(d) A prison term imposed for any offense that is 13397
described in division (A) (4) (d) (i) of this section if division 13398
(A) (4) (d) (ii) of this section applies to the offender: 13399

(i) The offense is a felony of the first or second degree 13400
that is an offense of violence and that is not described in 13401
division (A) (2) (a) or (b) of this section, an attempt to commit 13402
a felony of the first or second degree that is an offense of 13403
violence and that is not described in division (A) (2) (a) or (b) 13404
of this section if the attempt is a felony of the first or 13405
second degree, or an offense under an existing or former law of 13406
this state, another state, or the United States that is or was 13407
substantially equivalent to any other offense described in this 13408
division. 13409

(ii) The offender previously was convicted of or pleaded 13410
guilty to any offense listed in division (A) (2) or (A) (4) (d) (i) 13411
of this section. 13412

(5) "Sexually oriented offense" has the same meaning as in 13413
section 2950.01 of the Revised Code. 13414

(6) "Stated prison term of one year or more" means a 13415
definite prison term of one year or more imposed as a stated 13416
prison term, or a minimum prison term of one year or more 13417
imposed as part of a stated prison term that is a non-life 13418
felony indefinite prison term. 13419

(B) The director of the department of rehabilitation and 13420
correction may recommend in writing to the sentencing court that 13421
the court consider releasing from prison any offender who, on or 13422
after September 30, 2011, is confined in a state correctional 13423

institution, who is serving a stated prison term of one year or 13424
more, and who is eligible under division (C) of this section for 13425
a release under this section. If the director wishes to 13426
recommend that the sentencing court consider releasing an 13427
offender under this section, the director shall notify the 13428
sentencing court in writing of the offender's eligibility not 13429
earlier than ninety days prior to the date on which the offender 13430
becomes eligible as described in division (C) of this section. 13431
The director's submission of the written notice constitutes a 13432
recommendation by the director that the court strongly consider 13433
release of the offender consistent with the purposes and 13434
principles of sentencing set forth in sections 2929.11 and 13435
2929.13 of the Revised Code. Only an offender recommended by the 13436
director under division (B) of this section may be considered 13437
for early release under this section. 13438

(C) (1) An offender serving a stated prison term of one 13439
year or more and who has commenced service of that stated prison 13440
term becomes eligible for release from prison under this section 13441
only as described in this division. An offender serving a stated 13442
prison term that includes a disqualifying prison term is not 13443
eligible for release from prison under this section. An offender 13444
serving a stated prison term that consists solely of one or more 13445
restricting prison terms is not eligible for release under this 13446
section. An offender serving a stated prison term of one year or 13447
more that includes one or more restricting prison terms and one 13448
or more eligible prison terms becomes eligible for release under 13449
this section after having fully served all restricting prison 13450
terms and having served eighty per cent of that stated prison 13451
term that remains to be served after all restricting prison 13452
terms have been fully served. An offender serving a stated 13453
prison term of one year or more that consists solely of one or 13454

more eligible prison terms becomes eligible for release under 13455
this section after having served eighty per cent of that stated 13456
prison term. For purposes of determining an offender's 13457
eligibility for release under this section, if the offender's 13458
stated prison term includes consecutive prison terms, any 13459
restricting prison terms shall be deemed served prior to any 13460
eligible prison terms that run consecutively to the restricting 13461
prison terms, and the eligible prison terms are deemed to 13462
commence after all of the restricting prison terms have been 13463
fully served. 13464

An offender serving a stated prison term of one year or 13465
more that includes a mandatory prison term that is not a 13466
disqualifying prison term and is not a restricting prison term 13467
is not automatically ineligible as a result of the offender's 13468
service of that mandatory term for release from prison under 13469
this section, and the offender's eligibility for release from 13470
prison under this section is determined in accordance with this 13471
division. 13472

(2) If an offender confined in a state correctional 13473
institution under a stated prison term is eligible for release 13474
under this section as described in division (C) (1) of this 13475
section, the director of the department of rehabilitation and 13476
correction may recommend in writing that the sentencing court 13477
consider releasing the offender from prison under this section 13478
by submitting to the sentencing court the written notice 13479
described in division (B) of this section. 13480

(D) The director shall include with any notice submitted 13481
to the sentencing court under division (B) of this section an 13482
institutional summary report that covers the offender's 13483
participation while confined in a state correctional institution 13484

in school, training, work, treatment, and other rehabilitative 13485
activities and any disciplinary action taken against the 13486
offender while so confined. The director shall include with the 13487
notice any other documentation requested by the court, if 13488
available. 13489

(E) (1) When the director submits a written notice to a 13490
sentencing court that an offender is eligible to be considered 13491
for early release under this section, the department promptly 13492
shall provide to the prosecuting attorney of the county in which 13493
the offender was indicted a copy of the written notice, a copy 13494
of the institutional summary report, and any other information 13495
provided to the court and shall provide a copy of the 13496
institutional summary report to any law enforcement agency that 13497
requests the report. The department also promptly shall do 13498
whichever of the following is applicable: 13499

(a) Subject to division (E) (1) (b) of this section, give 13500
written notice of the submission to any victim of the offender 13501
or victim's representative of any victim of the offender who is 13502
registered with the office of victim's services. 13503

(b) If the offense was aggravated murder, murder, 13504
aggravated abortion murder, abortion murder, an offense of 13505
violence that is a felony of the first, second, or third degree, 13506
or an offense punished by a sentence of life imprisonment, 13507
except as otherwise provided in this division, notify the victim 13508
or the victim's representative of the filing of the petition 13509
regardless of whether the victim or victim's representative has 13510
registered with the office of victim's services. The notice of 13511
the filing of the petition shall not be given under this 13512
division to a victim or victim's representative if the victim or 13513
victim's representative has requested pursuant to division (B) 13514

(2) of section 2930.03 of the Revised Code that the victim or 13515
the victim's representative not be provided the notice. If 13516
notice is to be provided to a victim or victim's representative 13517
under this division, the department may give the notice by any 13518
reasonable means, including regular mail, telephone, and 13519
electronic mail, in accordance with division (D)(1) of section 13520
2930.16 of the Revised Code. If the notice is based on an 13521
offense committed prior to March 22, 2013, the notice also shall 13522
include the opt-out information described in division (D)(1) of 13523
section 2930.16 of the Revised Code. The department, in 13524
accordance with division (D)(2) of section 2930.16 of the 13525
Revised Code, shall keep a record of all attempts to provide the 13526
notice, and of all notices provided, under this division. 13527

Division (E)(1)(b) of this section, and the notice-related 13528
provisions of divisions (E)(2) and (K) of section 2929.20, 13529
division (D)(1) of section 2930.16, division (H) of section 13530
2967.12, division (A)(3)(b) of section 2967.26, division (D)(1) 13531
of section 2967.28, and division (A)(2) of section 5149.101 of 13532
the Revised Code enacted in the act in which division (E)(2) of 13533
this section was enacted, shall be known as "Roberta's Law." 13534

(2) When the director submits a petition under this 13535
section, the department also promptly shall post a copy of the 13536
written notice on the database it maintains under section 13537
5120.66 of the Revised Code and include information on where a 13538
person may send comments regarding the recommendation of early 13539
release. 13540

The information provided to the court, the prosecutor, and 13541
the victim or victim's representative under divisions (D) and 13542
(E) of this section shall include the name and contact 13543
information of a specific department of rehabilitation and 13544

correction employee who is available to answer questions about 13545
the offender who is the subject of the written notice submitted 13546
by the director, including, but not limited to, the offender's 13547
institutional conduct and rehabilitative activities while 13548
incarcerated. 13549

(F) Upon receipt of a written notice submitted by the 13550
director under division (B) of this section, the court either 13551
shall, on its own motion, schedule a hearing to consider 13552
releasing the offender who is the subject of the notice or shall 13553
inform the department that it will not be conducting a hearing 13554
relative to the offender. The court shall not grant an early 13555
release to an offender without holding a hearing. If a court 13556
declines to hold a hearing relative to an offender with respect 13557
to a written notice submitted by the director, the court may 13558
later consider release of that offender under this section on 13559
its own motion by scheduling a hearing for that purpose. Within 13560
thirty days after the written notice is submitted, the court 13561
shall inform the department whether or not the court is 13562
scheduling a hearing on the offender who is the subject of the 13563
notice. 13564

(G) If the court schedules a hearing upon receiving a 13565
written notice submitted under division (B) of this section or 13566
upon its own motion under division (F) of this section, the 13567
court shall notify the head of the state correctional 13568
institution in which the offender is confined of the hearing 13569
prior to the hearing. If the court makes a journal entry 13570
ordering the offender to be conveyed to the hearing, except as 13571
otherwise provided in this division, the head of the 13572
correctional institution shall deliver the offender to the 13573
sheriff of the county in which the hearing is to be held, and 13574
the sheriff shall convey the offender to and from the hearing. 13575

Upon the court's own motion or the motion of the offender or the prosecuting attorney of the county in which the offender was indicted, the court may permit the offender to appear at the hearing by video conferencing equipment if equipment of that nature is available and compatible.

Upon receipt of notice from a court of a hearing on the release of an offender under this division, the head of the state correctional institution in which the offender is confined immediately shall notify the appropriate person at the department of rehabilitation and correction of the hearing, and the department within twenty-four hours after receipt of the notice shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the offender's name and all of the information specified in division (A) (1) (c) (i) of that section. If the court schedules a hearing under this section, the court promptly shall give notice of the hearing to the prosecuting attorney of the county in which the offender was indicted. Upon receipt of the notice from the court, the prosecuting attorney shall notify pursuant to section 2930.16 of the Revised Code any victim of the offender or the victim's representative of the hearing.

(H) If the court schedules a hearing under this section, at the hearing, the court shall afford the offender and the offender's attorney an opportunity to present written information and, if present, oral information relevant to the offender's early release. The court shall afford a similar opportunity to the prosecuting attorney, victim or victim's representative, as defined in section 2930.01 of the Revised Code, and any other person the court determines is likely to present additional relevant information. If the court pursuant to division (G) of this section permits the offender to appear

at the hearing by video conferencing equipment, the offender's 13607
opportunity to present oral information shall be as a part of 13608
the video conferencing. The court shall consider any statement 13609
of a victim made under section 2930.14 or 2930.17 of the Revised 13610
Code, any victim impact statement prepared under section 13611
2947.051 of the Revised Code, and any report and other 13612
documentation submitted by the director under division (D) of 13613
this section. After ruling on whether to grant the offender 13614
early release, the court shall notify the victim in accordance 13615
with sections 2930.03 and 2930.16 of the Revised Code. 13616

(I) If the court grants an offender early release under 13617
this section, it shall order the release of the offender, shall 13618
place the offender under one or more appropriate community 13619
control sanctions, under appropriate conditions, and under the 13620
supervision of the department of probation that serves the 13621
court, and shall reserve the right to reimpose the sentence that 13622
it reduced and from which the offender was released if the 13623
offender violates the sanction. The court shall not make a 13624
release under this section effective prior to the date on which 13625
the offender becomes eligible as described in division (C) of 13626
this section. If the sentence under which the offender is 13627
confined in a state correctional institution and from which the 13628
offender is being released was imposed for a felony of the first 13629
or second degree, the court shall consider ordering that the 13630
offender be monitored by means of a global positioning device. 13631
If the court reimposes the sentence that it reduced and from 13632
which the offender was released and if the violation of the 13633
sanction is a new offense, the court may order that the 13634
reimposed sentence be served either concurrently with, or 13635
consecutive to, any new sentence imposed upon the offender as a 13636
result of the violation that is a new offense. The period of all 13637

community control sanctions imposed under this division shall 13638
not exceed five years. The court, in its discretion, may reduce 13639
the period of community control sanctions by the amount of time 13640
the offender spent in jail or prison for the offense. 13641

If the court grants an offender early release under this 13642
section, it shall notify the appropriate person at the 13643
department of rehabilitation and correction of the release, and 13644
the department shall post notice of the release on the database 13645
it maintains pursuant to section 5120.66 of the Revised Code. 13646

(J) The department shall adopt under Chapter 119. of the 13647
Revised Code any rules necessary to implement this section. 13648

Sec. 2967.193. (A) (1) Except as provided in division (C) 13649
of this section and subject to the maximum aggregate total 13650
specified in division (A) (3) of this section, a person confined 13651
in a state correctional institution or placed in the substance 13652
use disorder treatment program may provisionally earn one day or 13653
five days of credit, based on the category set forth in division 13654
(D) (1), (2), (3), (4), or (5) of this section in which the 13655
person is included, toward satisfaction of the person's stated 13656
prison term, as described in division (F) of this section, for 13657
each completed month during which the person, if confined in a 13658
state correctional institution, productively participates in an 13659
education program, vocational training, employment in prison 13660
industries, treatment for substance abuse, or any other 13661
constructive program developed by the department with specific 13662
standards for performance by prisoners or during which the 13663
person, if placed in the substance use disorder treatment 13664
program, productively participates in the program. Except as 13665
provided in division (C) of this section and subject to the 13666
maximum aggregate total specified in division (A) (3) of this 13667

section, a person so confined in a state correctional 13668
institution who successfully completes two programs or 13669
activities of that type may, in addition, provisionally earn up 13670
to five days of credit toward satisfaction of the person's 13671
stated prison term, as described in division (F) of this 13672
section, for the successful completion of the second program or 13673
activity. The person shall not be awarded any provisional days 13674
of credit for the successful completion of the first program or 13675
activity or for the successful completion of any program or 13676
activity that is completed after the second program or activity. 13677
At the end of each calendar month in which a person productively 13678
participates in a program or activity listed in this division or 13679
successfully completes a program or activity listed in this 13680
division, the department of rehabilitation and correction shall 13681
determine and record the total number of days credit that the 13682
person provisionally earned in that calendar month. If the 13683
person in a state correctional institution violates prison rules 13684
or the person in the substance use disorder treatment program 13685
violates program or department rules, the department may deny 13686
the person a credit that otherwise could have been provisionally 13687
awarded to the person or may withdraw one or more credits 13688
previously provisionally earned by the person. Days of credit 13689
provisionally earned by a person shall be finalized and awarded 13690
by the department subject to administrative review by the 13691
department of the person's conduct. 13692

(2) Unless a person is serving a mandatory prison term or 13693
a prison term for an offense of violence or a sexually oriented 13694
offense, and notwithstanding the maximum aggregate total 13695
specified in division (A) (3) of this section, a person who 13696
successfully completes any of the following shall earn ninety 13697
days of credit toward satisfaction of the person's stated prison 13698

term or a ten per cent reduction of the person's stated prison term, whichever is less: 13699
13700

(a) An Ohio high school diploma or Ohio certificate of high school equivalence certified by the Ohio central school system; 13701
13702
13703

(b) A therapeutic drug community program; 13704

(c) All three phases of the department of rehabilitation and correction's intensive outpatient drug treatment program; 13705
13706

(d) A career technical vocational school program; 13707

(e) A college certification program; 13708

(f) The criteria for a certificate of achievement and employability as specified in division (A) (1) of section 2961.22 of the Revised Code. 13709
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13711

(3) Except for persons described in division (A) (2) of this section, the aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion under this section and the aggregate days of credit finally credited to a person under this section shall not exceed eight per cent of the total number of days in the person's stated prison term. 13712
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(B) The department of rehabilitation and correction shall adopt rules that specify the programs or activities for which credit may be earned under this section, the criteria for determining productive participation in, or completion of, the programs or activities and the criteria for awarding credit, including criteria for awarding additional credit for successful program or activity completion, and the criteria for denying or withdrawing previously provisionally earned credit as a result 13719
13720
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of a violation of prison rules, or program or department rules, 13727
whichever is applicable. 13728

(C) No person confined in a state correctional institution 13729
or placed in a substance use disorder treatment program to whom 13730
any of the following applies shall be awarded any days of credit 13731
under division (A) of this section: 13732

(1) The person is serving a prison term that section 13733
2929.13 or section 2929.14 of the Revised Code specifies cannot 13734
be reduced pursuant to this section or this chapter or is 13735
serving a sentence for which section 2967.13 or division (B) of 13736
section 2929.143 of the Revised Code specifies that the person 13737
is not entitled to any earned credit under this section. 13738

(2) The person is sentenced to death or is serving a 13739
prison term or a term of life imprisonment for aggravated 13740
murder, murder, aggravated abortion murder, abortion murder, or 13741
a conspiracy or attempt to commit, or complicity in committing, 13742
aggravated murder ~~or,~~ murder, aggravated abortion murder, or 13743
abortion murder. 13744

(3) The person is serving a sentence of life imprisonment 13745
without parole imposed pursuant to section 2929.03 or 2929.06 of 13746
the Revised Code, a prison term or a term of life imprisonment 13747
without parole imposed pursuant to section 2971.03 of the 13748
Revised Code, or a sentence for a sexually oriented offense that 13749
was committed on or after September 30, 2011. 13750

(D) This division does not apply to a determination of 13751
whether a person confined in a state correctional institution or 13752
placed in a substance use disorder treatment program may earn 13753
any days of credit under division (A) of this section for 13754
successful completion of a second program or activity. The 13755

determination of whether a person confined in a state 13756
correctional institution may earn one day of credit or five days 13757
of credit under division (A) of this section for each completed 13758
month during which the person productively participates in a 13759
program or activity specified under that division shall be made 13760
in accordance with the following: 13761

(1) The offender may earn one day of credit under division 13762
(A) of this section, except as provided in division (C) of this 13763
section, if the most serious offense for which the offender is 13764
confined is any of the following that is a felony of the first 13765
or second degree: 13766

(a) A violation of division (A) of section 2903.04 or of 13767
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 13768
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 13769
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.15, 2919.151, 13770
2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, 13771
or 2927.24 of the Revised Code; 13772

(b) A conspiracy or attempt to commit, or complicity in 13773
committing, any other offense for which the maximum penalty is 13774
imprisonment for life or any offense listed in division (D) (1) 13775
(a) of this section. 13776

(2) The offender may earn one day of credit under division 13777
(A) of this section, except as provided in division (C) of this 13778
section, if the offender is serving a stated prison term that 13779
includes a prison term imposed for a sexually oriented offense 13780
that the offender committed prior to September 30, 2011. 13781

(3) The offender may earn one day of credit under division 13782
(A) of this section, except as provided in division (C) of this 13783
section, if the offender is serving a stated prison term that 13784

includes a prison term imposed for a felony other than carrying 13785
a concealed weapon an essential element of which is any conduct 13786
or failure to act expressly involving any deadly weapon or 13787
dangerous ordnance. 13788

(4) Except as provided in division (C) of this section, if 13789
the most serious offense for which the offender is confined is a 13790
felony of the first or second degree and divisions (D)(1), (2), 13791
and (3) of this section do not apply to the offender, the 13792
offender may earn one day of credit under division (A) of this 13793
section if the offender committed that offense prior to 13794
September 30, 2011, and the offender may earn five days of 13795
credit under division (A) of this section if the offender 13796
committed that offense on or after September 30, 2011. 13797

(5) Except as provided in division (C) of this section, if 13798
the most serious offense for which the offender is confined is a 13799
felony of the third, fourth, or fifth degree or an unclassified 13800
felony and neither division (D)(2) nor (3) of this section 13801
applies to the offender, the offender may earn one day of credit 13802
under division (A) of this section if the offender committed 13803
that offense prior to September 30, 2011, and the offender may 13804
earn five days of credit under division (A) of this section if 13805
the offender committed that offense on or after September 30, 13806
2011. 13807

(E) The department annually shall seek and consider the 13808
written feedback of the Ohio prosecuting attorneys association, 13809
the Ohio judicial conference, the Ohio public defender, the Ohio 13810
association of criminal defense lawyers, and other organizations 13811
and associations that have an interest in the operation of the 13812
corrections system and the earned credits program under this 13813
section as part of its evaluation of the program and in 13814

determining whether to modify the program. 13815

(F) Days of credit awarded under this section shall be 13816
applied toward satisfaction of a person's stated prison term as 13817
follows: 13818

(1) Toward the definite prison term of a prisoner serving 13819
a definite prison term as a stated prison term; 13820

(2) Toward the minimum and maximum terms of a prisoner 13821
serving an indefinite prison term imposed under division (A) (1) 13822
(a) or (2) (a) of section 2929.14 of the Revised Code for a 13823
felony of the first or second degree committed on or after ~~the~~ 13824
~~effective date of this amendment~~ March 22, 2019. 13825

(G) As used in this section: 13826

(1) "Sexually oriented offense" has the same meaning as in 13827
section 2950.01 of the Revised Code. 13828

(2) "Substance use disorder treatment program" means the 13829
substance use disorder treatment program established by the 13830
department of rehabilitation and correction under section 13831
5120.035 of the Revised Code. 13832

Sec. 2967.26. (A) (1) The department of rehabilitation and 13833
correction, by rule, may establish a transitional control 13834
program for the purpose of closely monitoring a prisoner's 13835
adjustment to community supervision during the final one hundred 13836
eighty days of the prisoner's confinement. If the department 13837
establishes a transitional control program under this division, 13838
the division of parole and community services of the department 13839
of rehabilitation and correction may transfer eligible prisoners 13840
to transitional control status under the program during the 13841
final one hundred eighty days of their confinement and under the 13842
terms and conditions established by the department, shall 13843

provide for the confinement as provided in this division of each 13844
eligible prisoner so transferred, and shall supervise each 13845
eligible prisoner so transferred in one or more community 13846
control sanctions. Each eligible prisoner who is transferred to 13847
transitional control status under the program shall be confined 13848
in a suitable facility that is licensed pursuant to division (C) 13849
of section 2967.14 of the Revised Code, or shall be confined in 13850
a residence the department has approved for this purpose and be 13851
monitored pursuant to an electronic monitoring device, as 13852
defined in section 2929.01 of the Revised Code. If the 13853
department establishes a transitional control program under this 13854
division, the rules establishing the program shall include 13855
criteria that define which prisoners are eligible for the 13856
program, criteria that must be satisfied to be approved as a 13857
residence that may be used for confinement under the program of 13858
a prisoner that is transferred to it and procedures for the 13859
department to approve residences that satisfy those criteria, 13860
and provisions of the type described in division (C) of this 13861
section. At a minimum, the criteria that define which prisoners 13862
are eligible for the program shall provide all of the following: 13863

(a) That a prisoner is eligible for the program if the 13864
prisoner is serving a prison term or term of imprisonment for an 13865
offense committed prior to March 17, 1998, and if, at the time 13866
at which eligibility is being determined, the prisoner would 13867
have been eligible for a furlough under this section as it 13868
existed immediately prior to March 17, 1998, or would have been 13869
eligible for conditional release under former section 2967.23 of 13870
the Revised Code as that section existed immediately prior to 13871
March 17, 1998; 13872

(b) That no prisoner who is serving a mandatory prison 13873
term is eligible for the program until after expiration of the 13874

mandatory term; 13875

(c) That no prisoner who is serving a prison term or term 13876
of life imprisonment without parole imposed pursuant to section 13877
2971.03 of the Revised Code is eligible for the program. 13878

(2) At least sixty days prior to transferring to 13879
transitional control under this section a prisoner who is 13880
serving a definite term of imprisonment or definite prison term 13881
of two years or less for an offense committed on or after July 13882
1, 1996, or who is serving a minimum term of two years or less 13883
under a non-life felony indefinite prison term, the division of 13884
parole and community services of the department of 13885
rehabilitation and correction shall give notice of the pendency 13886
of the transfer to transitional control to the court of common 13887
pleas of the county in which the indictment against the prisoner 13888
was found and of the fact that the court may disapprove the 13889
transfer of the prisoner to transitional control and shall 13890
include the institutional summary report prepared by the head of 13891
the state correctional institution in which the prisoner is 13892
confined. The head of the state correctional institution in 13893
which the prisoner is confined, upon the request of the division 13894
of parole and community services, shall provide to the division 13895
for inclusion in the notice sent to the court under this 13896
division an institutional summary report on the prisoner's 13897
conduct in the institution and in any institution from which the 13898
prisoner may have been transferred. The institutional summary 13899
report shall cover the prisoner's participation in school, 13900
vocational training, work, treatment, and other rehabilitative 13901
activities and any disciplinary action taken against the 13902
prisoner. If the court disapproves of the transfer of the 13903
prisoner to transitional control, the court shall notify the 13904
division of the disapproval within thirty days after receipt of 13905

the notice. If the court timely disapproves the transfer of the
prisoner to transitional control, the division shall not proceed
with the transfer. If the court does not timely disapprove the
transfer of the prisoner to transitional control, the division
may transfer the prisoner to transitional control.

(3) (a) If the victim of an offense for which a prisoner
was sentenced to a prison term or term of imprisonment has
requested notification under section 2930.16 of the Revised Code
and has provided the department of rehabilitation and correction
with the victim's name and address or if division (A) (3) (b) of
this section applies, the division of parole and community
services, at least sixty days prior to transferring the prisoner
to transitional control pursuant to this section, shall notify
the victim of the pendency of the transfer and of the victim's
right to submit a statement to the division regarding the impact
of the transfer of the prisoner to transitional control. If the
victim subsequently submits a statement of that nature to the
division, the division shall consider the statement in deciding
whether to transfer the prisoner to transitional control.

(b) If a prisoner is incarcerated for the commission of
aggravated murder, murder, aggravated abortion murder, abortion
murder, or an offense of violence that is a felony of the first,
second, or third degree or under a sentence of life
imprisonment, except as otherwise provided in this division, the
notice described in division (A) (3) (a) of this section shall be
given regardless of whether the victim has requested the
notification. The notice described in division (A) (3) (a) of this
section shall not be given under this division to a victim if
the victim has requested pursuant to division (B) (2) of section
2930.03 of the Revised Code that the victim not be provided the
notice. If notice is to be provided to a victim under this

division, the authority may give the notice by any reasonable 13937
means, including regular mail, telephone, and electronic mail, 13938
in accordance with division (D) (1) of section 2930.16 of the 13939
Revised Code. If the notice is based on an offense committed 13940
prior to March 22, 2013, the notice also shall include the opt- 13941
out information described in division (D) (1) of section 2930.16 13942
of the Revised Code. The authority, in accordance with division 13943
(D) (2) of section 2930.16 of the Revised Code, shall keep a 13944
record of all attempts to provide the notice, and of all notices 13945
provided, under this division. 13946

Division (A) (3) (b) of this section, and the notice-related 13947
provisions of divisions (E) (2) and (K) of section 2929.20, 13948
division (D) (1) of section 2930.16, division (H) of section 13949
2967.12, division (E) (1) (b) of section 2967.19, division (D) (1) 13950
of section 2967.28, and division (A) (2) of section 5149.101 of 13951
the Revised Code enacted in the act in which division (A) (3) (b) 13952
of this section was enacted, shall be known as "Roberta's Law." 13953

(4) The department of rehabilitation and correction, at 13954
least sixty days prior to transferring a prisoner to 13955
transitional control pursuant to this section, shall post on the 13956
database it maintains pursuant to section 5120.66 of the Revised 13957
Code the prisoner's name and all of the information specified in 13958
division (A) (1) (c) (iv) of that section. In addition to and 13959
independent of the right of a victim to submit a statement as 13960
described in division (A) (3) of this section or to otherwise 13961
make a statement and in addition to and independent of any other 13962
right or duty of a person to present information or make a 13963
statement, any person may send to the division of parole and 13964
community services at any time prior to the division's transfer 13965
of the prisoner to transitional control a written statement 13966
regarding the transfer of the prisoner to transitional control. 13967

In addition to the information, reports, and statements it 13968
considers under divisions (A) (2) and (3) of this section or that 13969
it otherwise considers, the division shall consider each 13970
statement submitted in accordance with this division in deciding 13971
whether to transfer the prisoner to transitional control. 13972

(B) Each prisoner transferred to transitional control 13973
under this section shall be confined in the manner described in 13974
division (A) of this section during any period of time that the 13975
prisoner is not actually working at the prisoner's approved 13976
employment, engaged in a vocational training or another 13977
educational program, engaged in another program designated by 13978
the director, or engaged in other activities approved by the 13979
department. 13980

(C) The department of rehabilitation and correction shall 13981
adopt rules for transferring eligible prisoners to transitional 13982
control, supervising and confining prisoners so transferred, 13983
administering the transitional control program in accordance 13984
with this section, and using the moneys deposited into the 13985
transitional control fund established under division (E) of this 13986
section. 13987

(D) The department of rehabilitation and correction may 13988
adopt rules for the issuance of passes for the limited purposes 13989
described in this division to prisoners who are transferred to 13990
transitional control under this section. If the department 13991
adopts rules of that nature, the rules shall govern the granting 13992
of the passes and shall provide for the supervision of prisoners 13993
who are temporarily released pursuant to one of those passes. 13994
Upon the adoption of rules under this division, the department 13995
may issue passes to prisoners who are transferred to 13996
transitional control status under this section in accordance 13997

with the rules and the provisions of this division. All passes 13998
issued under this division shall be for a maximum of forty-eight 13999
hours and may be issued only for the following purposes: 14000

(1) To visit a relative in imminent danger of death; 14001

(2) To have a private viewing of the body of a deceased 14002
relative; 14003

(3) To visit with family; 14004

(4) To otherwise aid in the rehabilitation of the 14005
prisoner. 14006

(E) The division of parole and community services may 14007
require a prisoner who is transferred to transitional control to 14008
pay to the division the reasonable expenses incurred by the 14009
division in supervising or confining the prisoner while under 14010
transitional control. Inability to pay those reasonable expenses 14011
shall not be grounds for refusing to transfer an otherwise 14012
eligible prisoner to transitional control. Amounts received by 14013
the division of parole and community services under this 14014
division shall be deposited into the transitional control fund, 14015
which is hereby created in the state treasury and which hereby 14016
replaces and succeeds the furlough services fund that formerly 14017
existed in the state treasury. All moneys that remain in the 14018
furlough services fund on March 17, 1998, shall be transferred 14019
on that date to the transitional control fund. The transitional 14020
control fund shall be used solely to pay costs related to the 14021
operation of the transitional control program established under 14022
this section. The director of rehabilitation and correction 14023
shall adopt rules in accordance with section 111.15 of the 14024
Revised Code for the use of the fund. 14025

(F) A prisoner who violates any rule established by the 14026

department of rehabilitation and correction under division (A), 14027
(C), or (D) of this section may be transferred to a state 14028
correctional institution pursuant to rules adopted under 14029
division (A), (C), or (D) of this section, but the prisoner 14030
shall receive credit towards completing the prisoner's sentence 14031
for the time spent under transitional control. 14032

If a prisoner is transferred to transitional control under 14033
this section, upon successful completion of the period of 14034
transitional control, the prisoner may be released on parole or 14035
under post-release control pursuant to section 2967.13 or 14036
2967.28 of the Revised Code and rules adopted by the department 14037
of rehabilitation and correction. If the prisoner is released 14038
under post-release control, the duration of the post-release 14039
control, the type of post-release control sanctions that may be 14040
imposed, the enforcement of the sanctions, and the treatment of 14041
prisoners who violate any sanction applicable to the prisoner 14042
are governed by section 2967.28 of the Revised Code. 14043

Sec. 2971.01. As used in this chapter: 14044

(A) "Mandatory prison term" has the same meaning as in 14045
section 2929.01 of the Revised Code. 14046

(B) "Designated homicide, assault, or kidnapping offense" 14047
means any of the following: 14048

(1) A violation of section 2903.01, 2903.02, 2903.11, 14049
2904.03, 2904.04, or 2905.01 of the Revised Code or a violation 14050
of division (A) of section 2903.04 of the Revised Code; 14051

(2) An attempt to commit or complicity in committing a 14052
violation listed in division (B)(1) of this section, if the 14053
attempt or complicity is a felony. 14054

(C) "Examiner" has the same meaning as in section 2945.371 14055

of the Revised Code. 14056

(D) "Peace officer" has the same meaning as in section 14057
2935.01 of the Revised Code. 14058

(E) "Prosecuting attorney" means the prosecuting attorney 14059
who prosecuted the case of the offender in question or the 14060
successor in office to that prosecuting attorney. 14061

(F) "Sexually oriented offense" and "child-victim oriented 14062
offense" have the same meanings as in section 2950.01 of the 14063
Revised Code. 14064

(G) "Sexually violent offense" means any of the following: 14065

(1) A violent sex offense; 14066

(2) A designated homicide, assault, or kidnapping offense 14067
that the offender commits with a sexual motivation. 14068

(H) (1) "Sexually violent predator" means a person who, on 14069
or after January 1, 1997, commits a sexually violent offense and 14070
is likely to engage in the future in one or more sexually 14071
violent offenses. 14072

(2) For purposes of division (H) (1) of this section, any 14073
of the following factors may be considered as evidence tending 14074
to indicate that there is a likelihood that the person will 14075
engage in the future in one or more sexually violent offenses: 14076

(a) The person has been convicted two or more times, in 14077
separate criminal actions, of a sexually oriented offense or a 14078
child-victim oriented offense. For purposes of this division, 14079
convictions that result from or are connected with the same act 14080
or result from offenses committed at the same time are one 14081
conviction, and a conviction set aside pursuant to law is not a 14082
conviction. 14083

(b) The person has a documented history from childhood, 14084
into the juvenile developmental years, that exhibits sexually 14085
deviant behavior. 14086

(c) Available information or evidence suggests that the 14087
person chronically commits offenses with a sexual motivation. 14088

(d) The person has committed one or more offenses in which 14089
the person has tortured or engaged in ritualistic acts with one 14090
or more victims. 14091

(e) The person has committed one or more offenses in which 14092
one or more victims were physically harmed to the degree that 14093
the particular victim's life was in jeopardy. 14094

(f) Any other relevant evidence. 14095

(I) "Sexually violent predator specification" means a 14096
specification, as described in section 2941.148 of the Revised 14097
Code, that charges that a person charged with a violent sex 14098
offense, or a person charged with a designated homicide, 14099
assault, or kidnapping offense and a sexual motivation 14100
specification, is a sexually violent predator. 14101

(J) "Sexual motivation" means a purpose to gratify the 14102
sexual needs or desires of the offender. 14103

(K) "Sexual motivation specification" means a 14104
specification, as described in section 2941.147 of the Revised 14105
Code, that charges that a person charged with a designated 14106
homicide, assault, or kidnapping offense committed the offense 14107
with a sexual motivation. 14108

(L) "Violent sex offense" means any of the following: 14109

(1) A violation of section 2907.02, 2907.03, or 2907.12 or 14110
of division (A) (4) or (B) of section 2907.05 of the Revised 14111

Code; 14112

(2) A felony violation of a former law of this state that 14113
is substantially equivalent to a violation listed in division 14114
(L) (1) of this section or of an existing or former law of the 14115
United States or of another state that is substantially 14116
equivalent to a violation listed in division (L) (1) of this 14117
section; 14118

(3) An attempt to commit or complicity in committing a 14119
violation listed in division (L) (1) or (2) of this section if 14120
the attempt or complicity is a felony. 14121

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 14122
section 2929.14, section 2929.02, 2929.03, 2929.06, 2929.13, or 14123
another section of the Revised Code, other than divisions (B) 14124
and (C) of section 2929.14 of the Revised Code, that authorizes 14125
or requires a specified prison term or a mandatory prison term 14126
for a person who is convicted of or pleads guilty to a felony or 14127
that specifies the manner and place of service of a prison term 14128
or term of imprisonment, the court shall impose a sentence upon 14129
a person who is convicted of or pleads guilty to a violent sex 14130
offense and who also is convicted of or pleads guilty to a 14131
sexually violent predator specification that was included in the 14132
indictment, count in the indictment, or information charging 14133
that offense, and upon a person who is convicted of or pleads 14134
guilty to a designated homicide, assault, or kidnapping offense 14135
and also is convicted of or pleads guilty to both a sexual 14136
motivation specification and a sexually violent predator 14137
specification that were included in the indictment, count in the 14138
indictment, or information charging that offense, as follows: 14139

(1) If the offense for which the sentence is being imposed 14140
is either aggravated murder or aggravated abortion murder, and 14141

if the court does not impose upon the offender a sentence of 14142
death, it shall impose upon the offender a term of life 14143
imprisonment without parole. If the court sentences the offender 14144
to death and the sentence of death is vacated, overturned, or 14145
otherwise set aside, the court shall impose upon the offender a 14146
term of life imprisonment without parole. 14147

(2) If the offense for which the sentence is being imposed 14148
is either murder or abortion murder; or if the offense is rape 14149
committed in violation of division (A) (1) (b) of section 2907.02 14150
of the Revised Code when the offender purposely compelled the 14151
victim to submit by force or threat of force, when the victim 14152
was less than ten years of age, when the offender previously has 14153
been convicted of or pleaded guilty to either rape committed in 14154
violation of that division or a violation of an existing or 14155
former law of this state, another state, or the United States 14156
that is substantially similar to division (A) (1) (b) of section 14157
2907.02 of the Revised Code, or when the offender during or 14158
immediately after the commission of the rape caused serious 14159
physical harm to the victim; or if the offense is an offense 14160
other than aggravated murder ~~or~~, murder, aggravated abortion
murder, or abortion murder, for which a term of life 14161
imprisonment may be imposed, it shall impose upon the offender a 14162
term of life imprisonment without parole. 14163
14164

(3) (a) Except as otherwise provided in division (A) (3) (b), 14165
(c), (d), or (e) or (A) (4) of this section, if the offense for 14166
which the sentence is being imposed is an offense other than 14167
aggravated murder, murder, aggravated abortion murder, abortion
murder, or rape and other than an offense for which a term of 14168
life imprisonment may be imposed, it shall impose an indefinite 14169
prison term consisting of a minimum term fixed by the court as 14170
described in this division, but not less than two years, and a 14171
14172

maximum term of life imprisonment. Except as otherwise specified 14173
in this division, the minimum term shall be fixed by the court 14174
from among the range of terms available as a definite term for 14175
the offense. If the offense is a felony of the first or second 14176
degree committed on or after ~~the effective date of this~~ 14177
~~amendment~~ March 22, 2019, the minimum term shall be fixed by the 14178
court from among the range of terms available as a minimum term 14179
for the offense under division (A) (1) (a) or (2) (a) of that 14180
section. 14181

(b) Except as otherwise provided in division (A) (4) of 14182
this section, if the offense for which the sentence is being 14183
imposed is kidnapping that is a felony of the first degree, it 14184
shall impose an indefinite prison term as follows: 14185

(i) If the kidnapping is committed on or after January 1, 14186
2008, and the victim of the offense is less than thirteen years 14187
of age, except as otherwise provided in this division, it shall 14188
impose an indefinite prison term consisting of a minimum term of 14189
fifteen years and a maximum term of life imprisonment. If the 14190
kidnapping is committed on or after January 1, 2008, the victim 14191
of the offense is less than thirteen years of age, and the 14192
offender released the victim in a safe place unharmed, it shall 14193
impose an indefinite prison term consisting of a minimum term of 14194
ten years and a maximum term of life imprisonment. 14195

(ii) If the kidnapping is committed prior to January 1, 14196
2008, or division (A) (3) (b) (i) of this section does not apply, 14197
it shall impose an indefinite term consisting of a minimum term 14198
fixed by the court that is not less than ten years and a maximum 14199
term of life imprisonment. 14200

(c) Except as otherwise provided in division (A) (4) of 14201
this section, if the offense for which the sentence is being 14202

imposed is kidnapping that is a felony of the second degree, it 14203
shall impose an indefinite prison term consisting of a minimum 14204
term fixed by the court that is not less than eight years, and a 14205
maximum term of life imprisonment. 14206

(d) Except as otherwise provided in division (A) (4) of 14207
this section, if the offense for which the sentence is being 14208
imposed is rape for which a term of life imprisonment is not 14209
imposed under division (A) (2) of this section or division (B) of 14210
section 2907.02 of the Revised Code, it shall impose an 14211
indefinite prison term as follows: 14212

(i) If the rape is committed on or after January 2, 2007, 14213
in violation of division (A) (1) (b) of section 2907.02 of the 14214
Revised Code, it shall impose an indefinite prison term 14215
consisting of a minimum term of twenty-five years and a maximum 14216
term of life imprisonment. 14217

(ii) If the rape is committed prior to January 2, 2007, or 14218
the rape is committed on or after January 2, 2007, other than in 14219
violation of division (A) (1) (b) of section 2907.02 of the 14220
Revised Code, it shall impose an indefinite prison term 14221
consisting of a minimum term fixed by the court that is not less 14222
than ten years, and a maximum term of life imprisonment. 14223

(e) Except as otherwise provided in division (A) (4) of 14224
this section, if the offense for which sentence is being imposed 14225
is attempted rape, it shall impose an indefinite prison term as 14226
follows: 14227

(i) Except as otherwise provided in division (A) (3) (e) 14228
(ii), (iii), or (iv) of this section, it shall impose an 14229
indefinite prison term pursuant to division (A) (3) (a) of this 14230
section. 14231

(ii) If the attempted rape for which sentence is being 14232
imposed was committed on or after January 2, 2007, and if the 14233
offender also is convicted of or pleads guilty to a 14234
specification of the type described in section 2941.1418 of the 14235
Revised Code, it shall impose an indefinite prison term 14236
consisting of a minimum term of five years and a maximum term of 14237
twenty-five years. 14238

(iii) If the attempted rape for which sentence is being 14239
imposed was committed on or after January 2, 2007, and if the 14240
offender also is convicted of or pleads guilty to a 14241
specification of the type described in section 2941.1419 of the 14242
Revised Code, it shall impose an indefinite prison term 14243
consisting of a minimum term of ten years and a maximum of life 14244
imprisonment. 14245

(iv) If the attempted rape for which sentence is being 14246
imposed was committed on or after January 2, 2007, and if the 14247
offender also is convicted of or pleads guilty to a 14248
specification of the type described in section 2941.1420 of the 14249
Revised Code, it shall impose an indefinite prison term 14250
consisting of a minimum term of fifteen years and a maximum of 14251
life imprisonment. 14252

(4) For any offense for which the sentence is being 14253
imposed, if the offender previously has been convicted of or 14254
pleaded guilty to a violent sex offense and also to a sexually 14255
violent predator specification that was included in the 14256
indictment, count in the indictment, or information charging 14257
that offense, or previously has been convicted of or pleaded 14258
guilty to a designated homicide, assault, or kidnapping offense 14259
and also to both a sexual motivation specification and a 14260
sexually violent predator specification that were included in 14261

the indictment, count in the indictment, or information charging 14262
that offense, it shall impose upon the offender a term of life 14263
imprisonment without parole. 14264

(B) (1) Notwithstanding section 2929.13, division (A) or 14265
(D) of section 2929.14, or another section of the Revised Code 14266
other than division (B) of section 2907.02 or divisions (B) and 14267
(C) of section 2929.14 of the Revised Code that authorizes or 14268
requires a specified prison term or a mandatory prison term for 14269
a person who is convicted of or pleads guilty to a felony or 14270
that specifies the manner and place of service of a prison term 14271
or term of imprisonment, if a person is convicted of or pleads 14272
guilty to a violation of division (A) (1) (b) of section 2907.02 14273
of the Revised Code committed on or after January 2, 2007, if 14274
division (A) of this section does not apply regarding the 14275
person, and if the court does not impose a sentence of life 14276
without parole when authorized pursuant to division (B) of 14277
section 2907.02 of the Revised Code, the court shall impose upon 14278
the person an indefinite prison term consisting of one of the 14279
following: 14280

(a) Except as otherwise required in division (B) (1) (b) or 14281
(c) of this section, a minimum term of ten years and a maximum 14282
term of life imprisonment. 14283

(b) If the victim was less than ten years of age, a 14284
minimum term of fifteen years and a maximum of life 14285
imprisonment. 14286

(c) If the offender purposely compels the victim to submit 14287
by force or threat of force, or if the offender previously has 14288
been convicted of or pleaded guilty to violating division (A) (1) 14289
(b) of section 2907.02 of the Revised Code or to violating an 14290
existing or former law of this state, another state, or the 14291

United States that is substantially similar to division (A) (1) 14292
(b) of that section, or if the offender during or immediately 14293
after the commission of the offense caused serious physical harm 14294
to the victim, a minimum term of twenty-five years and a maximum 14295
of life imprisonment. 14296

(2) Notwithstanding section 2929.13, division (A) or (D) 14297
of section 2929.14, or another section of the Revised Code other 14298
than divisions (B) and (C) of section 2929.14 of the Revised 14299
Code that authorizes or requires a specified prison term or a 14300
mandatory prison term for a person who is convicted of or pleads 14301
guilty to a felony or that specifies the manner and place of 14302
service of a prison term or term of imprisonment and except as 14303
otherwise provided in division (B) of section 2907.02 of the 14304
Revised Code, if a person is convicted of or pleads guilty to 14305
attempted rape committed on or after January 2, 2007, and if 14306
division (A) of this section does not apply regarding the 14307
person, the court shall impose upon the person an indefinite 14308
prison term consisting of one of the following: 14309

(a) If the person also is convicted of or pleads guilty to 14310
a specification of the type described in section 2941.1418 of 14311
the Revised Code, the court shall impose upon the person an 14312
indefinite prison term consisting of a minimum term of five 14313
years and a maximum term of twenty-five years. 14314

(b) If the person also is convicted of or pleads guilty to 14315
a specification of the type described in section 2941.1419 of 14316
the Revised Code, the court shall impose upon the person an 14317
indefinite prison term consisting of a minimum term of ten years 14318
and a maximum term of life imprisonment. 14319

(c) If the person also is convicted of or pleads guilty to 14320
a specification of the type described in section 2941.1420 of 14321

the Revised Code, the court shall impose upon the person an 14322
indefinite prison term consisting of a minimum term of fifteen 14323
years and a maximum term of life imprisonment. 14324

(3) Notwithstanding section 2929.13, division (A) or (D) 14325
of section 2929.14, or another section of the Revised Code other 14326
than divisions (B) and (C) of section 2929.14 of the Revised 14327
Code that authorizes or requires a specified prison term or a 14328
mandatory prison term for a person who is convicted of or pleads 14329
guilty to a felony or that specifies the manner and place of 14330
service of a prison term or term of imprisonment, if a person is 14331
convicted of or pleads guilty to an offense described in 14332
division (B) (3) (a), (b), (c), or (d) of this section committed 14333
on or after January 1, 2008, if the person also is convicted of 14334
or pleads guilty to a sexual motivation specification that was 14335
included in the indictment, count in the indictment, or 14336
information charging that offense, and if division (A) of this 14337
section does not apply regarding the person, the court shall 14338
impose upon the person an indefinite prison term consisting of 14339
one of the following: 14340

(a) An indefinite prison term consisting of a minimum of 14341
ten years and a maximum term of life imprisonment if the offense 14342
for which the sentence is being imposed is kidnapping, the 14343
victim of the offense is less than thirteen years of age, and 14344
the offender released the victim in a safe place unharmed; 14345

(b) An indefinite prison term consisting of a minimum of 14346
fifteen years and a maximum term of life imprisonment if the 14347
offense for which the sentence is being imposed is kidnapping 14348
when the victim of the offense is less than thirteen years of 14349
age and division (B) (3) (a) of this section does not apply; 14350

(c) An indefinite term consisting of a minimum of thirty 14351

years and a maximum term of life imprisonment if the offense for 14352
which the sentence is being imposed is either aggravated murder, 14353
when the victim of the offense is less than thirteen years of 14354
age or aggravated abortion murder, a sentence of death or life 14355
imprisonment without parole is not imposed for the offense, and 14356
division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), 14357
(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) 14358
(d) of section 2929.03, or division (A) or (B) of section 14359
2929.06 of the Revised Code requires that the sentence for the 14360
offense be imposed pursuant to this division; 14361

(d) An indefinite prison term consisting of a minimum of 14362
thirty years and a maximum term of life imprisonment if the 14363
offense for which the sentence is being imposed is murder when 14364
the victim of the offense is less than thirteen years of age or 14365
abortion murder. 14366

(C) (1) If the offender is sentenced to a prison term 14367
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 14368
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 14369
parole board shall have control over the offender's service of 14370
the term during the entire term unless the parole board 14371
terminates its control in accordance with section 2971.04 of the 14372
Revised Code. 14373

(2) Except as provided in division (C) (3) of this section, 14374
an offender sentenced to a prison term or term of life 14375
imprisonment without parole pursuant to division (A) of this 14376
section shall serve the entire prison term or term of life 14377
imprisonment in a state correctional institution. The offender 14378
is not eligible for judicial release under section 2929.20 of 14379
the Revised Code. 14380

(3) For a prison term imposed pursuant to division (A) (3), 14381

(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 14382
(b), (c), or (d) of this section, the court, in accordance with 14383
section 2971.05 of the Revised Code, may terminate the prison 14384
term or modify the requirement that the offender serve the 14385
entire term in a state correctional institution if all of the 14386
following apply: 14387

(a) The offender has served at least the minimum term 14388
imposed as part of that prison term. 14389

(b) The parole board, pursuant to section 2971.04 of the 14390
Revised Code, has terminated its control over the offender's 14391
service of that prison term. 14392

(c) The court has held a hearing and found, by clear and 14393
convincing evidence, one of the following: 14394

(i) In the case of termination of the prison term, that 14395
the offender is unlikely to commit a sexually violent offense in 14396
the future; 14397

(ii) In the case of modification of the requirement, that 14398
the offender does not represent a substantial risk of physical 14399
harm to others. 14400

(4) An offender who has been sentenced to a term of life 14401
imprisonment without parole pursuant to division (A) (1), (2), or 14402
(4) of this section shall not be released from the term of life 14403
imprisonment or be permitted to serve a portion of it in a place 14404
other than a state correctional institution. 14405

(D) If a court sentences an offender to a prison term or 14406
term of life imprisonment without parole pursuant to division 14407
(A) of this section and the court also imposes on the offender 14408
one or more additional prison terms pursuant to division (B) of 14409
section 2929.14 of the Revised Code, all of the additional 14410

prison terms shall be served consecutively with, and prior to, 14411
the prison term or term of life imprisonment without parole 14412
imposed upon the offender pursuant to division (A) of this 14413
section. 14414

(E) If the offender is convicted of or pleads guilty to 14415
two or more offenses for which a prison term or term of life 14416
imprisonment without parole is required to be imposed pursuant 14417
to division (A) of this section, divisions (A) to (D) of this 14418
section shall be applied for each offense. All minimum terms 14419
imposed upon the offender pursuant to division (A) (3) or (B) of 14420
this section for those offenses shall be aggregated and served 14421
consecutively, as if they were a single minimum term imposed 14422
under that division. 14423

(F) (1) If an offender is convicted of or pleads guilty to 14424
a violent sex offense and also is convicted of or pleads guilty 14425
to a sexually violent predator specification that was included 14426
in the indictment, count in the indictment, or information 14427
charging that offense, or is convicted of or pleads guilty to a 14428
designated homicide, assault, or kidnapping offense and also is 14429
convicted of or pleads guilty to both a sexual motivation 14430
specification and a sexually violent predator specification that 14431
were included in the indictment, count in the indictment, or 14432
information charging that offense, the conviction of or plea of 14433
guilty to the offense and the sexually violent predator 14434
specification automatically classifies the offender as a tier 14435
III sex offender/child-victim offender for purposes of Chapter 14436
2950. of the Revised Code. 14437

(2) If an offender is convicted of or pleads guilty to 14438
committing on or after January 2, 2007, a violation of division 14439
(A) (1) (b) of section 2907.02 of the Revised Code and either the 14440

offender is sentenced under section 2971.03 of the Revised Code 14441
or a sentence of life without parole is imposed under division 14442
(B) of section 2907.02 of the Revised Code, the conviction of or 14443
plea of guilty to the offense automatically classifies the 14444
offender as a tier III sex offender/child-victim offender for 14445
purposes of Chapter 2950. of the Revised Code. 14446

(3) If a person is convicted of or pleads guilty to 14447
committing on or after January 2, 2007, attempted rape and also 14448
is convicted of or pleads guilty to a specification of the type 14449
described in section 2941.1418, 2941.1419, or 2941.1420 of the 14450
Revised Code, the conviction of or plea of guilty to the offense 14451
and the specification automatically classify the offender as a 14452
tier III sex offender/child-victim offender for purposes of 14453
Chapter 2950. of the Revised Code. 14454

(4) If a person is convicted of or pleads guilty to one of 14455
the offenses described in division (B) (3) (a), (b), (c), or (d) 14456
of this section and a sexual motivation specification related to 14457
the offense and the victim of the offense is less than thirteen 14458
years of age, the conviction of or plea of guilty to the offense 14459
automatically classifies the offender as a tier III sex 14460
offender/child-victim offender for purposes of Chapter 2950. of 14461
the Revised Code. 14462

Sec. 2971.07. (A) This chapter does not apply to any 14463
offender unless the offender is one of the following: 14464

(1) The offender is convicted of or pleads guilty to a 14465
violent sex offense and also is convicted of or pleads guilty to 14466
a sexually violent predator specification that was included in 14467
the indictment, count in the indictment, or information charging 14468
that offense. 14469

(2) The offender is convicted of or pleads guilty to a 14470
designated homicide, assault, or kidnapping offense and also is 14471
convicted of or pleads guilty to both a sexual motivation 14472
specification and a sexually violent predator specification that 14473
were included in the indictment, count in the indictment, or 14474
information charging that offense. 14475

(3) The offender is convicted of or pleads guilty to a 14476
violation of division (A) (1) (b) of section 2907.02 of the 14477
Revised Code committed on or after January 2, 2007, and the 14478
court does not sentence the offender to a term of life without 14479
parole pursuant to division (B) of section 2907.02 of the 14480
Revised Code or division (B) of that section prohibits the court 14481
from sentencing the offender pursuant to section 2971.03 of the 14482
Revised Code. 14483

(4) The offender is convicted of or pleads guilty to 14484
attempted rape committed on or after January 2, 2007, and also 14485
is convicted of or pleads guilty to a specification of the type 14486
described in section 2941.1418, 2941.1419, or 2941.1420 of the 14487
Revised Code. 14488

(5) The offender is convicted of or pleads guilty to a 14489
violation of section 2905.01 of the Revised Code and also is 14490
convicted of or pleads guilty to a sexual motivation 14491
specification that was included in the indictment, count in the 14492
indictment, or information charging that offense, and that 14493
section requires a court to sentence the offender pursuant to 14494
section 2971.03 of the Revised Code. 14495

(6) The offender is convicted of or pleads guilty to 14496
either aggravated murder or aggravated abortion murder, and also 14497
is convicted of or pleads guilty to a sexual motivation 14498
specification that was included in the indictment, count in the 14499

indictment, or information charging that offense, and division 14500
(A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) 14501
(v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of 14502
section 2929.03, or division (A) or (B) of section 2929.06 of 14503
the Revised Code requires a court to sentence the offender 14504
pursuant to division (B) (3) of section 2971.03 of the Revised 14505
Code. 14506

(7) The offender is convicted of or pleads guilty to 14507
either murder or abortion murder, and also is convicted of or 14508
pleads guilty to a sexual motivation specification that was 14509
included in the indictment, count in the indictment, or 14510
information charging that offense, and division (B) (2) of 14511
section 2929.02 of the Revised Code requires a court to sentence 14512
the offender pursuant to section 2971.03 of the Revised Code. 14513

(B) This chapter does not limit or affect a court in 14514
imposing upon an offender described in divisions (A) (1) to (9) 14515
of this section any financial sanction under section 2929.18 or 14516
any other section of the Revised Code, or, except as 14517
specifically provided in this chapter, any other sanction that 14518
is authorized or required for the offense or violation by any 14519
other provision of law. 14520

(C) If an offender is sentenced to a prison term under 14521
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 14522
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 14523
Code and if, pursuant to section 2971.05 of the Revised Code, 14524
the court modifies the requirement that the offender serve the 14525
entire prison term in a state correctional institution or places 14526
the offender on conditional release that involves the placement 14527
of the offender under the supervision of the adult parole 14528
authority, authorized field officers of the authority who are 14529

engaged within the scope of their supervisory duties or 14530
responsibilities may search, with or without a warrant, the 14531
person of the offender, the place of residence of the offender, 14532
and a motor vehicle, another item of tangible or intangible 14533
personal property, or any other real property in which the 14534
offender has the express or implied permission of a person with 14535
a right, title, or interest to use, occupy, or possess if the 14536
field officer has reasonable grounds to believe that the 14537
offender is not abiding by the law or otherwise is not complying 14538
with the terms and conditions of the offender's modification or 14539
release. The authority shall provide each offender with a 14540
written notice that informs the offender that authorized field 14541
officers of the authority who are engaged within the scope of 14542
their supervisory duties or responsibilities may conduct those 14543
types of searches during the period of the modification or 14544
release if they have reasonable grounds to believe that the 14545
offender is not abiding by the law or otherwise is not complying 14546
with the terms and conditions of the offender's modification or 14547
release. 14548

Sec. 3301.32. (A) (1) The chief administrator of any head 14549
start agency shall request the superintendent of the bureau of 14550
criminal identification and investigation to conduct a criminal 14551
records check with respect to any applicant who has applied to 14552
the head start agency for employment as a person responsible for 14553
the care, custody, or control of a child. If the applicant does 14554
not present proof that the applicant has been a resident of this 14555
state for the five-year period immediately prior to the date 14556
upon which the criminal records check is requested or does not 14557
provide evidence that within that five-year period the 14558
superintendent has requested information about the applicant 14559
from the federal bureau of investigation in a criminal records 14560

check, the chief administrator shall request that the 14561
superintendent obtain information from the federal bureau of 14562
investigation as a part of the criminal records check for the 14563
applicant. If the applicant presents proof that the applicant 14564
has been a resident of this state for that five-year period, the 14565
chief administrator may request that the superintendent include 14566
information from the federal bureau of investigation in the 14567
criminal records check. 14568

(2) Any person required by division (A) (1) of this section 14569
to request a criminal records check shall provide to each 14570
applicant a copy of the form prescribed pursuant to division (C) 14571
(1) of section 109.572 of the Revised Code, provide to each 14572
applicant a standard impression sheet to obtain fingerprint 14573
impressions prescribed pursuant to division (C) (2) of section 14574
109.572 of the Revised Code, obtain the completed form and 14575
impression sheet from each applicant, and forward the completed 14576
form and impression sheet to the superintendent of the bureau of 14577
criminal identification and investigation at the time the chief 14578
administrator requests a criminal records check pursuant to 14579
division (A) (1) of this section. 14580

(3) Any applicant who receives pursuant to division (A) (2) 14581
of this section a copy of the form prescribed pursuant to 14582
division (C) (1) of section 109.572 of the Revised Code and a 14583
copy of an impression sheet prescribed pursuant to division (C) 14584
(2) of that section and who is requested to complete the form 14585
and provide a set of fingerprint impressions shall complete the 14586
form or provide all the information necessary to complete the 14587
form and shall provide the impression sheets with the 14588
impressions of the applicant's fingerprints. If an applicant, 14589
upon request, fails to provide the information necessary to 14590
complete the form or fails to provide impressions of the 14591

applicant's fingerprints, the head start agency shall not employ 14592
that applicant for any position for which a criminal records 14593
check is required by division (A) (1) of this section. 14594

(B) (1) Except as provided in rules adopted by the director 14595
of job and family services in accordance with division (E) of 14596
this section, no head start agency shall employ a person as a 14597
person responsible for the care, custody, or control of a child 14598
if the person previously has been convicted of or pleaded guilty 14599
to any of the following: 14600

(a) A violation of section 2903.01, 2903.02, 2903.03, 14601
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 14602
2904.03, 2904.04, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 14603
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 14604
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 14605
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 14606
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 14607
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a 14608
violation of section 2905.04 of the Revised Code as it existed 14609
prior to July 1, 1996, a violation of section 2919.23 of the 14610
Revised Code that would have been a violation of section 2905.04 14611
of the Revised Code as it existed prior to July 1, 1996, had the 14612
violation occurred prior to that date, a violation of section 14613
2925.11 of the Revised Code that is not a minor drug possession 14614
offense, or felonious sexual penetration in violation of former 14615
section 2907.12 of the Revised Code; 14616

(b) A violation of an existing or former law of this 14617
state, any other state, or the United States that is 14618
substantially equivalent to any of the offenses or violations 14619
described in division (B) (1) (a) of this section. 14620

(2) A head start agency may employ an applicant 14621

conditionally until the criminal records check required by this 14622
section is completed and the agency receives the results of the 14623
criminal records check. If the results of the criminal records 14624
check indicate that, pursuant to division (B) (1) of this 14625
section, the applicant does not qualify for employment, the 14626
agency shall release the applicant from employment. 14627

(C) (1) Each head start agency shall pay to the bureau of 14628
criminal identification and investigation the fee prescribed 14629
pursuant to division (C) (3) of section 109.572 of the Revised 14630
Code for each criminal records check conducted in accordance 14631
with that section upon the request pursuant to division (A) (1) 14632
of this section of the chief administrator of the head start 14633
agency. 14634

(2) A head start agency may charge an applicant a fee for 14635
the costs it incurs in obtaining a criminal records check under 14636
this section. A fee charged under this division shall not exceed 14637
the amount of fees the agency pays under division (C) (1) of this 14638
section. If a fee is charged under this division, the agency 14639
shall notify the applicant at the time of the applicant's 14640
initial application for employment of the amount of the fee and 14641
that, unless the fee is paid, the head start agency will not 14642
consider the applicant for employment. 14643

(D) The report of any criminal records check conducted by 14644
the bureau of criminal identification and investigation in 14645
accordance with section 109.572 of the Revised Code and pursuant 14646
to a request made under division (A) (1) of this section is not a 14647
public record for the purposes of section 149.43 of the Revised 14648
Code and shall not be made available to any person other than 14649
the applicant who is the subject of the criminal records check 14650
or the applicant's representative, the head start agency 14651

requesting the criminal records check or its representative, and 14652
any court, hearing officer, or other necessary individual 14653
involved in a case dealing with the denial of employment to the 14654
applicant. 14655

(E) The director of job and family services shall adopt 14656
rules pursuant to Chapter 119. of the Revised Code to implement 14657
this section, including rules specifying circumstances under 14658
which a head start agency may hire a person who has been 14659
convicted of an offense listed in division (B) (1) of this 14660
section but who meets standards in regard to rehabilitation set 14661
by the director. 14662

(F) Any person required by division (A) (1) of this section 14663
to request a criminal records check shall inform each person, at 14664
the time of the person's initial application for employment, 14665
that the person is required to provide a set of impressions of 14666
the person's fingerprints and that a criminal records check is 14667
required to be conducted and satisfactorily completed in 14668
accordance with section 109.572 of the Revised Code if the 14669
person comes under final consideration for appointment or 14670
employment as a precondition to employment for that position. 14671

(G) As used in this section: 14672

(1) "Applicant" means a person who is under final 14673
consideration for appointment or employment in a position with a 14674
head start agency as a person responsible for the care, custody, 14675
or control of a child. 14676

(2) "Head start agency" means an entity in this state that 14677
has been approved to be an agency for purposes of the "Head 14678
Start Act," 95 State 489 (1981), 42 U.S.C. 9831, as amended. 14679

(3) "Criminal records check" has the same meaning as in 14680

section 109.572 of the Revised Code. 14681

(4) "Minor drug possession offense" has the same meaning 14682
as in section 2925.01 of the Revised Code. 14683

Sec. 3301.541. (A) (1) The director, head teacher, 14684
elementary principal, or site administrator of a preschool 14685
program shall request the superintendent of the bureau of 14686
criminal identification and investigation to conduct a criminal 14687
records check with respect to any applicant who has applied to 14688
the preschool program for employment as a person responsible for 14689
the care, custody, or control of a child. If the applicant does 14690
not present proof that the applicant has been a resident of this 14691
state for the five-year period immediately prior to the date 14692
upon which the criminal records check is requested or does not 14693
provide evidence that within that five-year period the 14694
superintendent has requested information about the applicant 14695
from the federal bureau of investigation in a criminal records 14696
check, the director, head teacher, or elementary principal shall 14697
request that the superintendent obtain information from the 14698
federal bureau of investigation as a part of the criminal 14699
records check for the applicant. If the applicant presents proof 14700
that the applicant has been a resident of this state for that 14701
five-year period, the director, head teacher, or elementary 14702
principal may request that the superintendent include 14703
information from the federal bureau of investigation in the 14704
criminal records check. 14705

(2) Any director, head teacher, elementary principal, or 14706
site administrator required by division (A) (1) of this section 14707
to request a criminal records check shall provide to each 14708
applicant a copy of the form prescribed pursuant to division (C) 14709
(1) of section 109.572 of the Revised Code, provide to each 14710

applicant a standard impression sheet to obtain fingerprint 14711
impressions prescribed pursuant to division (C) (2) of section 14712
109.572 of the Revised Code, obtain the completed form and 14713
impression sheet from each applicant, and forward the completed 14714
form and impression sheet to the superintendent of the bureau of 14715
criminal identification and investigation at the time the person 14716
requests a criminal records check pursuant to division (A) (1) of 14717
this section. 14718

(3) Any applicant who receives pursuant to division (A) (2) 14719
of this section a copy of the form prescribed pursuant to 14720
division (C) (1) of section 109.572 of the Revised Code and a 14721
copy of an impression sheet prescribed pursuant to division (C) 14722
(2) of that section and who is requested to complete the form 14723
and provide a set of fingerprint impressions shall complete the 14724
form or provide all the information necessary to complete the 14725
form and provide the impression sheet with the impressions of 14726
the applicant's fingerprints. If an applicant, upon request, 14727
fails to provide the information necessary to complete the form 14728
or fails to provide impressions of the applicant's fingerprints, 14729
the preschool program shall not employ that applicant for any 14730
position for which a criminal records check is required by 14731
division (A) (1) of this section. 14732

(B) (1) Except as provided in rules adopted by the 14733
department of education in accordance with division (E) of this 14734
section, no preschool program shall employ a person as a person 14735
responsible for the care, custody, or control of a child if the 14736
person previously has been convicted of or pleaded guilty to any 14737
of the following: 14738

(a) A violation of section 2903.01, 2903.02, 2903.03, 14739
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 14740

2904.03, 2904.04, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 14741
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 14742
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 14743
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 14744
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 14745
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a 14746
violation of section 2905.04 of the Revised Code as it existed 14747
prior to July 1, 1996, a violation of section 2919.23 of the 14748
Revised Code that would have been a violation of section 2905.04 14749
of the Revised Code as it existed prior to July 1, 1996, had the 14750
violation occurred prior to that date, a violation of section 14751
2925.11 of the Revised Code that is not a minor drug possession 14752
offense, or felonious sexual penetration in violation of former 14753
section 2907.12 of the Revised Code; 14754

(b) A violation of an existing or former law of this 14755
state, any other state, or the United States that is 14756
substantially equivalent to any of the offenses or violations 14757
described in division (B) (1) (a) of this section. 14758

(2) A preschool program may employ an applicant 14759
conditionally until the criminal records check required by this 14760
section is completed and the preschool program receives the 14761
results of the criminal records check. If the results of the 14762
criminal records check indicate that, pursuant to division (B) 14763
(1) of this section, the applicant does not qualify for 14764
employment, the preschool program shall release the applicant 14765
from employment. 14766

(C) (1) Each preschool program shall pay to the bureau of 14767
criminal identification and investigation the fee prescribed 14768
pursuant to division (C) (3) of section 109.572 of the Revised 14769
Code for each criminal records check conducted in accordance 14770

with that section upon the request pursuant to division (A) (1) 14771
of this section of the director, head teacher, elementary 14772
principal, or site administrator of the preschool program. 14773

(2) A preschool program may charge an applicant a fee for 14774
the costs it incurs in obtaining a criminal records check under 14775
this section. A fee charged under this division shall not exceed 14776
the amount of fees the preschool program pays under division (C) 14777
(1) of this section. If a fee is charged under this division, 14778
the preschool program shall notify the applicant at the time of 14779
the applicant's initial application for employment of the amount 14780
of the fee and that, unless the fee is paid, the applicant will 14781
not be considered for employment. 14782

(D) The report of any criminal records check conducted by 14783
the bureau of criminal identification and investigation in 14784
accordance with section 109.572 of the Revised Code and pursuant 14785
to a request under division (A) (1) of this section is not a 14786
public record for the purposes of section 149.43 of the Revised 14787
Code and shall not be made available to any person other than 14788
the applicant who is the subject of the criminal records check 14789
or the applicant's representative, the preschool program 14790
requesting the criminal records check or its representative, and 14791
any court, hearing officer, or other necessary individual in a 14792
case dealing with the denial of employment to the applicant. 14793

(E) The department of education shall adopt rules pursuant 14794
to Chapter 119. of the Revised Code to implement this section, 14795
including rules specifying circumstances under which a preschool 14796
program may hire a person who has been convicted of an offense 14797
listed in division (B) (1) of this section but who meets 14798
standards in regard to rehabilitation set by the department. 14799

(F) Any person required by division (A) (1) of this section 14800

to request a criminal records check shall inform each person, at 14801
the time of the person's initial application for employment, 14802
that the person is required to provide a set of impressions of 14803
the person's fingerprints and that a criminal records check is 14804
required to be conducted and satisfactorily completed in 14805
accordance with section 109.572 of the Revised Code if the 14806
person comes under final consideration for appointment or 14807
employment as a precondition to employment for that position. 14808

(G) As used in this section: 14809

(1) "Applicant" means a person who is under final 14810
consideration for appointment or employment in a position with a 14811
preschool program as a person responsible for the care, custody, 14812
or control of a child, except that "applicant" does not include 14813
a person already employed by a board of education, community 14814
school, or chartered nonpublic school in a position of care, 14815
custody, or control of a child who is under consideration for a 14816
different position with such board or school. 14817

(2) "Criminal records check" has the same meaning as in 14818
section 109.572 of the Revised Code. 14819

(3) "Minor drug possession offense" has the same meaning 14820
as in section 2925.01 of the Revised Code. 14821

(H) If the board of education of a local school district 14822
adopts a resolution requesting the assistance of the educational 14823
service center in which the local district has territory in 14824
conducting criminal records checks of substitute teachers under 14825
this section, the appointing or hiring officer of such 14826
educational service center governing board shall serve for 14827
purposes of this section as the appointing or hiring officer of 14828
the local board in the case of hiring substitute teachers for 14829

employment in the local district. 14830

Sec. 3313.662. (A) The superintendent of public 14831
instruction, pursuant to this section and the adjudication 14832
procedures of section 3301.121 of the Revised Code, may issue an 14833
adjudication order that permanently excludes a pupil from 14834
attending any of the public schools of this state if the pupil 14835
is convicted of, or adjudicated a delinquent child for, 14836
committing, when the pupil was sixteen years of age or older, an 14837
act that would be a criminal offense if committed by an adult 14838
and if the act is any of the following: 14839

(1) A violation of section 2923.122 of the Revised Code; 14840

(2) A violation of section 2923.12 of the Revised Code, of 14841
a substantially similar municipal ordinance, or of section 14842
2925.03 of the Revised Code that was committed on property owned 14843
or controlled by, or at an activity held under the auspices of, 14844
a board of education of a city, local, exempted village, or 14845
joint vocational school district; 14846

(3) A violation of section 2925.11 of the Revised Code, 14847
other than a violation of that section that would be a minor 14848
drug possession offense, that was committed on property owned or 14849
controlled by, or at an activity held under the auspices of, the 14850
board of education of a city, local, exempted village, or joint 14851
vocational school district; 14852

(4) A violation of section 2903.01, 2903.02, 2903.03, 14853
2903.04, 2903.11, 2903.12, 2904.03, 2904.04, 2907.02, or 2907.05 14854
or of former section 2907.12 of the Revised Code that was 14855
committed on property owned or controlled by, or at an activity 14856
held under the auspices of, a board of education of a city, 14857
local, exempted village, or joint vocational school district, if 14858

the victim at the time of the commission of the act was an 14859
employee of that board of education; 14860

(5) Complicity in any violation described in division (A) 14861
(1), (2), (3), or (4) of this section that was alleged to have 14862
been committed in the manner described in division (A) (1), (2), 14863
(3), or (4) of this section, regardless of whether the act of 14864
complicity was committed on property owned or controlled by, or 14865
at an activity held under the auspices of, a board of education 14866
of a city, local, exempted village, or joint vocational school 14867
district. 14868

(B) A pupil may be suspended or expelled in accordance 14869
with section 3313.66 of the Revised Code prior to being 14870
permanently excluded from public school attendance under this 14871
section and section 3301.121 of the Revised Code. 14872

(C) (1) If the superintendent of a city, local, exempted 14873
village, or joint vocational school district in which a pupil 14874
attends school obtains or receives proof that the pupil has been 14875
convicted of committing when the pupil was sixteen years of age 14876
or older a violation listed in division (A) of this section or 14877
adjudicated a delinquent child for the commission when the pupil 14878
was sixteen years of age or older of a violation listed in 14879
division (A) of this section, the superintendent may issue to 14880
the board of education of the school district a request that the 14881
pupil be permanently excluded from public school attendance, if 14882
both of the following apply: 14883

(a) After obtaining or receiving proof of the conviction 14884
or adjudication, the superintendent or the superintendent's 14885
designee determines that the pupil's continued attendance in 14886
school may endanger the health and safety of other pupils or 14887
school employees and gives the pupil and the pupil's parent, 14888

guardian, or custodian written notice that the superintendent 14889
intends to recommend to the board of education that the board 14890
adopt a resolution requesting the superintendent of public 14891
instruction to permanently exclude the pupil from public school 14892
attendance. 14893

(b) The superintendent or the superintendent's designee 14894
forwards to the board of education the superintendent's written 14895
recommendation that includes the determinations the 14896
superintendent or designee made pursuant to division (C) (1) (a) 14897
of this section and a copy of the proof the superintendent 14898
received showing that the pupil has been convicted of or 14899
adjudicated a delinquent child for a violation listed in 14900
division (A) of this section that was committed when the pupil 14901
was sixteen years of age or older. 14902

(2) Within fourteen days after receipt of a recommendation 14903
from the superintendent pursuant to division (C) (1) (b) of this 14904
section that a pupil be permanently excluded from public school 14905
attendance, the board of education of a city, local, exempted 14906
village, or joint vocational school district, after review and 14907
consideration of all of the following available information, may 14908
adopt a resolution requesting the superintendent of public 14909
instruction to permanently exclude the pupil who is the subject 14910
of the recommendation from public school attendance: 14911

(a) The academic record of the pupil and a record of any 14912
extracurricular activities in which the pupil previously was 14913
involved; 14914

(b) The disciplinary record of the pupil and any available 14915
records of the pupil's prior behavioral problems other than the 14916
behavioral problems contained in the disciplinary record; 14917

(c) The social history of the pupil;	14918
(d) The pupil's response to the imposition of prior discipline and sanctions imposed for behavioral problems;	14919 14920
(e) Evidence regarding the seriousness of and any aggravating factors related to the offense that is the basis of the resolution seeking permanent exclusion;	14921 14922 14923
(f) Any mitigating circumstances surrounding the offense that gave rise to the request for permanent exclusion;	14924 14925
(g) Evidence regarding the probable danger posed to the health and safety of other pupils or of school employees by the continued presence of the pupil in a public school setting;	14926 14927 14928
(h) Evidence regarding the probable disruption of the teaching of any school district's graded course of study by the continued presence of the pupil in a public school setting;	14929 14930 14931
(i) Evidence regarding the availability of alternative sanctions of a less serious nature than permanent exclusion that would enable the pupil to remain in a public school setting without posing a significant danger to the health and safety of other pupils or of school employees and without posing a threat of the disruption of the teaching of any district's graded course of study.	14932 14933 14934 14935 14936 14937 14938
(3) If the board does not adopt a resolution requesting the superintendent of public instruction to permanently exclude the pupil, it immediately shall send written notice of that fact to the superintendent who sought the resolution, to the pupil who was the subject of the proposed resolution, and to that pupil's parent, guardian, or custodian.	14939 14940 14941 14942 14943 14944
(D) (1) Upon adoption of a resolution under division (C) of	14945

this section, the board of education immediately shall forward 14946
to the superintendent of public instruction the written 14947
resolution, proof of the conviction or adjudication that is the 14948
basis of the resolution, a copy of the pupil's entire school 14949
record, and any other relevant information and shall forward a 14950
copy of the resolution to the pupil who is the subject of the 14951
recommendation and to that pupil's parent, guardian, or 14952
custodian. 14953

(2) The board of education that adopted and forwarded the 14954
resolution requesting the permanent exclusion of the pupil to 14955
the superintendent of public instruction promptly shall 14956
designate a representative of the school district to present the 14957
case for permanent exclusion to the superintendent or the 14958
referee appointed by the superintendent. The representative of 14959
the school district may be an attorney admitted to the practice 14960
of law in this state. At the adjudication hearing held pursuant 14961
to section 3301.121 of the Revised Code, the representative of 14962
the school district shall present evidence in support of the 14963
requested permanent exclusion. 14964

(3) Upon receipt of a board of education's resolution 14965
requesting the permanent exclusion of a pupil from public school 14966
attendance, the superintendent of public instruction, in 14967
accordance with the adjudication procedures of section 3301.121 14968
of the Revised Code, promptly shall issue an adjudication order 14969
that either permanently excludes the pupil from attending any of 14970
the public schools of this state or that rejects the resolution 14971
of the board of education. 14972

(E) Notwithstanding any provision of section 3313.64 of 14973
the Revised Code or an order of any court of this state that 14974
otherwise requires the admission of the pupil to a school, no 14975

school official in a city, local, exempted village, or joint 14976
vocational school district knowingly shall admit to any school 14977
in the school district a pupil who has been permanently excluded 14978
from public school attendance by the superintendent of public 14979
instruction. 14980

(F) (1) (a) Upon determining that the school attendance of a 14981
pupil who has been permanently excluded from public school 14982
attendance no longer will endanger the health and safety of 14983
other students or school employees, the superintendent of any 14984
city, local, exempted village, or joint vocational school 14985
district in which the pupil desires to attend school may issue 14986
to the board of education of the school district a 14987
recommendation, including the reasons for the recommendation, 14988
that the permanent exclusion of a pupil be revoked and the pupil 14989
be allowed to return to the public schools of the state. 14990

If any violation which in whole or in part gave rise to 14991
the permanent exclusion of any pupil involved the pupil's 14992
bringing a firearm to a school operated by the board of 14993
education of a school district or onto any other property owned 14994
or operated by such a board, no superintendent shall recommend 14995
under this division an effective date for the revocation of the 14996
pupil's permanent exclusion that is less than one year after the 14997
date on which the last such firearm incident occurred. However, 14998
on a case-by-case basis, a superintendent may recommend an 14999
earlier effective date for such a revocation for any of the 15000
reasons for which the superintendent may reduce the one-year 15001
expulsion requirement in division (B) (2) of section 3313.66 of 15002
the Revised Code. 15003

(b) Upon receipt of the recommendation of the 15004
superintendent that a permanent exclusion of a pupil be revoked, 15005

the board of education of a city, local, exempted village, or 15006
joint vocational school district may adopt a resolution by a 15007
majority vote of its members requesting the superintendent of 15008
public instruction to revoke the permanent exclusion of the 15009
pupil. Upon adoption of the resolution, the board of education 15010
shall forward a copy of the resolution, the reasons for the 15011
resolution, and any other relevant information to the 15012
superintendent of public instruction. 15013

(c) Upon receipt of a resolution of a board of education 15014
requesting the revocation of a permanent exclusion of a pupil, 15015
the superintendent of public instruction, in accordance with the 15016
adjudication procedures of Chapter 119. of the Revised Code, 15017
shall issue an adjudication order that revokes the permanent 15018
exclusion of the pupil from public school attendance or that 15019
rejects the resolution of the board of education. 15020

(2) (a) A pupil who has been permanently excluded pursuant 15021
to this section and section 3301.121 of the Revised Code may 15022
request the superintendent of any city, local, exempted village, 15023
or joint vocational school district in which the pupil desires 15024
to attend school to admit the pupil on a probationary basis for 15025
a period not to exceed ninety school days. Upon receiving the 15026
request, the superintendent may enter into discussions with the 15027
pupil and with the pupil's parent, guardian, or custodian or a 15028
person designated by the pupil's parent, guardian, or custodian 15029
to develop a probationary admission plan designed to assist the 15030
pupil's probationary admission to the school. The plan may 15031
include a treatment program, a behavioral modification program, 15032
or any other program reasonably designed to meet the educational 15033
needs of the child and the disciplinary requirements of the 15034
school. 15035

If any violation which in whole or in part gave rise to 15036
the permanent exclusion of the pupil involved the pupil's 15037
bringing a firearm to a school operated by the board of 15038
education of any school district or onto any other property 15039
owned or operated by such a board, no plan developed under this 15040
division for the pupil shall include an effective date for the 15041
probationary admission of the pupil that is less than one year 15042
after the date on which the last such firearm incident occurred 15043
except that on a case-by-case basis, a plan may include an 15044
earlier effective date for such an admission for any of the 15045
reasons for which the superintendent of the district may reduce 15046
the one-year expulsion requirement in division (B) (2) of section 15047
3313.66 of the Revised Code. 15048

(b) If the superintendent of a school district, a pupil, 15049
and the pupil's parent, guardian, or custodian or a person 15050
designated by the pupil's parent, guardian, or custodian agree 15051
upon a probationary admission plan prepared pursuant to division 15052
(F) (2) (a) of this section, the superintendent of the school 15053
district shall issue to the board of education of the school 15054
district a recommendation that the pupil be allowed to attend 15055
school within the school district under probationary admission, 15056
the reasons for the recommendation, and a copy of the agreed 15057
upon probationary admission plan. Within fourteen days after the 15058
board of education receives the recommendation, reasons, and 15059
plan, the board may adopt the recommendation by a majority vote 15060
of its members. If the board adopts the recommendation, the 15061
pupil may attend school under probationary admission within that 15062
school district for a period not to exceed ninety days or any 15063
additional probationary period permitted under divisions (F) (2) 15064
(d) and (e) of this section in accordance with the probationary 15065
admission plan prepared pursuant to division (F) (2) (a) of this 15066

section. 15067

(c) If a pupil who is permitted to attend school under 15068
probationary admission pursuant to division (F)(2)(b) of this 15069
section fails to comply with the probationary admission plan 15070
prepared pursuant to division (F)(2)(a) of this section, the 15071
superintendent of the school district immediately may remove the 15072
pupil from the school and issue to the board of education of the 15073
school district a recommendation that the probationary admission 15074
be revoked. Within five days after the board of education 15075
receives the recommendation, the board may adopt the 15076
recommendation to revoke the pupil's probationary admission by a 15077
majority vote of its members. If a majority of the board does 15078
not adopt the recommendation to revoke the pupil's probationary 15079
admission, the pupil shall continue to attend school in 15080
compliance with the pupil's probationary admission plan. 15081

(d) If a pupil who is permitted to attend school under 15082
probationary admission pursuant to division (F)(2)(b) of this 15083
section complies with the probationary admission plan prepared 15084
pursuant to division (F)(2)(a) of this section, the pupil or the 15085
pupil's parent, guardian, or custodian, at any time before the 15086
expiration of the ninety-day probationary admission period, may 15087
request the superintendent of the school district to extend the 15088
terms and period of the pupil's probationary admission for a 15089
period not to exceed ninety days or to issue a recommendation 15090
pursuant to division (F)(1) of this section that the pupil's 15091
permanent exclusion be revoked and the pupil be allowed to 15092
return to the public schools of this state. 15093

(e) If a pupil is granted an extension of the pupil's 15094
probationary admission pursuant to division (F)(2)(d) of this 15095
section, the pupil or the pupil's parent, guardian, or 15096

custodian, in the manner described in that division, may 15097
request, and the superintendent and board, in the manner 15098
described in that division, may recommend and grant, subsequent 15099
probationary admission periods not to exceed ninety days each. 15100
If a pupil who is permitted to attend school under an extension 15101
of a probationary admission plan complies with the probationary 15102
admission plan prepared pursuant to the extension, the pupil or 15103
the pupil's parent, guardian, or custodian may request a 15104
revocation of the pupil's permanent exclusion in the manner 15105
described in division (F) (2) (d) of this section. 15106

(f) Any extension of a probationary admission requested by 15107
a pupil or a pupil's parent, guardian, or custodian pursuant to 15108
divisions (F) (2) (d) or (e) of this section shall be subject to 15109
the adoption and approval of a probationary admission plan in 15110
the manner described in divisions (F) (2) (a) and (b) of this 15111
section and may be terminated as provided in division (F) (2) (c) 15112
of this section. 15113

(g) If the pupil has complied with any probationary 15114
admission plan and the superintendent issues a recommendation 15115
that seeks revocation of the pupil's permanent exclusion 15116
pursuant to division (F) (1) of this section, the pupil's 15117
compliance with any probationary admission plan may be 15118
considered along with other relevant factors in any 15119
determination or adjudication conducted pursuant to division (F) 15120
(1) of this section. 15121

(G) (1) Except as provided in division (G) (2) of this 15122
section, any information regarding the permanent exclusion of a 15123
pupil shall be included in the pupil's official records and 15124
shall be included in any records sent to any school district 15125
that requests the pupil's records. 15126

(2) When a pupil who has been permanently excluded from public school attendance reaches the age of twenty-two or when the permanent exclusion of a pupil has been revoked, all school districts that maintain records regarding the pupil's permanent exclusion shall remove all references to the exclusion from the pupil's file and shall destroy them.

A pupil who has reached the age of twenty-two or whose permanent exclusion has been revoked may send a written notice to the superintendent of any school district maintaining records of the pupil's permanent exclusion requesting the superintendent to ensure that the records are removed from the pupil's file and destroyed. Upon receipt of the request and a determination that the pupil is twenty-two years of age or older or that the pupil's permanent exclusion has been revoked, the superintendent shall ensure that the records are removed from the pupil's file and destroyed.

(H) (1) This section does not apply to any of the following:

(a) An institution that is a residential facility, that receives and cares for children, that is maintained by the department of youth services, and that operates a school chartered by the state board of education under section 3301.16 of the Revised Code;

(b) Any on-premises school operated by an out-of-home care entity, other than a school district, that is chartered by the state board of education under section 3301.16 of the Revised Code;

(c) Any school operated in connection with an out-of-home care entity or a nonresidential youth treatment program that

enters into a contract or agreement with a school district for 15156
the provision of educational services in a setting other than a 15157
setting that is a building or structure owned or controlled by 15158
the board of education of the school district during normal 15159
school hours. 15160

(2) This section does not prohibit any person who has been 15161
permanently excluded pursuant to this section and section 15162
3301.121 of the Revised Code from seeking a certificate of high 15163
school equivalence. A person who has been permanently excluded 15164
may be permitted to participate in a course of study in 15165
preparation for a high school equivalency test approved by the 15166
department of education pursuant to division (B) of section 15167
3301.80 of the Revised Code, except that the person shall not 15168
participate during normal school hours in that course of study 15169
in any building or structure owned or controlled by the board of 15170
education of a school district. 15171

(3) This section does not relieve any school district from 15172
any requirement under section 2151.362 or 3313.64 of the Revised 15173
Code to pay for the cost of educating any child who has been 15174
permanently excluded pursuant to this section and section 15175
3301.121 of the Revised Code. 15176

(I) As used in this section: 15177

(1) "Permanently exclude" means to forever prohibit an 15178
individual from attending any public school in this state that 15179
is operated by a city, local, exempted village, or joint 15180
vocational school district. 15181

(2) "Permanent exclusion" means the prohibition of a pupil 15182
forever from attending any public school in this state that is 15183
operated by a city, local, exempted village, or joint vocational 15184

school district. 15185

(3) "Out-of-home care" has the same meaning as in section 15186
2151.011 of the Revised Code. 15187

(4) "Certificate of high school equivalence" has the same 15188
meaning as in section 4109.06 of the Revised Code. 15189

(5) "Nonresidential youth treatment program" means a 15190
program designed to provide services to persons under the age of 15191
eighteen in a setting that does not regularly provide long-term 15192
overnight care, including settlement houses, diversion and 15193
prevention programs, run-away centers, and alternative education 15194
programs. 15195

(6) "Firearm" has the same meaning as provided pursuant to 15196
the "Gun-Free Schools Act of 1994," 108 Stat. 270, 20 U.S.C. 15197
8001(a) (2). 15198

(7) "Minor drug possession offense" has the same meaning 15199
as in section 2925.01 of the Revised Code. 15200

Sec. 3319.31. (A) As used in this section and sections 15201
3123.41 to 3123.50 and 3319.311 of the Revised Code, "license" 15202
means a certificate, license, or permit described in this 15203
chapter or in division (B) of section 3301.071 or in section 15204
3301.074 of the Revised Code. 15205

(B) For any of the following reasons, the state board of 15206
education, in accordance with Chapter 119. and section 3319.311 15207
of the Revised Code, may refuse to issue a license to an 15208
applicant; may limit a license it issues to an applicant; may 15209
suspend, revoke, or limit a license that has been issued to any 15210
person; or may revoke a license that has been issued to any 15211
person and has expired: 15212

(1) Engaging in an immoral act, incompetence, negligence,	15213
or conduct that is unbecoming to the applicant's or person's	15214
position;	15215
(2) A plea of guilty to, a finding of guilt by a jury or	15216
court of, or a conviction of any of the following:	15217
(a) A felony other than a felony listed in division (C) of	15218
this section;	15219
(b) An offense of violence other than an offense of	15220
violence listed in division (C) of this section;	15221
(c) A theft offense, as defined in section 2913.01 of the	15222
Revised Code, other than a theft offense listed in division (C)	15223
of this section;	15224
(d) A drug abuse offense, as defined in section 2925.01 of	15225
the Revised Code, that is not a minor misdemeanor, other than a	15226
drug abuse offense listed in division (C) of this section;	15227
(e) A violation of an ordinance of a municipal corporation	15228
that is substantively comparable to an offense listed in	15229
divisions (B) (2) (a) to (d) of this section.	15230
(3) A judicial finding of eligibility for intervention in	15231
lieu of conviction under section 2951.041 of the Revised Code,	15232
or agreeing to participate in a pre-trial diversion program	15233
under section 2935.36 of the Revised Code, or a similar	15234
diversion program under rules of a court, for any offense listed	15235
in division (B) (2) or (C) of this section;	15236
(4) Failure to comply with section 3313.536, 3314.40,	15237
3319.313, 3326.24, 3328.19, or 5126.253 of the Revised Code.	15238
(C) Upon learning of a plea of guilty to, a finding of	15239
guilt by a jury or court of, or a conviction of any of the	15240

offenses listed in this division by a person who holds a current 15241
or expired license or is an applicant for a license or renewal 15242
of a license, the state board or the superintendent of public 15243
instruction, if the state board has delegated the duty pursuant 15244
to division (D) of this section, shall by a written order revoke 15245
the person's license or deny issuance or renewal of the license 15246
to the person. The state board or the superintendent shall 15247
revoke a license that has been issued to a person to whom this 15248
division applies and has expired in the same manner as a license 15249
that has not expired. 15250

Revocation of a license or denial of issuance or renewal 15251
of a license under this division is effective immediately at the 15252
time and date that the board or superintendent issues the 15253
written order and is not subject to appeal in accordance with 15254
Chapter 119. of the Revised Code. Revocation of a license or 15255
denial of issuance or renewal of license under this division 15256
remains in force during the pendency of an appeal by the person 15257
of the plea of guilty, finding of guilt, or conviction that is 15258
the basis of the action taken under this division. 15259

The state board or superintendent shall take the action 15260
required by this division for a violation of division (B) (1), 15261
(2), (3), or (4) of section 2919.22 of the Revised Code; a 15262
violation of section 2903.01, 2903.02, 2903.03, 2903.04, 15263
2903.041, 2903.11, 2903.12, 2903.15, 2904.03, 2904.04, 2905.01, 15264
2905.02, 2905.05, 2905.11, 2907.02, 2907.03, 2907.04, 2907.05, 15265
2907.06, 2907.07, 2907.21, 2907.22, 2907.23, 2907.24, 2907.241, 15266
2907.25, 2907.31, 2907.311, 2907.32, 2907.321, 2907.322, 15267
2907.323, 2907.33, 2907.34, 2909.02, 2909.22, 2909.23, 2909.24, 15268
2911.01, 2911.02, 2911.11, 2911.12, 2913.44, 2917.01, 2917.02, 15269
2917.03, 2917.31, 2917.33, 2919.12, 2919.121, 2919.13, 2921.02, 15270
2921.03, 2921.04, 2921.05, 2921.11, 2921.34, 2921.41, 2923.122, 15271

2923.123, 2923.161, 2923.17, 2923.21, 2925.02, 2925.03, 2925.04, 15272
2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 2925.23, 2925.24, 15273
2925.32, 2925.36, 2925.37, 2927.24, or 3716.11 of the Revised 15274
Code; a violation of section 2905.04 of the Revised Code as it 15275
existed prior to July 1, 1996; a violation of section 2919.23 of 15276
the Revised Code that would have been a violation of section 15277
2905.04 of the Revised Code as it existed prior to July 1, 1996, 15278
had the violation been committed prior to that date; felonious 15279
sexual penetration in violation of former section 2907.12 of the 15280
Revised Code; or a violation of an ordinance of a municipal 15281
corporation that is substantively comparable to an offense 15282
listed in this paragraph. 15283

(D) The state board may delegate to the superintendent of 15284
public instruction the authority to revoke a person's license or 15285
to deny issuance or renewal of a license to a person under 15286
division (C) or (F) of this section. 15287

(E) (1) If the plea of guilty, finding of guilt, or 15288
conviction that is the basis of the action taken under division 15289
(B) (2) or (C) of this section, or under the version of division 15290
(F) of section 3319.311 of the Revised Code in effect prior to 15291
September 12, 2008, is overturned on appeal, upon exhaustion of 15292
the criminal appeal, the clerk of the court that overturned the 15293
plea, finding, or conviction or, if applicable, the clerk of the 15294
court that accepted an appeal from the court that overturned the 15295
plea, finding, or conviction, shall notify the state board that 15296
the plea, finding, or conviction has been overturned. Within 15297
thirty days after receiving the notification, the state board 15298
shall initiate proceedings to reconsider the revocation or 15299
denial of the person's license in accordance with division (E) 15300
(2) of this section. In addition, the person whose license was 15301
revoked or denied may file with the state board a petition for 15302

reconsideration of the revocation or denial along with 15303
appropriate court documents. 15304

(2) Upon receipt of a court notification or a petition and 15305
supporting court documents under division (E)(1) of this 15306
section, the state board, after offering the person an 15307
opportunity for an adjudication hearing under Chapter 119. of 15308
the Revised Code, shall determine whether the person committed 15309
the act in question in the prior criminal action against the 15310
person that is the basis of the revocation or denial and may 15311
continue the revocation or denial, may reinstate the person's 15312
license, with or without limits, or may grant the person a new 15313
license, with or without limits. The decision of the board shall 15314
be based on grounds for revoking, denying, suspending, or 15315
limiting a license adopted by rule under division (G) of this 15316
section and in accordance with the evidentiary standards the 15317
board employs for all other licensure hearings. The decision of 15318
the board under this division is subject to appeal under Chapter 15319
119. of the Revised Code. 15320

(3) A person whose license is revoked or denied under 15321
division (C) of this section shall not apply for any license if 15322
the plea of guilty, finding of guilt, or conviction that is the 15323
basis of the revocation or denial, upon completion of the 15324
criminal appeal, either is upheld or is overturned but the state 15325
board continues the revocation or denial under division (E)(2) 15326
of this section and that continuation is upheld on final appeal. 15327

(F) The state board may take action under division (B) of 15328
this section, and the state board or the superintendent shall 15329
take the action required under division (C) of this section, on 15330
the basis of substantially comparable conduct occurring in a 15331
jurisdiction outside this state or occurring before a person 15332

applies for or receives any license. 15333

(G) The state board may adopt rules in accordance with 15334
Chapter 119. of the Revised Code to carry out this section and 15335
section 3319.311 of the Revised Code. 15336

Sec. 3319.39. (A) (1) Except as provided in division (F) (2) 15337
(b) of section 109.57 of the Revised Code, the appointing or 15338
hiring officer of the board of education of a school district, 15339
the governing board of an educational service center, or of a 15340
chartered nonpublic school shall request the superintendent of 15341
the bureau of criminal identification and investigation to 15342
conduct a criminal records check with respect to any applicant 15343
who has applied to the school district, educational service 15344
center, or school for employment in any position. The appointing 15345
or hiring officer shall request that the superintendent include 15346
information from the federal bureau of investigation in the 15347
criminal records check, unless all of the following apply to the 15348
applicant: 15349

(a) The applicant is applying to be an instructor of adult 15350
education. 15351

(b) The duties of the position for which the applicant is 15352
applying do not involve routine interaction with a child or 15353
regular responsibility for the care, custody, or control of a 15354
child or, if the duties do involve such interaction or 15355
responsibility, during any period of time in which the 15356
applicant, if hired, has such interaction or responsibility, 15357
another employee of the school district, educational service 15358
center, or chartered nonpublic school will be present in the 15359
same room with the child or, if outdoors, will be within a 15360
thirty-yard radius of the child or have visual contact with the 15361
child. 15362

(c) The applicant presents proof that the applicant has 15363
been a resident of this state for the five-year period 15364
immediately prior to the date upon which the criminal records 15365
check is requested or provides evidence that within that five- 15366
year period the superintendent has requested information about 15367
the applicant from the federal bureau of investigation in a 15368
criminal records check. 15369

(2) A person required by division (A) (1) of this section 15370
to request a criminal records check shall provide to each 15371
applicant a copy of the form prescribed pursuant to division (C) 15372
(1) of section 109.572 of the Revised Code, provide to each 15373
applicant a standard impression sheet to obtain fingerprint 15374
impressions prescribed pursuant to division (C) (2) of section 15375
109.572 of the Revised Code, obtain the completed form and 15376
impression sheet from each applicant, and forward the completed 15377
form and impression sheet to the superintendent of the bureau of 15378
criminal identification and investigation at the time the person 15379
requests a criminal records check pursuant to division (A) (1) of 15380
this section. 15381

(3) An applicant who receives pursuant to division (A) (2) 15382
of this section a copy of the form prescribed pursuant to 15383
division (C) (1) of section 109.572 of the Revised Code and a 15384
copy of an impression sheet prescribed pursuant to division (C) 15385
(2) of that section and who is requested to complete the form 15386
and provide a set of fingerprint impressions shall complete the 15387
form or provide all the information necessary to complete the 15388
form and shall provide the impression sheet with the impressions 15389
of the applicant's fingerprints. If an applicant, upon request, 15390
fails to provide the information necessary to complete the form 15391
or fails to provide impressions of the applicant's fingerprints, 15392
the board of education of a school district, governing board of 15393

an educational service center, or governing authority of a 15394
chartered nonpublic school shall not employ that applicant for 15395
any position. 15396

(4) Notwithstanding any provision of this section to the 15397
contrary, an applicant who meets the conditions prescribed in 15398
divisions (A) (1) (a) and (b) of this section and who, within the 15399
two-year period prior to the date of application, was the 15400
subject of a criminal records check under this section prior to 15401
being hired for short-term employment with the school district, 15402
educational service center, or chartered nonpublic school to 15403
which application is being made shall not be required to undergo 15404
a criminal records check prior to the applicant's rehiring by 15405
that district, service center, or school. 15406

(B) (1) Except as provided in rules adopted by the 15407
department of education in accordance with division (E) of this 15408
section and as provided in division (B) (3) of this section, no 15409
board of education of a school district, no governing board of 15410
an educational service center, and no governing authority of a 15411
chartered nonpublic school shall employ a person if the person 15412
previously has been convicted of or pleaded guilty to any of the 15413
following: 15414

(a) A violation of section 2903.01, 2903.02, 2903.03, 15415
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 15416
2904.03, 2904.04, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 15417
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 15418
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 15419
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 15420
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 15421
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a 15422
violation of section 2905.04 of the Revised Code as it existed 15423

prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, another state, or the United States that is substantially equivalent to any of the offenses or violations described in division (B)(1)(a) of this section.

(2) A board, governing board of an educational service center, or a governing authority of a chartered nonpublic school may employ an applicant conditionally until the criminal records check required by this section is completed and the board or governing authority receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the board or governing authority shall release the applicant from employment.

(3) No board and no governing authority of a chartered nonpublic school shall employ a teacher who previously has been convicted of or pleaded guilty to any of the offenses listed in section 3319.31 of the Revised Code.

(C)(1) Each board and each governing authority of a chartered nonpublic school shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of

the appointing or hiring officer of the board or governing authority. 15454
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(2) A board and the governing authority of a chartered nonpublic school may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the board or governing authority pays under division (C) (1) of this section. If a fee is charged under this division, the board or governing authority shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the board or governing authority will not consider the applicant for employment. 15456
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(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A) (1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the board or governing authority requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant. 15467
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(E) The department of education shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which the board or governing authority may hire a person who has been convicted of an offense listed in division (B) (1) or (3) of this section 15479
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but who meets standards in regard to rehabilitation set by the 15484
department. 15485

The department shall amend rule 3301-83-23 of the Ohio 15486
Administrative Code that took effect August 27, 2009, and that 15487
specifies the offenses that disqualify a person for employment 15488
as a school bus or school van driver and establishes 15489
rehabilitation standards for school bus and school van drivers. 15490

(F) Any person required by division (A) (1) of this section 15491
to request a criminal records check shall inform each person, at 15492
the time of the person's initial application for employment, of 15493
the requirement to provide a set of fingerprint impressions and 15494
that a criminal records check is required to be conducted and 15495
satisfactorily completed in accordance with section 109.572 of 15496
the Revised Code if the person comes under final consideration 15497
for appointment or employment as a precondition to employment 15498
for the school district, educational service center, or school 15499
for that position. 15500

(G) As used in this section: 15501

(1) "Applicant" means a person who is under final 15502
consideration for appointment or employment in a position with a 15503
board of education, governing board of an educational service 15504
center, or a chartered nonpublic school, except that "applicant" 15505
does not include a person already employed by a board or 15506
chartered nonpublic school who is under consideration for a 15507
different position with such board or school. 15508

(2) "Teacher" means a person holding an educator license 15509
or permit issued under section 3319.22 or 3319.301 of the 15510
Revised Code and teachers in a chartered nonpublic school. 15511

(3) "Criminal records check" has the same meaning as in 15512

section 109.572 of the Revised Code. 15513

(4) "Minor drug possession offense" has the same meaning 15514
as in section 2925.01 of the Revised Code. 15515

(H) If the board of education of a local school district 15516
adopts a resolution requesting the assistance of the educational 15517
service center in which the local district has territory in 15518
conducting criminal records checks of substitute teachers and 15519
substitutes for other district employees under this section, the 15520
appointing or hiring officer of such educational service center 15521
shall serve for purposes of this section as the appointing or 15522
hiring officer of the local board in the case of hiring 15523
substitute teachers and other substitute employees for the local 15524
district. 15525

Sec. 3712.09. (A) As used in this section: 15526

(1) "Applicant" means a person who is under final 15527
consideration for employment with a hospice care program or 15528
pediatric respite care program in a full-time, part-time, or 15529
temporary position that involves providing direct care to an 15530
older adult or pediatric respite care patient. "Applicant" does 15531
not include a person who provides direct care as a volunteer 15532
without receiving or expecting to receive any form of 15533
remuneration other than reimbursement for actual expenses. 15534

(2) "Criminal records check" has the same meaning as in 15535
section 109.572 of the Revised Code. 15536

(3) "Older adult" means a person age sixty or older. 15537

(B) (1) Except as provided in division (I) of this section, 15538
the chief administrator of a hospice care program or pediatric 15539
respite care program shall request that the superintendent of 15540
the bureau of criminal identification and investigation conduct 15541

a criminal records check of each applicant. If an applicant for
whom a criminal records check request is required under this
division does not present proof of having been a resident of
this state for the five-year period immediately prior to the
date the criminal records check is requested or provide evidence
that within that five-year period the superintendent has
requested information about the applicant from the federal
bureau of investigation in a criminal records check, the chief
administrator shall request that the superintendent obtain
information from the federal bureau of investigation as part of
the criminal records check of the applicant. Even if an
applicant for whom a criminal records check request is required
under this division presents proof of having been a resident of
this state for the five-year period, the chief administrator may
request that the superintendent include information from the
federal bureau of investigation in the criminal records check.

(2) A person required by division (B) (1) of this section
to request a criminal records check shall do both of the
following:

(a) Provide to each applicant for whom a criminal records
check request is required under that division a copy of the form
prescribed pursuant to division (C) (1) of section 109.572 of the
Revised Code and a standard fingerprint impression sheet
prescribed pursuant to division (C) (2) of that section, and
obtain the completed form and impression sheet from the
applicant;

(b) Forward the completed form and impression sheet to the
superintendent of the bureau of criminal identification and
investigation.

(3) An applicant provided the form and fingerprint

impression sheet under division (B) (2) (a) of this section who 15572
fails to complete the form or provide fingerprint impressions 15573
shall not be employed in any position for which a criminal 15574
records check is required by this section. 15575

(C) (1) Except as provided in rules adopted by the director 15576
of health in accordance with division (F) of this section and 15577
subject to division (C) (2) of this section, no hospice care 15578
program or pediatric respite care program shall employ a person 15579
in a position that involves providing direct care to an older 15580
adult or pediatric respite care patient if the person has been 15581
convicted of or pleaded guilty to any of the following: 15582

(a) A violation of section 2903.01, 2903.02, 2903.03, 15583
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 15584
2904.03, 2904.04, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 15585
2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 15586
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 15587
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 15588
2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 15589
2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 15590
2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 15591
Revised Code. 15592

(b) A violation of an existing or former law of this 15593
state, any other state, or the United States that is 15594
substantially equivalent to any of the offenses listed in 15595
division (C) (1) (a) of this section. 15596

(2) (a) A hospice care program or pediatric respite care 15597
program may employ conditionally an applicant for whom a 15598
criminal records check request is required under division (B) of 15599
this section prior to obtaining the results of a criminal 15600
records check regarding the individual, provided that the 15601

program shall request a criminal records check regarding the 15602
individual in accordance with division (B)(1) of this section 15603
not later than five business days after the individual begins 15604
conditional employment. In the circumstances described in 15605
division (I)(2) of this section, a hospice care program or 15606
pediatric respite care program may employ conditionally an 15607
applicant who has been referred to the hospice care program or 15608
pediatric respite care program by an employment service that 15609
supplies full-time, part-time, or temporary staff for positions 15610
involving the direct care of older adults or pediatric respite 15611
care patients and for whom, pursuant to that division, a 15612
criminal records check is not required under division (B) of 15613
this section. 15614

(b) A hospice care program or pediatric respite care 15615
program that employs an individual conditionally under authority 15616
of division (C)(2)(a) of this section shall terminate the 15617
individual's employment if the results of the criminal records 15618
check requested under division (B) of this section or described 15619
in division (I)(2) of this section, other than the results of 15620
any request for information from the federal bureau of 15621
investigation, are not obtained within the period ending thirty 15622
days after the date the request is made. Regardless of when the 15623
results of the criminal records check are obtained, if the 15624
results indicate that the individual has been convicted of or 15625
pleaded guilty to any of the offenses listed or described in 15626
division (C)(1) of this section, the program shall terminate the 15627
individual's employment unless the program chooses to employ the 15628
individual pursuant to division (F) of this section. Termination 15629
of employment under this division shall be considered just cause 15630
for discharge for purposes of division (D)(2) of section 4141.29 15631
of the Revised Code if the individual makes any attempt to 15632

deceive the program about the individual's criminal record. 15633

(D) (1) Each hospice care program or pediatric respite care 15634
program shall pay to the bureau of criminal identification and 15635
investigation the fee prescribed pursuant to division (C) (3) of 15636
section 109.572 of the Revised Code for each criminal records 15637
check conducted pursuant to a request made under division (B) of 15638
this section. 15639

(2) A hospice care program or pediatric respite care 15640
program may charge an applicant a fee not exceeding the amount 15641
the program pays under division (D) (1) of this section. A 15642
program may collect a fee only if both of the following apply: 15643

(a) The program notifies the person at the time of initial 15644
application for employment of the amount of the fee and that, 15645
unless the fee is paid, the person will not be considered for 15646
employment; 15647

(b) The medicaid program does not reimburse the program 15648
the fee it pays under division (D) (1) of this section. 15649

(E) The report of a criminal records check conducted 15650
pursuant to a request made under this section is not a public 15651
record for the purposes of section 149.43 of the Revised Code 15652
and shall not be made available to any person other than the 15653
following: 15654

(1) The individual who is the subject of the criminal 15655
records check or the individual's representative; 15656

(2) The chief administrator of the program requesting the 15657
criminal records check or the administrator's representative; 15658

(3) The administrator of any other facility, agency, or 15659
program that provides direct care to older adults or pediatric 15660

respite care patients that is owned or operated by the same 15661
entity that owns or operates the hospice care program or 15662
pediatric respite care program; 15663

(4) A court, hearing officer, or other necessary 15664
individual involved in a case dealing with a denial of 15665
employment of the applicant or dealing with employment or 15666
unemployment benefits of the applicant; 15667

(5) Any person to whom the report is provided pursuant to, 15668
and in accordance with, division (I)(1) or (2) of this section. 15669

(F) The director of health shall adopt rules in accordance 15670
with Chapter 119. of the Revised Code to implement this section. 15671
The rules shall specify circumstances under which a hospice care 15672
program or pediatric respite care program may employ a person 15673
who has been convicted of or pleaded guilty to an offense listed 15674
or described in division (C)(1) of this section but meets 15675
personal character standards set by the director. 15676

(G) The chief administrator of a hospice care program or 15677
pediatric respite care program shall inform each individual, at 15678
the time of initial application for a position that involves 15679
providing direct care to an older adult or pediatric respite 15680
care patient, that the individual is required to provide a set 15681
of fingerprint impressions and that a criminal records check is 15682
required to be conducted if the individual comes under final 15683
consideration for employment. 15684

(H) In a tort or other civil action for damages that is 15685
brought as the result of an injury, death, or loss to person or 15686
property caused by an individual who a hospice care program or 15687
pediatric respite care program employs in a position that 15688
involves providing direct care to older adults or pediatric 15689

respite care patients, all of the following shall apply: 15690

(1) If the program employed the individual in good faith 15691
and reasonable reliance on the report of a criminal records 15692
check requested under this section, the program shall not be 15693
found negligent solely because of its reliance on the report, 15694
even if the information in the report is determined later to 15695
have been incomplete or inaccurate; 15696

(2) If the program employed the individual in good faith 15697
on a conditional basis pursuant to division (C)(2) of this 15698
section, the program shall not be found negligent solely because 15699
it employed the individual prior to receiving the report of a 15700
criminal records check requested under this section; 15701

(3) If the program in good faith employed the individual 15702
according to the personal character standards established in 15703
rules adopted under division (F) of this section, the program 15704
shall not be found negligent solely because the individual prior 15705
to being employed had been convicted of or pleaded guilty to an 15706
offense listed or described in division (C)(1) of this section. 15707

(I)(1) The chief administrator of a hospice care program 15708
or pediatric respite care program is not required to request 15709
that the superintendent of the bureau of criminal identification 15710
and investigation conduct a criminal records check of an 15711
applicant if the applicant has been referred to the program by 15712
an employment service that supplies full-time, part-time, or 15713
temporary staff for positions involving the direct care of older 15714
adults or pediatric respite care patients and both of the 15715
following apply: 15716

(a) The chief administrator receives from the employment 15717
service or the applicant a report of the results of a criminal 15718

records check regarding the applicant that has been conducted by 15719
the superintendent within the one-year period immediately 15720
preceding the applicant's referral; 15721

(b) The report of the criminal records check demonstrates 15722
that the person has not been convicted of or pleaded guilty to 15723
an offense listed or described in division (C)(1) of this 15724
section, or the report demonstrates that the person has been 15725
convicted of or pleaded guilty to one or more of those offenses, 15726
but the hospice care program or pediatric respite care program 15727
chooses to employ the individual pursuant to division (F) of 15728
this section. 15729

(2) The chief administrator of a hospice care program or 15730
pediatric respite care program is not required to request that 15731
the superintendent of the bureau of criminal identification and 15732
investigation conduct a criminal records check of an applicant 15733
and may employ the applicant conditionally as described in this 15734
division, if the applicant has been referred to the program by 15735
an employment service that supplies full-time, part-time, or 15736
temporary staff for positions involving the direct care of older 15737
adults or pediatric respite care patients and if the chief 15738
administrator receives from the employment service or the 15739
applicant a letter from the employment service that is on the 15740
letterhead of the employment service, dated, and signed by a 15741
supervisor or another designated official of the employment 15742
service and that states that the employment service has 15743
requested the superintendent to conduct a criminal records check 15744
regarding the applicant, that the requested criminal records 15745
check will include a determination of whether the applicant has 15746
been convicted of or pleaded guilty to any offense listed or 15747
described in division (C)(1) of this section, that, as of the 15748
date set forth on the letter, the employment service had not 15749

received the results of the criminal records check, and that, 15750
when the employment service receives the results of the criminal 15751
records check, it promptly will send a copy of the results to 15752
the hospice care program or pediatric respite care program. If a 15753
hospice care program or pediatric respite care program employs 15754
an applicant conditionally in accordance with this division, the 15755
employment service, upon its receipt of the results of the 15756
criminal records check, promptly shall send a copy of the 15757
results to the hospice care program or pediatric respite care 15758
program, and division (C) (2) (b) of this section applies 15759
regarding the conditional employment. 15760

Sec. 3721.121. (A) As used in this section: 15761

(1) "Adult day-care program" means a program operated 15762
pursuant to rules adopted by the director of health under 15763
section 3721.04 of the Revised Code and provided by and on the 15764
same site as homes licensed under this chapter. 15765

(2) "Applicant" means a person who is under final 15766
consideration for employment with a home or adult day-care 15767
program in a full-time, part-time, or temporary position that 15768
involves providing direct care to an older adult. "Applicant" 15769
does not include a person who provides direct care as a 15770
volunteer without receiving or expecting to receive any form of 15771
remuneration other than reimbursement for actual expenses. 15772

(3) "Community-based long-term care services provider" 15773
means a provider as defined in section 173.39 of the Revised 15774
Code. 15775

(4) "Criminal records check" has the same meaning as in 15776
section 109.572 of the Revised Code. 15777

(5) "Home" means a home as defined in section 3721.10 of 15778

the Revised Code. 15779

(6) "Older adult" means a person age sixty or older. 15780

(B) (1) Except as provided in division (I) of this section, 15781
the chief administrator of a home or adult day-care program 15782
shall request that the superintendent of the bureau of criminal 15783
identification and investigation conduct a criminal records 15784
check of each applicant. If an applicant for whom a criminal 15785
records check request is required under this division does not 15786
present proof of having been a resident of this state for the 15787
five-year period immediately prior to the date the criminal 15788
records check is requested or provide evidence that within that 15789
five-year period the superintendent has requested information 15790
about the applicant from the federal bureau of investigation in 15791
a criminal records check, the chief administrator shall request 15792
that the superintendent obtain information from the federal 15793
bureau of investigation as part of the criminal records check of 15794
the applicant. Even if an applicant for whom a criminal records 15795
check request is required under this division presents proof of 15796
having been a resident of this state for the five-year period, 15797
the chief administrator may request that the superintendent 15798
include information from the federal bureau of investigation in 15799
the criminal records check. 15800

(2) A person required by division (B) (1) of this section 15801
to request a criminal records check shall do both of the 15802
following: 15803

(a) Provide to each applicant for whom a criminal records 15804
check request is required under that division a copy of the form 15805
prescribed pursuant to division (C) (1) of section 109.572 of the 15806
Revised Code and a standard fingerprint impression sheet 15807
prescribed pursuant to division (C) (2) of that section, and 15808

obtain the completed form and impression sheet from the 15809
applicant; 15810

(b) Forward the completed form and impression sheet to the 15811
superintendent of the bureau of criminal identification and 15812
investigation. 15813

(3) An applicant provided the form and fingerprint 15814
impression sheet under division (B) (2) (a) of this section who 15815
fails to complete the form or provide fingerprint impressions 15816
shall not be employed in any position for which a criminal 15817
records check is required by this section. 15818

(C) (1) Except as provided in rules adopted by the director 15819
of health in accordance with division (F) of this section and 15820
subject to division (C) (2) of this section, no home or adult 15821
day-care program shall employ a person in a position that 15822
involves providing direct care to an older adult if the person 15823
has been convicted of or pleaded guilty to any of the following: 15824

(a) A violation of section 2903.01, 2903.02, 2903.03, 15825
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 15826
2904.03, 2904.04, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 15827
2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 15828
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 15829
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 15830
2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 15831
2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 15832
2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 15833
Revised Code. 15834

(b) A violation of an existing or former law of this 15835
state, any other state, or the United States that is 15836
substantially equivalent to any of the offenses listed in 15837

division (C) (1) (a) of this section. 15838

(2) (a) A home or an adult day-care program may employ 15839
conditionally an applicant for whom a criminal records check 15840
request is required under division (B) of this section prior to 15841
obtaining the results of a criminal records check regarding the 15842
individual, provided that the home or program shall request a 15843
criminal records check regarding the individual in accordance 15844
with division (B) (1) of this section not later than five 15845
business days after the individual begins conditional 15846
employment. In the circumstances described in division (I) (2) of 15847
this section, a home or adult day-care program may employ 15848
conditionally an applicant who has been referred to the home or 15849
adult day-care program by an employment service that supplies 15850
full-time, part-time, or temporary staff for positions involving 15851
the direct care of older adults and for whom, pursuant to that 15852
division, a criminal records check is not required under 15853
division (B) of this section. 15854

(b) A home or adult day-care program that employs an 15855
individual conditionally under authority of division (C) (2) (a) 15856
of this section shall terminate the individual's employment if 15857
the results of the criminal records check requested under 15858
division (B) of this section or described in division (I) (2) of 15859
this section, other than the results of any request for 15860
information from the federal bureau of investigation, are not 15861
obtained within the period ending thirty days after the date the 15862
request is made. Regardless of when the results of the criminal 15863
records check are obtained, if the results indicate that the 15864
individual has been convicted of or pleaded guilty to any of the 15865
offenses listed or described in division (C) (1) of this section, 15866
the home or program shall terminate the individual's employment 15867
unless the home or program chooses to employ the individual 15868

pursuant to division (F) of this section. Termination of 15869
employment under this division shall be considered just cause 15870
for discharge for purposes of division (D) (2) of section 4141.29 15871
of the Revised Code if the individual makes any attempt to 15872
deceive the home or program about the individual's criminal 15873
record. 15874

(D) (1) Each home or adult day-care program shall pay to 15875
the bureau of criminal identification and investigation the fee 15876
prescribed pursuant to division (C) (3) of section 109.572 of the 15877
Revised Code for each criminal records check conducted pursuant 15878
to a request made under division (B) of this section. 15879

(2) A home or adult day-care program may charge an 15880
applicant a fee not exceeding the amount the home or program 15881
pays under division (D) (1) of this section. A home or program 15882
may collect a fee only if both of the following apply: 15883

(a) The home or program notifies the person at the time of 15884
initial application for employment of the amount of the fee and 15885
that, unless the fee is paid, the person will not be considered 15886
for employment; 15887

(b) The medicaid program does not reimburse the home or 15888
program the fee it pays under division (D) (1) of this section. 15889

(E) The report of any criminal records check conducted 15890
pursuant to a request made under this section is not a public 15891
record for the purposes of section 149.43 of the Revised Code 15892
and shall not be made available to any person other than the 15893
following: 15894

(1) The individual who is the subject of the criminal 15895
records check or the individual's representative; 15896

(2) The chief administrator of the home or program 15897

requesting the criminal records check or the administrator's
representative; 15898
15899

(3) The administrator of any other facility, agency, or
program that provides direct care to older adults that is owned 15900
15901
or operated by the same entity that owns or operates the home or 15902
program; 15903

(4) A court, hearing officer, or other necessary 15904
individual involved in a case dealing with a denial of 15905
employment of the applicant or dealing with employment or 15906
unemployment benefits of the applicant; 15907

(5) Any person to whom the report is provided pursuant to, 15908
and in accordance with, division (I)(1) or (2) of this section; 15909

(6) The board of nursing for purposes of accepting and 15910
processing an application for a medication aide certificate 15911
issued under Chapter 4723. of the Revised Code; 15912

(7) The director of aging or the director's designee if 15913
the criminal records check is requested by the chief 15914
administrator of a home that is also a community-based long-term 15915
care services provider. 15916

(F) In accordance with section 3721.11 of the Revised 15917
Code, the director of health shall adopt rules to implement this 15918
section. The rules shall specify circumstances under which a 15919
home or adult day-care program may employ a person who has been 15920
convicted of or pleaded guilty to an offense listed or described 15921
in division (C)(1) of this section but meets personal character 15922
standards set by the director. 15923

(G) The chief administrator of a home or adult day-care 15924
program shall inform each individual, at the time of initial 15925
application for a position that involves providing direct care 15926

to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a home or adult day-care program employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the home or program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the home or program shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the home or program employed the individual in good faith on a conditional basis pursuant to division (C) (2) of this section, the home or program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C) (1) of this section.

(I) (1) The chief administrator of a home or adult day-care program is not required to request that the superintendent of

the bureau of criminal identification and investigation conduct 15956
a criminal records check of an applicant if the applicant has 15957
been referred to the home or program by an employment service 15958
that supplies full-time, part-time, or temporary staff for 15959
positions involving the direct care of older adults and both of 15960
the following apply: 15961

(a) The chief administrator receives from the employment 15962
service or the applicant a report of the results of a criminal 15963
records check regarding the applicant that has been conducted by 15964
the superintendent within the one-year period immediately 15965
preceding the applicant's referral; 15966

(b) The report of the criminal records check demonstrates 15967
that the person has not been convicted of or pleaded guilty to 15968
an offense listed or described in division (C)(1) of this 15969
section, or the report demonstrates that the person has been 15970
convicted of or pleaded guilty to one or more of those offenses, 15971
but the home or adult day-care program chooses to employ the 15972
individual pursuant to division (F) of this section. 15973

(2) The chief administrator of a home or adult day-care 15974
program is not required to request that the superintendent of 15975
the bureau of criminal identification and investigation conduct 15976
a criminal records check of an applicant and may employ the 15977
applicant conditionally as described in this division, if the 15978
applicant has been referred to the home or program by an 15979
employment service that supplies full-time, part-time, or 15980
temporary staff for positions involving the direct care of older 15981
adults and if the chief administrator receives from the 15982
employment service or the applicant a letter from the employment 15983
service that is on the letterhead of the employment service, 15984
dated, and signed by a supervisor or another designated official 15985

of the employment service and that states that the employment 15986
service has requested the superintendent to conduct a criminal 15987
records check regarding the applicant, that the requested 15988
criminal records check will include a determination of whether 15989
the applicant has been convicted of or pleaded guilty to any 15990
offense listed or described in division (C)(1) of this section, 15991
that, as of the date set forth on the letter, the employment 15992
service had not received the results of the criminal records 15993
check, and that, when the employment service receives the 15994
results of the criminal records check, it promptly will send a 15995
copy of the results to the home or adult day-care program. If a 15996
home or adult day-care program employs an applicant 15997
conditionally in accordance with this division, the employment 15998
service, upon its receipt of the results of the criminal records 15999
check, promptly shall send a copy of the results to the home or 16000
adult day-care program, and division (C)(2)(b) of this section 16001
applies regarding the conditional employment. 16002

Sec. 3734.44. Notwithstanding the provisions of any law to 16003
the contrary, no permit or license shall be issued or renewed by 16004
the director of environmental protection or a board of health: 16005

(A) Unless the director or the board of health finds that 16006
the applicant, in any prior performance record in the 16007
transportation, transfer, treatment, storage, or disposal of 16008
solid wastes, infectious wastes, or hazardous waste, has 16009
exhibited sufficient reliability, expertise, and competency to 16010
operate the solid waste, infectious waste, or hazardous waste 16011
facility, given the potential for harm to human health and the 16012
environment that could result from the irresponsible operation 16013
of the facility, or, if no prior record exists, that the 16014
applicant is likely to exhibit that reliability, expertise, and 16015
competence; 16016

(B) If any individual or business concern required to be	16017
listed in the disclosure statement or shown to have a beneficial	16018
interest in the business of the applicant or the permittee,	16019
other than an equity interest or debt liability, by the	16020
investigation thereof, has been convicted of any of the	16021
following crimes under the laws of this state or equivalent laws	16022
of any other jurisdiction:	16023
(1) <u>Murder or abortion murder;</u>	16024
(2) Kidnapping;	16025
(3) Gambling;	16026
(4) Robbery;	16027
(5) Bribery;	16028
(6) Extortion;	16029
(7) Criminal usury;	16030
(8) Arson;	16031
(9) Burglary;	16032
(10) Theft and related crimes;	16033
(11) Forgery and fraudulent practices;	16034
(12) Fraud in the offering, sale, or purchase of	16035
securities;	16036
(13) Alteration of motor vehicle identification numbers;	16037
(14) Unlawful manufacture, purchase, use, or transfer of	16038
firearms;	16039
(15) Unlawful possession or use of destructive devices or	16040
explosives;	16041

(16) A violation of section 2925.03, 2925.04, 2925.05, 16042
2925.06, 2925.11, 2925.32, or 2925.37 or Chapter 3719. of the 16043
Revised Code, unless the violation is for possession of less 16044
than one hundred grams of marihuana, less than five grams of 16045
marihuana resin or extraction or preparation of marihuana resin, 16046
or less than one gram of marihuana resin in a liquid 16047
concentrate, liquid extract, or liquid distillate form; 16048

(17) Engaging in a pattern of corrupt activity under 16049
section 2923.32 of the Revised Code; 16050

(18) A violation of the criminal provisions of Chapter 16051
1331. of the Revised Code; 16052

(19) Any violation of the criminal provisions of any 16053
federal or state environmental protection laws, rules, or 16054
regulations that is committed knowingly or recklessly, as 16055
defined in section 2901.22 of the Revised Code; 16056

(20) A violation of any provision of Chapter 2909. of the 16057
Revised Code; 16058

(21) Any offense specified in Chapter 2921. of the Revised 16059
Code. 16060

(C) Notwithstanding division (B) of this section, no 16061
applicant shall be denied the issuance or renewal of a permit or 16062
license on the basis of a conviction of any individual or 16063
business concern required to be listed in the disclosure 16064
statement or shown to have a beneficial interest in the business 16065
of the applicant or the permittee, other than an equity interest 16066
or debt liability, by the investigation thereof for any of the 16067
offenses enumerated in that division as disqualification 16068
criteria if that applicant has affirmatively demonstrated 16069
rehabilitation of the individual or business concern by a 16070

preponderance of the evidence. If any such individual was 16071
convicted of any of the offenses so enumerated that are 16072
felonies, a permit shall be denied unless five years have 16073
elapsed since the individual was fully discharged from 16074
imprisonment and parole for the offense, from a community 16075
control sanction imposed under section 2929.15 of the Revised 16076
Code, from a post-release control sanction imposed under section 16077
2967.28 of the Revised Code for the offense, or imprisonment, 16078
probation, and parole for an offense that was committed prior to 16079
July 1, 1996. In determining whether an applicant has 16080
affirmatively demonstrated rehabilitation, the director or the 16081
board of health shall request a recommendation on the matter 16082
from the attorney general and shall consider and base the 16083
determination on the following factors: 16084

(1) The nature and responsibilities of the position a 16085
convicted individual would hold; 16086

(2) The nature and seriousness of the offense; 16087

(3) The circumstances under which the offense occurred; 16088

(4) The date of the offense; 16089

(5) The age of the individual when the offense was 16090
committed; 16091

(6) Whether the offense was an isolated or repeated 16092
incident; 16093

(7) Any social conditions that may have contributed to the 16094
offense; 16095

(8) Any evidence of rehabilitation, including good conduct 16096
in prison or in the community, counseling or psychiatric 16097
treatment received, acquisition of additional academic or 16098

vocational schooling, successful participation in correctional 16099
work release programs, or the recommendation of persons who have 16100
or have had the applicant under their supervision; 16101

(9) In the instance of an applicant that is a business 16102
concern, rehabilitation shall be established if the applicant 16103
has implemented formal management controls to minimize and 16104
prevent the occurrence of violations and activities that will or 16105
may result in permit or license denial or revocation or if the 16106
applicant has formalized those controls as a result of a 16107
revocation or denial of a permit or license. Those controls may 16108
include, but are not limited to, instituting environmental 16109
auditing programs to help ensure the adequacy of internal 16110
systems to achieve, maintain, and monitor compliance with 16111
applicable environmental laws and standards or instituting an 16112
antitrust compliance auditing program to help ensure full 16113
compliance with applicable antitrust laws. The business concern 16114
shall prove by a preponderance of the evidence that the 16115
management controls are effective in preventing the violations 16116
that are the subject of concern. 16117

(D) Unless the director or the board of health finds that 16118
the applicant has a history of compliance with environmental 16119
laws in this state and other jurisdictions and is presently in 16120
substantial compliance with, or on a legally enforceable 16121
schedule that will result in compliance with, environmental laws 16122
in this state and other jurisdictions; 16123

(E) With respect to the approval of a permit, if the 16124
director determines that current prosecutions or pending charges 16125
in any jurisdiction for any of the offenses enumerated in 16126
division (B) of this section against any individual or business 16127
concern required to be listed in the disclosure statement or 16128

shown by the investigation to have a beneficial interest in the 16129
business of the applicant other than an equity interest or debt 16130
liability are of such magnitude that they prevent making the 16131
finding required under division (A) of this section, provided 16132
that at the request of the applicant or the individual or 16133
business concern charged, the director shall defer decision upon 16134
the application during the pendency of the charge. 16135

Sec. 4715.30. (A) An applicant for or holder of a 16136
certificate or license issued under this chapter is subject to 16137
disciplinary action by the state dental board for any of the 16138
following reasons: 16139

(1) Employing or cooperating in fraud or material 16140
deception in applying for or obtaining a license or certificate; 16141

(2) Obtaining or attempting to obtain money or anything of 16142
value by intentional misrepresentation or material deception in 16143
the course of practice; 16144

(3) Advertising services in a false or misleading manner 16145
or violating the board's rules governing time, place, and manner 16146
of advertising; 16147

(4) Commission of an act that constitutes a felony in this 16148
state, regardless of the jurisdiction in which the act was 16149
committed; 16150

(5) Commission of an act in the course of practice that 16151
constitutes a misdemeanor in this state, regardless of the 16152
jurisdiction in which the act was committed; 16153

(6) Conviction of, a plea of guilty to, a judicial finding 16154
of guilt of, a judicial finding of guilt resulting from a plea 16155
of no contest to, or a judicial finding of eligibility for 16156
intervention in lieu of conviction for, any felony or of a 16157

misdemeanor committed in the course of practice;	16158
(7) Engaging in lewd or immoral conduct in connection with the provision of dental services;	16159 16160
(8) Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes, or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a violation of any federal or state law regulating the possession, distribution, or use of any drug;	16161 16162 16163 16164 16165 16166 16167 16168
(9) Providing or allowing dental hygienists, expanded function dental auxiliaries, or other practitioners of auxiliary dental occupations working under the certificate or license holder's supervision, or a dentist holding a temporary limited continuing education license under division (C) of section 4715.16 of the Revised Code working under the certificate or license holder's direct supervision, to provide dental care that departs from or fails to conform to accepted standards for the profession, whether or not injury to a patient results;	16169 16170 16171 16172 16173 16174 16175 16176 16177
(10) Inability to practice under accepted standards of the profession because of physical or mental disability, dependence on alcohol or other drugs, or excessive use of alcohol or other drugs;	16178 16179 16180 16181
(11) Violation of any provision of this chapter or any rule adopted thereunder;	16182 16183
(12) Failure to use universal blood and body fluid precautions established by rules adopted under section 4715.03 of the Revised Code;	16184 16185 16186

- (13) Except as provided in division (H) of this section, 16187
either of the following: 16188
- (a) Waiving the payment of all or any part of a deductible 16189
or copayment that a patient, pursuant to a health insurance or 16190
health care policy, contract, or plan that covers dental 16191
services, would otherwise be required to pay if the waiver is 16192
used as an enticement to a patient or group of patients to 16193
receive health care services from that certificate or license 16194
holder; 16195
- (b) Advertising that the certificate or license holder 16196
will waive the payment of all or any part of a deductible or 16197
copayment that a patient, pursuant to a health insurance or 16198
health care policy, contract, or plan that covers dental 16199
services, would otherwise be required to pay. 16200
- (14) Failure to comply with section 4715.302 or 4729.79 of 16201
the Revised Code, unless the state board of pharmacy no longer 16202
maintains a drug database pursuant to section 4729.75 of the 16203
Revised Code; 16204
- (15) Any of the following actions taken by an agency 16205
responsible for authorizing, certifying, or regulating an 16206
individual to practice a health care occupation or provide 16207
health care services in this state or another jurisdiction, for 16208
any reason other than the nonpayment of fees: the limitation, 16209
revocation, or suspension of an individual's license to 16210
practice; acceptance of an individual's license surrender; 16211
denial of a license; refusal to renew or reinstate a license; 16212
imposition of probation; or issuance of an order of censure or 16213
other reprimand; 16214
- (16) Failure to cooperate in an investigation conducted by 16215

the board under division (D) of section 4715.03 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(17) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code.

(B) A manager, proprietor, operator, or conductor of a dental facility shall be subject to disciplinary action if any dentist, dental hygienist, expanded function dental auxiliary, or qualified personnel providing services in the facility is found to have committed a violation listed in division (A) of this section and the manager, proprietor, operator, or conductor knew of the violation and permitted it to occur on a recurring basis.

(C) Subject to Chapter 119. of the Revised Code, the board may take one or more of the following disciplinary actions if one or more of the grounds for discipline listed in divisions (A) and (B) of this section exist:

(1) Censure the license or certificate holder;

(2) Place the license or certificate on probationary status for such period of time the board determines necessary and require the holder to:

(a) Report regularly to the board upon the matters which are the basis of probation;	16245 16246
(b) Limit practice to those areas specified by the board;	16247
(c) Continue or renew professional education until a satisfactory degree of knowledge or clinical competency has been attained in specified areas.	16248 16249 16250
(3) Suspend the certificate or license;	16251
(4) Revoke the certificate or license.	16252
Where the board places a holder of a license or certificate on probationary status pursuant to division (C) (2) of this section, the board may subsequently suspend or revoke the license or certificate if it determines that the holder has not met the requirements of the probation or continues to engage in activities that constitute grounds for discipline pursuant to division (A) or (B) of this section.	16253 16254 16255 16256 16257 16258 16259
Any order suspending a license or certificate shall state the conditions under which the license or certificate will be restored, which may include a conditional restoration during which time the holder is in a probationary status pursuant to division (C) (2) of this section. The board shall restore the license or certificate unconditionally when such conditions are met.	16260 16261 16262 16263 16264 16265 16266
(D) If the physical or mental condition of an applicant or a license or certificate holder is at issue in a disciplinary proceeding, the board may order the license or certificate holder to submit to reasonable examinations by an individual designated or approved by the board and at the board's expense. The physical examination may be conducted by any individual authorized by the Revised Code to do so, including a physician	16267 16268 16269 16270 16271 16272 16273

assistant, a clinical nurse specialist, a certified nurse 16274
practitioner, or a certified nurse-midwife. Any written 16275
documentation of the physical examination shall be completed by 16276
the individual who conducted the examination. 16277

Failure to comply with an order for an examination shall 16278
be grounds for refusal of a license or certificate or summary 16279
suspension of a license or certificate under division (E) of 16280
this section. 16281

(E) If a license or certificate holder has failed to 16282
comply with an order under division (D) of this section, the 16283
board may apply to the court of common pleas of the county in 16284
which the holder resides for an order temporarily suspending the 16285
holder's license or certificate, without a prior hearing being 16286
afforded by the board, until the board conducts an adjudication 16287
hearing pursuant to Chapter 119. of the Revised Code. If the 16288
court temporarily suspends a holder's license or certificate, 16289
the board shall give written notice of the suspension personally 16290
or by certified mail to the license or certificate holder. Such 16291
notice shall inform the license or certificate holder of the 16292
right to a hearing pursuant to Chapter 119. of the Revised Code. 16293

(F) Any holder of a certificate or license issued under 16294
this chapter who has pleaded guilty to, has been convicted of, 16295
or has had a judicial finding of eligibility for intervention in 16296
lieu of conviction entered against the holder in this state for 16297
aggravated murder, murder, aggravated abortion murder, abortion 16298
murder, voluntary manslaughter, felonious assault, kidnapping, 16299
rape, sexual battery, gross sexual imposition, aggravated arson, 16300
aggravated robbery, or aggravated burglary, or who has pleaded 16301
guilty to, has been convicted of, or has had a judicial finding 16302
of eligibility for treatment or intervention in lieu of 16303

conviction entered against the holder in another jurisdiction 16304
for any substantially equivalent criminal offense, is 16305
automatically suspended from practice under this chapter in this 16306
state and any certificate or license issued to the holder under 16307
this chapter is automatically suspended, as of the date of the 16308
guilty plea, conviction, or judicial finding, whether the 16309
proceedings are brought in this state or another jurisdiction. 16310
Continued practice by an individual after the suspension of the 16311
individual's certificate or license under this division shall be 16312
considered practicing without a certificate or license. The 16313
board shall notify the suspended individual of the suspension of 16314
the individual's certificate or license under this division by 16315
certified mail or in person in accordance with section 119.07 of 16316
the Revised Code. If an individual whose certificate or license 16317
is suspended under this division fails to make a timely request 16318
for an adjudicatory hearing, the board shall enter a final order 16319
revoking the individual's certificate or license. 16320

(G) If the supervisory investigative panel determines both 16321
of the following, the panel may recommend that the board suspend 16322
an individual's certificate or license without a prior hearing: 16323

(1) That there is clear and convincing evidence that an 16324
individual has violated division (A) of this section; 16325

(2) That the individual's continued practice presents a 16326
danger of immediate and serious harm to the public. 16327

Written allegations shall be prepared for consideration by 16328
the board. The board, upon review of those allegations and by an 16329
affirmative vote of not fewer than four dentist members of the 16330
board and seven of its members in total, excluding any member on 16331
the supervisory investigative panel, may suspend a certificate 16332
or license without a prior hearing. A telephone conference call 16333

may be utilized for reviewing the allegations and taking the 16334
vote on the summary suspension. 16335

The board shall issue a written order of suspension by 16336
certified mail or in person in accordance with section 119.07 of 16337
the Revised Code. The order shall not be subject to suspension 16338
by the court during pendency or any appeal filed under section 16339
119.12 of the Revised Code. If the individual subject to the 16340
summary suspension requests an adjudicatory hearing by the 16341
board, the date set for the hearing shall be within fifteen 16342
days, but not earlier than seven days, after the individual 16343
requests the hearing, unless otherwise agreed to by both the 16344
board and the individual. 16345

Any summary suspension imposed under this division shall 16346
remain in effect, unless reversed on appeal, until a final 16347
adjudicative order issued by the board pursuant to this section 16348
and Chapter 119. of the Revised Code becomes effective. The 16349
board shall issue its final adjudicative order within seventy- 16350
five days after completion of its hearing. A failure to issue 16351
the order within seventy-five days shall result in dissolution 16352
of the summary suspension order but shall not invalidate any 16353
subsequent, final adjudicative order. 16354

(H) Sanctions shall not be imposed under division (A) (13) 16355
of this section against any certificate or license holder who 16356
waives deductibles and copayments as follows: 16357

(1) In compliance with the health benefit plan that 16358
expressly allows such a practice. Waiver of the deductibles or 16359
copayments shall be made only with the full knowledge and 16360
consent of the plan purchaser, payer, and third-party 16361
administrator. Documentation of the consent shall be made 16362
available to the board upon request. 16363

(2) For professional services rendered to any other person 16364
who holds a certificate or license issued pursuant to this 16365
chapter to the extent allowed by this chapter and the rules of 16366
the board. 16367

(I) In no event shall the board consider or raise during a 16368
hearing required by Chapter 119. of the Revised Code the 16369
circumstances of, or the fact that the board has received, one 16370
or more complaints about a person unless the one or more 16371
complaints are the subject of the hearing or resulted in the 16372
board taking an action authorized by this section against the 16373
person on a prior occasion. 16374

(J) The board may share any information it receives 16375
pursuant to an investigation under division (D) of section 16376
4715.03 of the Revised Code, including patient records and 16377
patient record information, with law enforcement agencies, other 16378
licensing boards, and other governmental agencies that are 16379
prosecuting, adjudicating, or investigating alleged violations 16380
of statutes or administrative rules. An agency or board that 16381
receives the information shall comply with the same requirements 16382
regarding confidentiality as those with which the state dental 16383
board must comply, notwithstanding any conflicting provision of 16384
the Revised Code or procedure of the agency or board that 16385
applies when it is dealing with other information in its 16386
possession. In a judicial proceeding, the information may be 16387
admitted into evidence only in accordance with the Rules of 16388
Evidence, but the court shall require that appropriate measures 16389
are taken to ensure that confidentiality is maintained with 16390
respect to any part of the information that contains names or 16391
other identifying information about patients or complainants 16392
whose confidentiality was protected by the state dental board 16393
when the information was in the board's possession. Measures to 16394

ensure confidentiality that may be taken by the court include 16395
sealing its records or deleting specific information from its 16396
records. 16397

Sec. 4717.05. (A) Any person who desires to be licensed as 16398
an embalmer shall apply to the board of embalmers and funeral 16399
directors on a form provided by the board. The applicant shall 16400
include with the application an initial license fee as set forth 16401
in section 4717.07 of the Revised Code and evidence, verified by 16402
oath and satisfactory to the board, that the applicant meets all 16403
of the following requirements: 16404

(1) The applicant is at least eighteen years of age and of 16405
good moral character. 16406

(2) If the applicant has pleaded guilty to, has been found 16407
by a judge or jury to be guilty of, or has had a judicial 16408
finding of eligibility for treatment in lieu of conviction 16409
entered against the applicant in this state for aggravated 16410
murder, murder, aggravated abortion murder, abortion murder, 16411
voluntary manslaughter, felonious assault, kidnapping, rape, 16412
sexual battery, gross sexual imposition, aggravated arson, 16413
aggravated robbery, or aggravated burglary, or has pleaded 16414
guilty to, has been found by a judge or jury to be guilty of, or 16415
has had a judicial finding of eligibility for treatment in lieu 16416
of conviction entered against the applicant in another 16417
jurisdiction for a substantially equivalent offense, at least 16418
five years has elapsed since the applicant was released from 16419
incarceration, a community control sanction, a post-release 16420
control sanction, parole, or treatment in connection with the 16421
offense. 16422

(3) The applicant holds at least a bachelor's degree from 16423
a college or university authorized to confer degrees by the 16424

department of higher education or the comparable legal agency of 16425
another state in which the college or university is located and 16426
submits an official transcript from that college or university 16427
with the application. 16428

(4) The applicant has satisfactorily completed at least 16429
twelve months of instruction in a prescribed course in mortuary 16430
science as approved by the board and has presented to the board 16431
a certificate showing successful completion of the course. The 16432
course of mortuary science college training may be completed 16433
either before or after the completion of the educational 16434
standard set forth in division (A) (3) of this section. 16435

(5) The applicant has registered with the board prior to 16436
beginning an embalmer apprenticeship. 16437

(6) The applicant has satisfactorily completed at least 16438
one year of apprenticeship under an embalmer licensed in this 16439
state and has participated in embalming at least twenty-five 16440
dead human bodies. 16441

(7) The applicant, upon meeting the educational standards 16442
provided for in divisions (A) (3) and (4) of this section and 16443
completing the apprenticeship required in division (A) (6) of 16444
this section, has completed the examination for an embalmer's 16445
license required by the board. 16446

(B) Upon receiving satisfactory evidence verified by oath 16447
that the applicant meets all the requirements of division (A) of 16448
this section, the board shall issue the applicant an embalmer's 16449
license. 16450

(C) Any person who desires to be licensed as a funeral 16451
director shall apply to the board on a form prescribed by the 16452
board. The application shall include an initial license fee as 16453

set forth in section 4717.07 of the Revised Code and evidence, 16454
verified by oath and satisfactory to the board, that the 16455
applicant meets all of the following requirements: 16456

(1) Except as otherwise provided in division (D) of this 16457
section, the applicant has satisfactorily met all the 16458
requirements for an embalmer's license as described in divisions 16459
(A) (1) to (4) of this section. 16460

(2) The applicant has registered with the board prior to 16461
beginning a funeral director apprenticeship. 16462

(3) The applicant, following mortuary science college 16463
training described in division (A) (4) of this section, has 16464
satisfactorily completed a one-year apprenticeship under a 16465
licensed funeral director in this state and has participated in 16466
directing at least twenty-five funerals. 16467

(4) The applicant has satisfactorily completed the 16468
examination for a funeral director's license as required by the 16469
board. 16470

(D) In lieu of mortuary science college training required 16471
for a funeral director's license under division (C) (1) of this 16472
section, the applicant may substitute a satisfactorily completed 16473
two-year apprenticeship under a licensed funeral director in 16474
this state assisting that person in directing at least fifty 16475
funerals. 16476

(E) Upon receiving satisfactory evidence that the 16477
applicant meets all the requirements of division (C) of this 16478
section, the board shall issue to the applicant a funeral 16479
director's license. 16480

(F) A funeral director or embalmer may request the funeral 16481
director's or embalmer's license be placed on inactive status by 16482

submitting to the board a form prescribed by the board and such 16483
other information as the board may request. A funeral director 16484
or embalmer may not place the funeral director's or embalmer's 16485
license on inactive status unless the funeral director or 16486
embalmer is in good standing with the board and is in compliance 16487
with applicable continuing education requirements. A funeral 16488
director or embalmer who is granted inactive status is 16489
prohibited from participating in any activity for which a 16490
funeral director's or embalmer's license is required in this 16491
state. A funeral director or embalmer who has been granted 16492
inactive status is exempt from the continuing education 16493
requirements under section 4717.09 of the Revised Code during 16494
the period of the inactive status. 16495

(G) A funeral director or embalmer who has been granted 16496
inactive status may not return to active status for at least two 16497
years following the date that the inactive status was granted. 16498
Following a period of at least two years of inactive status, the 16499
funeral director or embalmer may apply to return to active 16500
status upon completion of all of the following conditions: 16501

(1) The funeral director or embalmer files with the board 16502
a form prescribed by the board seeking active status and 16503
provides any other information as the board may request; 16504

(2) The funeral director or embalmer takes and passes the 16505
Ohio laws examination for each license being activated; 16506

(3) The funeral director or embalmer pays a reactivation 16507
fee to the board in the amount of one hundred forty dollars for 16508
each license being reactivated. 16509

(H) As used in this section: 16510

(1) "Community control sanction" has the same meaning as 16511

in section 2929.01 of the Revised Code. 16512

(2) "Post-release control sanction" has the same meaning 16513
as in section 2967.01 of the Revised Code. 16514

Sec. 4717.051. (A) Any person who desires to obtain a 16515
permit as a crematory operator shall apply to the board of 16516
embalmers and funeral directors on a form prescribed by the 16517
board. The applicant shall include with the application the 16518
initial permit fee set forth in section 4717.07 of the Revised 16519
Code and evidence, verified under oath and satisfactory to the 16520
board, that the applicant satisfies all of the following 16521
requirements: 16522

(1) The applicant is at least eighteen years of age and of 16523
good moral character. 16524

(2) If the applicant has pleaded guilty to, or has been 16525
found by a judge or jury to be guilty of, or has had judicial 16526
finding of eligibility for treatment in lieu of conviction 16527
entered against the applicant in this state for aggravated 16528
murder, murder, aggravated abortion murder, abortion murder, 16529
voluntary manslaughter, felonious assault, kidnapping, rape, 16530
sexual battery, gross sexual imposition, aggravated arson, 16531
aggravated robbery, or aggravated burglary, or has pleaded 16532
guilty to, has been found by a judge or jury to be guilty of, or 16533
has had judicial finding of eligibility for treatment in lieu of 16534
conviction entered against the applicant in another jurisdiction 16535
for a substantially equivalent offense, at least five years has 16536
elapsed since the applicant was released from incarceration, a 16537
community control sanction, a post-release control sanction, 16538
parole, or treatment in connection with the offense. 16539

(3) The applicant has satisfactorily completed a crematory 16540

operation certification program approved by the board and has 16541
presented to the board a certificate showing completion of the 16542
program. 16543

(B) If the board of embalmers and funeral directors, upon 16544
receiving satisfactory evidence, determines that the applicant 16545
satisfies all of the requirements of division (A) of this 16546
section, the board shall issue to the applicant a permit as a 16547
crematory operator. 16548

(C) The board of embalmers and funeral directors may 16549
revoke or suspend a crematory operator permit or subject a 16550
crematory operator permit holder to discipline in accordance 16551
with the laws, rules, and procedures applicable to licensees 16552
under this chapter. 16553

Sec. 4717.14. (A) The board of embalmers and funeral 16554
directors may refuse to grant or renew, or may suspend or 16555
revoke, any license or permit issued under this chapter or may 16556
require the holder of a license or permit to take corrective 16557
action courses for any of the following reasons: 16558

(1) The holder of a license or permit obtained the license 16559
or permit by fraud or misrepresentation either in the 16560
application or in passing the examination. 16561

(2) The applicant, licensee, or permit holder has been 16562
convicted of or has pleaded guilty to a felony or of any crime 16563
involving moral turpitude. 16564

(3) The applicant, licensee, or permit holder has 16565
recklessly violated any provision of sections 4717.01 to 4717.15 16566
or a rule adopted under any of those sections; division (A) or 16567
(B) of section 4717.23; division (B) (1) or (2), (C) (1) or (2), 16568
(D), (E), or (F) (1) or (2), or divisions (H) to (K) of section 16569

4717.26; division (D) (1) of section 4717.27; or divisions (A) to 16570
(C) of section 4717.28 of the Revised Code; or any provisions of 16571
sections 4717.31 to 4717.38 of the Revised Code; any rule or 16572
order of the department of health or a board of health of a 16573
health district governing the disposition of dead human bodies; 16574
or any other rule or order applicable to the applicant or 16575
licensee. 16576

(4) The applicant, licensee, or permit holder has 16577
committed immoral or unprofessional conduct. 16578

(5) The applicant or licensee knowingly permitted an 16579
unlicensed person, other than a person serving an 16580
apprenticeship, to engage in the profession or business of 16581
embalming or funeral directing under the applicant's or 16582
licensee's supervision. 16583

(6) The applicant, licensee, or permit holder has been 16584
habitually intoxicated, or is addicted to the use of morphine, 16585
cocaine, or other habit-forming or illegal drugs. 16586

(7) The applicant, licensee, or permit holder has refused 16587
to promptly submit the custody of a dead human body or cremated 16588
remains upon the express order of the person legally entitled to 16589
the body or cremated remains. 16590

(8) The licensee or permit holder loaned the licensee's 16591
own license or the permit holder's own permit, or the applicant, 16592
licensee, or permit holder borrowed or used the license or 16593
permit of another person, or knowingly aided or abetted the 16594
granting of an improper license or permit. 16595

(9) The applicant, licensee, or permit holder misled the 16596
public by using false or deceptive advertising. As used in this 16597
division, "false and deceptive advertising" includes, but is not 16598

limited to, any of the following: 16599

(a) Using the names of persons who are not licensed to 16600
practice funeral directing in a way that leads the public to 16601
believe that such persons are engaging in funeral directing; 16602

(b) Using any name for the funeral home other than the 16603
name under which the funeral home is licensed; 16604

(c) Using in the funeral home's name the surname of an 16605
individual who is not directly, actively, or presently 16606
associated with the funeral home, unless such surname has been 16607
previously and continuously used by the funeral home. 16608

(B) (1) The board of embalmers and funeral directors shall 16609
refuse to grant or renew, or shall suspend or revoke a license 16610
or permit only in accordance with Chapter 119. of the Revised 16611
Code. 16612

(2) The board shall send to the crematory review board 16613
written notice that it proposes to refuse to issue or renew, or 16614
proposes to suspend or revoke, a license to operate a crematory 16615
facility. If, after the conclusion of the adjudicatory hearing 16616
on the matter conducted under division (F) of section 4717.03 of 16617
the Revised Code, the board of embalmers and funeral directors 16618
finds that any of the circumstances described in divisions (A) 16619
(1) to (9) of this section apply to the person named in its 16620
proposed action, the board may issue a final order under 16621
division (F) of section 4717.03 of the Revised Code refusing to 16622
issue or renew, or suspending or revoking, the person's license 16623
to operate a crematory facility. 16624

(C) If the board of embalmers and funeral directors 16625
determines that there is clear and convincing evidence that any 16626
of the circumstances described in divisions (A) (1) to (9) of 16627

this section apply to the holder of a license or permit issued 16628
under this chapter and that the licensee's or permit holder's 16629
continued practice presents a danger of immediate and serious 16630
harm to the public, the board may suspend the licensee's license 16631
or permit holder's permit without a prior adjudicatory hearing. 16632
The executive director of the board shall prepare written 16633
allegations for consideration by the board. 16634

The board, after reviewing the written allegations, may 16635
suspend a license or permit without a prior hearing. 16636

Notwithstanding section 121.22 of the Revised Code, the 16637
board may suspend a license or permit under this division by 16638
utilizing a telephone conference call to review the allegations 16639
and to take a vote. 16640

The board shall issue a written order of suspension by a 16641
delivery system or in person in accordance with section 119.07 16642
of the Revised Code. Such an order is not subject to suspension 16643
by the court during the pendency of any appeal filed under 16644
section 119.12 of the Revised Code. If the licensee or permit 16645
holder requests an adjudicatory hearing by the board, the date 16646
set for the hearing shall be within fifteen days, but not 16647
earlier than seven days, after the licensee or permit holder has 16648
requested a hearing, unless the board and the licensee or permit 16649
holder agree to a different time for holding the hearing. 16650

Upon issuing a written order of suspension to the holder 16651
of a license to operate a crematory facility, the board of 16652
embalmers and funeral directors shall send written notice of the 16653
issuance of the order to the crematory review board. The 16654
crematory review board shall hold an adjudicatory hearing on the 16655
order under division (F) of section 4717.03 of the Revised Code 16656
within fifteen days, but not earlier than seven days, after the 16657

issuance of the order, unless the crematory review board and the licensee agree to a different time for holding the adjudicatory hearing. 16658
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Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicatory order issued by the board of embalmers and funeral directors pursuant to this division and Chapter 119. of the Revised Code, or division (F) of section 4717.03 of the Revised Code, as applicable, becomes effective. The board of embalmers and funeral directors shall issue its final adjudicatory order within sixty days after the completion of its hearing or, in the case of the summary suspension of a license to operate a crematory facility, within sixty days after completion of the adjudicatory hearing by the crematory review board. A failure to issue the order within that time results in the dissolution of the summary suspension order, but does not invalidate any subsequent final adjudicatory order. 16661
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(D) If the board of embalmers and funeral directors suspends or revokes a funeral director's license or a license to operate a funeral home for any reason identified in division (A) of this section, the board may file a complaint with the court of common pleas in the county where the violation occurred requesting appointment of a receiver and the sequestration of the assets of the funeral home that held the suspended or revoked license or the licensed funeral home that employs the funeral director that held the suspended or revoked license. If the court of common pleas is satisfied with the application for a receivership, the court may appoint a receiver. 16675
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The board or a receiver may employ and procure whatever assistance or advice is necessary in the receivership or 16686
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liquidation and distribution of the assets of the funeral home, 16688
and, for that purpose, may retain officers or employees of the 16689
funeral home as needed. All expenses of the receivership or 16690
liquidation shall be paid from the assets of the funeral home 16691
and shall be a lien on those assets, and that lien shall be a 16692
priority to any other lien. 16693

(E) Any holder of a license or permit issued under this 16694
chapter who has pleaded guilty to, has been found by a judge or 16695
jury to be guilty of, or has had a judicial finding of 16696
eligibility for treatment in lieu of conviction entered against 16697
the individual in this state for aggravated murder, murder, 16698
aggravated abortion murder, abortion murder, voluntary 16699
manslaughter, felonious assault, kidnapping, rape, sexual 16700
battery, gross sexual imposition, aggravated arson, aggravated 16701
robbery, or aggravated burglary, or who has pleaded guilty to, 16702
has been found by a judge or jury to be guilty of, or has had a 16703
judicial finding of eligibility for treatment in lieu of 16704
conviction entered against the individual in another 16705
jurisdiction for any substantially equivalent criminal offense, 16706
is hereby suspended from practice under this chapter by 16707
operation of law, and any license or permit issued to the 16708
individual under this chapter is hereby suspended by operation 16709
of law as of the date of the guilty plea, verdict or finding of 16710
guilt, or judicial finding of eligibility for treatment in lieu 16711
of conviction, regardless of whether the proceedings are brought 16712
in this state or another jurisdiction. The board shall notify 16713
the suspended individual of the suspension of the individual's 16714
license or permit by the operation of this division by a 16715
delivery system or in person in accordance with section 119.07 16716
of the Revised Code. If an individual whose license or permit is 16717
suspended under this division fails to make a timely request for 16718

an adjudicatory hearing, the board shall enter a final order 16719
revoking the license. 16720

(F) No person whose license or permit has been suspended 16721
or revoked under or by the operation of this section shall 16722
knowingly practice embalming, funeral directing, or cremation, 16723
or operate a funeral home, embalming facility, or crematory 16724
facility until the board has reinstated the person's license or 16725
permit. 16726

Sec. 4723.092. An individual is ineligible for licensure 16727
under section 4723.09 of the Revised Code or issuance of a 16728
certificate under section 4723.651, 4723.75, 4723.76, or 4723.85 16729
of the Revised Code if a criminal records check conducted in 16730
accordance with section 4723.091 of the Revised Code indicates 16731
that the individual has been convicted of, pleaded guilty to, or 16732
had a judicial finding of guilt for either of the following: 16733

(A) Violating section 2903.01, 2903.02, 2903.03, 2903.11, 16734
2904.03, 2904.04, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 16735
2911.01, or 2911.11 of the Revised Code; 16736

(B) Violating a law of another state, the United States, 16737
or another country that is substantially similar to a law 16738
described in division (A) of this section. 16739

Sec. 4723.281. (A) As used in this section, with regard to 16740
offenses committed in Ohio, "aggravated murder," "murder," 16741
"aggravated abortion murder," "abortion murder," "voluntary 16742
manslaughter," "felonious assault," "kidnapping," "rape," 16743
"sexual battery," "gross sexual imposition," "aggravated arson," 16744
"aggravated robbery," and "aggravated burglary" mean such 16745
offenses as defined in Title XXIX of the Revised Code; with 16746
regard to offenses committed in other jurisdictions, the terms 16747

mean offenses comparable to offenses defined in Title XXIX of 16748
the Revised Code. 16749

(B) When there is clear and convincing evidence that 16750
continued practice by an individual licensed under this chapter 16751
presents a danger of immediate and serious harm to the public, 16752
as determined on consideration of the evidence by the president 16753
and the executive director of the board of nursing, the 16754
president and director shall impose on the individual a summary 16755
suspension without a hearing. An individual serving as president 16756
or executive director in the absence of the president or 16757
executive director may take any action that this section 16758
requires or authorizes the president or executive director to 16759
take. 16760

Immediately following the decision to impose a summary 16761
suspension, the board shall issue a written order of suspension 16762
and cause it to be delivered by certified mail or in person in 16763
accordance with section 119.07 of the Revised Code. The order 16764
shall not be subject to suspension by the court during the 16765
pendency of any appeal filed under section 119.12 of the Revised 16766
Code. If the individual subject to the suspension requests an 16767
adjudication, the date set for the adjudication shall be within 16768
fifteen days but not earlier than seven days after the 16769
individual makes the request, unless another date is agreed to 16770
by both the individual and the board. The summary suspension 16771
shall remain in effect, unless reversed by the board, until a 16772
final adjudication order issued by the board pursuant to this 16773
section and Chapter 119. of the Revised Code becomes effective. 16774

The board shall issue its final adjudication order within 16775
ninety days after completion of the adjudication. If the board 16776
does not issue a final order within the ninety-day period, the 16777

summary suspension shall be void, but any final adjudication 16778
order issued subsequent to the ninety-day period shall not be 16779
affected. 16780

(C) The license or certificate issued to an individual 16781
under this chapter is automatically suspended on that 16782
individual's conviction of, plea of guilty to, or judicial 16783
finding with regard to any of the following: aggravated murder, 16784
murder, aggravated abortion murder, abortion murder, voluntary 16785
manslaughter, felonious assault, kidnapping, rape, sexual 16786
battery, gross sexual imposition, aggravated arson, aggravated 16787
robbery, or aggravated burglary. The suspension shall remain in 16788
effect from the date of the conviction, plea, or finding until 16789
an adjudication is held under Chapter 119. of the Revised Code. 16790
If the board has knowledge that an automatic suspension has 16791
occurred, it shall notify the individual subject to the 16792
suspension. If the individual is notified and either fails to 16793
request an adjudication within the time periods established by 16794
Chapter 119. of the Revised Code or fails to participate in the 16795
adjudication, the board shall enter a final order permanently 16796
revoking the person's license or certificate. 16797

Sec. 4730.25. (A) The state medical board, by an 16798
affirmative vote of not fewer than six members, may revoke or 16799
may refuse to grant a license to practice as a physician 16800
assistant to a person found by the board to have committed 16801
fraud, misrepresentation, or deception in applying for or 16802
securing the license. 16803

(B) The board, by an affirmative vote of not fewer than 16804
six members, shall, to the extent permitted by law, limit, 16805
revoke, or suspend an individual's license to practice as a 16806
physician assistant or prescriber number, refuse to issue a 16807

license to an applicant, refuse to renew a ~~certificate~~ license, 16808
refuse to reinstate a license, or reprimand or place on 16809
probation the holder of a license for any of the following 16810
reasons: 16811

(1) Failure to practice in accordance with the supervising 16812
physician's supervision agreement with the physician assistant, 16813
including, if applicable, the policies of the health care 16814
facility in which the supervising physician and physician 16815
assistant are practicing; 16816

(2) Failure to comply with the requirements of this 16817
chapter, Chapter 4731. of the Revised Code, or any rules adopted 16818
by the board; 16819

(3) Violating or attempting to violate, directly or 16820
indirectly, or assisting in or abetting the violation of, or 16821
conspiring to violate, any provision of this chapter, Chapter 16822
4731. of the Revised Code, or the rules adopted by the board; 16823

(4) Inability to practice according to acceptable and 16824
prevailing standards of care by reason of mental illness or 16825
physical illness, including physical deterioration that 16826
adversely affects cognitive, motor, or perceptive skills; 16827

(5) Impairment of ability to practice according to 16828
acceptable and prevailing standards of care because of habitual 16829
or excessive use or abuse of drugs, alcohol, or other substances 16830
that impair ability to practice; 16831

(6) Administering drugs for purposes other than those 16832
authorized under this chapter; 16833

(7) Willfully betraying a professional confidence; 16834

(8) Making a false, fraudulent, deceptive, or misleading 16835

statement in soliciting or advertising for employment as a 16836
physician assistant; in connection with any solicitation or 16837
advertisement for patients; in relation to the practice of 16838
medicine as it pertains to physician assistants; or in securing 16839
or attempting to secure a license to practice as a physician 16840
assistant. 16841

As used in this division, "false, fraudulent, deceptive, 16842
or misleading statement" means a statement that includes a 16843
misrepresentation of fact, is likely to mislead or deceive 16844
because of a failure to disclose material facts, is intended or 16845
is likely to create false or unjustified expectations of 16846
favorable results, or includes representations or implications 16847
that in reasonable probability will cause an ordinarily prudent 16848
person to misunderstand or be deceived. 16849

(9) Representing, with the purpose of obtaining 16850
compensation or other advantage personally or for any other 16851
person, that an incurable disease or injury, or other incurable 16852
condition, can be permanently cured; 16853

(10) The obtaining of, or attempting to obtain, money or 16854
anything of value by fraudulent misrepresentations in the course 16855
of practice; 16856

(11) A plea of guilty to, a judicial finding of guilt of, 16857
or a judicial finding of eligibility for intervention in lieu of 16858
conviction for, a felony; 16859

(12) Commission of an act that constitutes a felony in 16860
this state, regardless of the jurisdiction in which the act was 16861
committed; 16862

(13) A plea of guilty to, a judicial finding of guilt of, 16863
or a judicial finding of eligibility for intervention in lieu of 16864

conviction for, a misdemeanor committed in the course of 16865
practice; 16866

(14) A plea of guilty to, a judicial finding of guilt of, 16867
or a judicial finding of eligibility for intervention in lieu of 16868
conviction for, a misdemeanor involving moral turpitude; 16869

(15) Commission of an act in the course of practice that 16870
constitutes a misdemeanor in this state, regardless of the 16871
jurisdiction in which the act was committed; 16872

(16) Commission of an act involving moral turpitude that 16873
constitutes a misdemeanor in this state, regardless of the 16874
jurisdiction in which the act was committed; 16875

(17) A plea of guilty to, a judicial finding of guilt of, 16876
or a judicial finding of eligibility for intervention in lieu of 16877
conviction for violating any state or federal law regulating the 16878
possession, distribution, or use of any drug, including 16879
trafficking in drugs; 16880

(18) Any of the following actions taken by the state 16881
agency responsible for regulating the practice of physician 16882
assistants in another state, for any reason other than the 16883
nonpayment of fees: the limitation, revocation, or suspension of 16884
an individual's license to practice; acceptance of an 16885
individual's license surrender; denial of a license; refusal to 16886
renew or reinstate a license; imposition of probation; or 16887
issuance of an order of censure or other reprimand; 16888

(19) A departure from, or failure to conform to, minimal 16889
standards of care of similar physician assistants under the same 16890
or similar circumstances, regardless of whether actual injury to 16891
a patient is established; 16892

(20) Violation of the conditions placed by the board on a 16893

license to practice as a physician assistant;	16894
(21) Failure to use universal blood and body fluid	16895
precautions established by rules adopted under section 4731.051	16896
of the Revised Code;	16897
(22) Failure to cooperate in an investigation conducted by	16898
the board under section 4730.26 of the Revised Code, including	16899
failure to comply with a subpoena or order issued by the board	16900
or failure to answer truthfully a question presented by the	16901
board at a deposition or in written interrogatories, except that	16902
failure to cooperate with an investigation shall not constitute	16903
grounds for discipline under this section if a court of	16904
competent jurisdiction has issued an order that either quashes a	16905
subpoena or permits the individual to withhold the testimony or	16906
evidence in issue;	16907
(23) Assisting suicide, as defined in section 3795.01 of	16908
the Revised Code;	16909
(24) Prescribing any drug or device to perform or induce	16910
an abortion, or otherwise performing or inducing an abortion;	16911
(25) Failure to comply with section 4730.53 of the Revised	16912
Code, unless the board no longer maintains a drug database	16913
pursuant to section 4729.75 of the Revised Code;	16914
(26) Failure to comply with the requirements in section	16915
3719.061 of the Revised Code before issuing for a minor a	16916
prescription for an opioid analgesic, as defined in section	16917
3719.01 of the Revised Code;	16918
(27) Having certification by the national commission on	16919
certification of physician assistants or a successor	16920
organization expire, lapse, or be suspended or revoked;	16921

(28) The revocation, suspension, restriction, reduction, 16922
or termination of clinical privileges by the United States 16923
department of defense or department of veterans affairs or the 16924
termination or suspension of a certificate of registration to 16925
prescribe drugs by the drug enforcement administration of the 16926
United States department of justice. 16927

(C) Disciplinary actions taken by the board under 16928
divisions (A) and (B) of this section shall be taken pursuant to 16929
an adjudication under Chapter 119. of the Revised Code, except 16930
that in lieu of an adjudication, the board may enter into a 16931
consent agreement with a physician assistant or applicant to 16932
resolve an allegation of a violation of this chapter or any rule 16933
adopted under it. A consent agreement, when ratified by an 16934
affirmative vote of not fewer than six members of the board, 16935
shall constitute the findings and order of the board with 16936
respect to the matter addressed in the agreement. If the board 16937
refuses to ratify a consent agreement, the admissions and 16938
findings contained in the consent agreement shall be of no force 16939
or effect. 16940

(D) For purposes of divisions (B) (12), (15), and (16) of 16941
this section, the commission of the act may be established by a 16942
finding by the board, pursuant to an adjudication under Chapter 16943
119. of the Revised Code, that the applicant or license holder 16944
committed the act in question. The board shall have no 16945
jurisdiction under these divisions in cases where the trial 16946
court renders a final judgment in the license holder's favor and 16947
that judgment is based upon an adjudication on the merits. The 16948
board shall have jurisdiction under these divisions in cases 16949
where the trial court issues an order of dismissal upon 16950
technical or procedural grounds. 16951

(E) The sealing of conviction records by any court shall 16952
have no effect upon a prior board order entered under the 16953
provisions of this section or upon the board's jurisdiction to 16954
take action under the provisions of this section if, based upon 16955
a plea of guilty, a judicial finding of guilt, or a judicial 16956
finding of eligibility for intervention in lieu of conviction, 16957
the board issued a notice of opportunity for a hearing prior to 16958
the court's order to seal the records. The board shall not be 16959
required to seal, destroy, redact, or otherwise modify its 16960
records to reflect the court's sealing of conviction records. 16961

(F) For purposes of this division, any individual who 16962
holds a license issued under this chapter, or applies for a 16963
license issued under this chapter, shall be deemed to have given 16964
consent to submit to a mental or physical examination when 16965
directed to do so in writing by the board and to have waived all 16966
objections to the admissibility of testimony or examination 16967
reports that constitute a privileged communication. 16968

(1) In enforcing division (B)(4) of this section, the 16969
board, upon a showing of a possible violation, may compel any 16970
individual who holds a license issued under this chapter or who 16971
has applied for a license pursuant to this chapter to submit to 16972
a mental examination, physical examination, including an HIV 16973
test, or both a mental and physical examination. The expense of 16974
the examination is the responsibility of the individual 16975
compelled to be examined. Failure to submit to a mental or 16976
physical examination or consent to an HIV test ordered by the 16977
board constitutes an admission of the allegations against the 16978
individual unless the failure is due to circumstances beyond the 16979
individual's control, and a default and final order may be 16980
entered without the taking of testimony or presentation of 16981
evidence. If the board finds a physician assistant unable to 16982

practice because of the reasons set forth in division (B)(4) of 16983
this section, the board shall require the physician assistant to 16984
submit to care, counseling, or treatment by physicians approved 16985
or designated by the board, as a condition for an initial, 16986
continued, reinstated, or renewed license. An individual 16987
affected under this division shall be afforded an opportunity to 16988
demonstrate to the board the ability to resume practicing in 16989
compliance with acceptable and prevailing standards of care. 16990

(2) For purposes of division (B)(5) of this section, if 16991
the board has reason to believe that any individual who holds a 16992
license issued under this chapter or any applicant for a license 16993
suffers such impairment, the board may compel the individual to 16994
submit to a mental or physical examination, or both. The expense 16995
of the examination is the responsibility of the individual 16996
compelled to be examined. Any mental or physical examination 16997
required under this division shall be undertaken by a treatment 16998
provider or physician qualified to conduct such examination and 16999
chosen by the board. 17000

Failure to submit to a mental or physical examination 17001
ordered by the board constitutes an admission of the allegations 17002
against the individual unless the failure is due to 17003
circumstances beyond the individual's control, and a default and 17004
final order may be entered without the taking of testimony or 17005
presentation of evidence. If the board determines that the 17006
individual's ability to practice is impaired, the board shall 17007
suspend the individual's license or deny the individual's 17008
application and shall require the individual, as a condition for 17009
initial, continued, reinstated, or renewed licensure, to submit 17010
to treatment. 17011

Before being eligible to apply for reinstatement of a 17012

license suspended under this division, the physician assistant 17013
shall demonstrate to the board the ability to resume practice or 17014
prescribing in compliance with acceptable and prevailing 17015
standards of care. The demonstration shall include the 17016
following: 17017

(a) Certification from a treatment provider approved under 17018
section 4731.25 of the Revised Code that the individual has 17019
successfully completed any required inpatient treatment; 17020

(b) Evidence of continuing full compliance with an 17021
aftercare contract or consent agreement; 17022

(c) Two written reports indicating that the individual's 17023
ability to practice has been assessed and that the individual 17024
has been found capable of practicing according to acceptable and 17025
prevailing standards of care. The reports shall be made by 17026
individuals or providers approved by the board for making such 17027
assessments and shall describe the basis for their 17028
determination. 17029

The board may reinstate a license suspended under this 17030
division after such demonstration and after the individual has 17031
entered into a written consent agreement. 17032

When the impaired physician assistant resumes practice or 17033
prescribing, the board shall require continued monitoring of the 17034
physician assistant. The monitoring shall include compliance 17035
with the written consent agreement entered into before 17036
reinstatement or with conditions imposed by board order after a 17037
hearing, and, upon termination of the consent agreement, 17038
submission to the board for at least two years of annual written 17039
progress reports made under penalty of falsification stating 17040
whether the physician assistant has maintained sobriety. 17041

(G) If the secretary and supervising member determine that 17042
there is clear and convincing evidence that a physician 17043
assistant has violated division (B) of this section and that the 17044
individual's continued practice or prescribing presents a danger 17045
of immediate and serious harm to the public, they may recommend 17046
that the board suspend the individual's license without a prior 17047
hearing. Written allegations shall be prepared for consideration 17048
by the board. 17049

The board, upon review of those allegations and by an 17050
affirmative vote of not fewer than six of its members, excluding 17051
the secretary and supervising member, may suspend a license 17052
without a prior hearing. A telephone conference call may be 17053
utilized for reviewing the allegations and taking the vote on 17054
the summary suspension. 17055

The board shall issue a written order of suspension by 17056
certified mail or in person in accordance with section 119.07 of 17057
the Revised Code. The order shall not be subject to suspension 17058
by the court during pendency of any appeal filed under section 17059
119.12 of the Revised Code. If the physician assistant requests 17060
an adjudicatory hearing by the board, the date set for the 17061
hearing shall be within fifteen days, but not earlier than seven 17062
days, after the physician assistant requests the hearing, unless 17063
otherwise agreed to by both the board and the license holder. 17064

A summary suspension imposed under this division shall 17065
remain in effect, unless reversed on appeal, until a final 17066
adjudicative order issued by the board pursuant to this section 17067
and Chapter 119. of the Revised Code becomes effective. The 17068
board shall issue its final adjudicative order within sixty days 17069
after completion of its hearing. Failure to issue the order 17070
within sixty days shall result in dissolution of the summary 17071

suspension order, but shall not invalidate any subsequent, final 17072
adjudicative order. 17073

(H) If the board takes action under division (B) (11), 17074
(13), or (14) of this section, and the judicial finding of 17075
guilt, guilty plea, or judicial finding of eligibility for 17076
intervention in lieu of conviction is overturned on appeal, upon 17077
exhaustion of the criminal appeal, a petition for 17078
reconsideration of the order may be filed with the board along 17079
with appropriate court documents. Upon receipt of a petition and 17080
supporting court documents, the board shall reinstate the 17081
individual's license. The board may then hold an adjudication 17082
under Chapter 119. of the Revised Code to determine whether the 17083
individual committed the act in question. Notice of opportunity 17084
for hearing shall be given in accordance with Chapter 119. of 17085
the Revised Code. If the board finds, pursuant to an 17086
adjudication held under this division, that the individual 17087
committed the act, or if no hearing is requested, it may order 17088
any of the sanctions identified under division (B) of this 17089
section. 17090

(I) The license to practice issued to a physician 17091
assistant and the physician assistant's practice in this state 17092
are automatically suspended as of the date the physician 17093
assistant pleads guilty to, is found by a judge or jury to be 17094
guilty of, or is subject to a judicial finding of eligibility 17095
for intervention in lieu of conviction in this state or 17096
treatment or intervention in lieu of conviction in another state 17097
for any of the following criminal offenses in this state or a 17098
substantially equivalent criminal offense in another 17099
jurisdiction: aggravated murder, murder, aggravated abortion 17100
murder, abortion murder, voluntary manslaughter, felonious 17101
assault, kidnapping, rape, sexual battery, gross sexual 17102

imposition, aggravated arson, aggravated robbery, or aggravated 171103
burglary. Continued practice after the suspension shall be 171104
considered practicing without a license. 171105

The board shall notify the individual subject to the 171106
suspension by certified mail or in person in accordance with 171107
section 119.07 of the Revised Code. If an individual whose 171108
license is suspended under this division fails to make a timely 171109
request for an adjudication under Chapter 119. of the Revised 171110
Code, the board shall enter a final order permanently revoking 171111
the individual's license to practice. 171112

(J) In any instance in which the board is required by 171113
Chapter 119. of the Revised Code to give notice of opportunity 171114
for hearing and the individual subject to the notice does not 171115
timely request a hearing in accordance with section 119.07 of 171116
the Revised Code, the board is not required to hold a hearing, 171117
but may adopt, by an affirmative vote of not fewer than six of 171118
its members, a final order that contains the board's findings. 171119
In that final order, the board may order any of the sanctions 171120
identified under division (A) or (B) of this section. 171121

(K) Any action taken by the board under division (B) of 171122
this section resulting in a suspension shall be accompanied by a 171123
written statement of the conditions under which the physician 171124
assistant's license may be reinstated. The board shall adopt 171125
rules in accordance with Chapter 119. of the Revised Code 171126
governing conditions to be imposed for reinstatement. 171127
Reinstatement of a license suspended pursuant to division (B) of 171128
this section requires an affirmative vote of not fewer than six 171129
members of the board. 171130

(L) When the board refuses to grant or issue to an 171131
applicant a license to practice as a physician assistant, 171132

revokes an individual's license, refuses to renew an 17133
individual's license, or refuses to reinstate an individual's 17134
license, the board may specify that its action is permanent. An 17135
individual subject to a permanent action taken by the board is 17136
forever thereafter ineligible to hold the license and the board 17137
shall not accept an application for reinstatement of the license 17138
or for issuance of a new license. 17139

(M) Notwithstanding any other provision of the Revised 17140
Code, all of the following apply: 17141

(1) The surrender of a license issued under this chapter 17142
is not effective unless or until accepted by the board. 17143
Reinstatement of a license surrendered to the board requires an 17144
affirmative vote of not fewer than six members of the board. 17145

(2) An application made under this chapter for a license 17146
may not be withdrawn without approval of the board. 17147

(3) Failure by an individual to renew a license in 17148
accordance with section 4730.14 of the Revised Code shall not 17149
remove or limit the board's jurisdiction to take disciplinary 17150
action under this section against the individual. 17151

Sec. 4731.22. (A) The state medical board, by an 17152
affirmative vote of not fewer than six of its members, may 17153
limit, revoke, or suspend a license or certificate to practice 17154
or certificate to recommend, refuse to grant a license or 17155
certificate, refuse to renew a license or certificate, refuse to 17156
reinstate a license or certificate, or reprimand or place on 17157
probation the holder of a license or certificate if the 17158
individual applying for or holding the license or certificate is 17159
found by the board to have committed fraud during the 17160
administration of the examination for a license or certificate 17161

to practice or to have committed fraud, misrepresentation, or 17162
deception in applying for, renewing, or securing any license or 17163
certificate to practice or certificate to recommend issued by 17164
the board. 17165

(B) The board, by an affirmative vote of not fewer than 17166
six members, shall, to the extent permitted by law, limit, 17167
revoke, or suspend a license or certificate to practice or 17168
certificate to recommend, refuse to issue a license or 17169
certificate, refuse to renew a license or certificate, refuse to 17170
reinstate a license or certificate, or reprimand or place on 17171
probation the holder of a license or certificate for one or more 17172
of the following reasons: 17173

(1) Permitting one's name or one's license or certificate 17174
to practice to be used by a person, group, or corporation when 17175
the individual concerned is not actually directing the treatment 17176
given; 17177

(2) Failure to maintain minimal standards applicable to 17178
the selection or administration of drugs, or failure to employ 17179
acceptable scientific methods in the selection of drugs or other 17180
modalities for treatment of disease; 17181

(3) Except as provided in section 4731.97 of the Revised 17182
Code, selling, giving away, personally furnishing, prescribing, 17183
or administering drugs for other than legal and legitimate 17184
therapeutic purposes or a plea of guilty to, a judicial finding 17185
of guilt of, or a judicial finding of eligibility for 17186
intervention in lieu of conviction of, a violation of any 17187
federal or state law regulating the possession, distribution, or 17188
use of any drug; 17189

(4) Willfully betraying a professional confidence. 17190

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports under sections 307.621 to 307.629 of the Revised Code to a child fatality review board; does not include providing any information, documents, or reports to the director of health pursuant to guidelines established under section 3701.70 of the Revised Code; does not include written notice to a mental health professional under section 4731.62 of the Revised Code; and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by section 2305.33 or 4731.62 of the Revised Code upon a physician who makes a report in accordance with section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any license or certificate to practice issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or

is likely to create false or unjustified expectations of 17222
favorable results, or includes representations or implications 17223
that in reasonable probability will cause an ordinarily prudent 17224
person to misunderstand or be deceived. 17225

(6) A departure from, or the failure to conform to, 17226
minimal standards of care of similar practitioners under the 17227
same or similar circumstances, whether or not actual injury to a 17228
patient is established; 17229

(7) Representing, with the purpose of obtaining 17230
compensation or other advantage as personal gain or for any 17231
other person, that an incurable disease or injury, or other 17232
incurable condition, can be permanently cured; 17233

(8) The obtaining of, or attempting to obtain, money or 17234
anything of value by fraudulent misrepresentations in the course 17235
of practice; 17236

(9) A plea of guilty to, a judicial finding of guilt of, 17237
or a judicial finding of eligibility for intervention in lieu of 17238
conviction for, a felony; 17239

(10) Commission of an act that constitutes a felony in 17240
this state, regardless of the jurisdiction in which the act was 17241
committed; 17242

(11) A plea of guilty to, a judicial finding of guilt of, 17243
or a judicial finding of eligibility for intervention in lieu of 17244
conviction for, a misdemeanor committed in the course of 17245
practice; 17246

(12) Commission of an act in the course of practice that 17247
constitutes a misdemeanor in this state, regardless of the 17248
jurisdiction in which the act was committed; 17249

(13) A plea of guilty to, a judicial finding of guilt of, 17250
or a judicial finding of eligibility for intervention in lieu of 17251
conviction for, a misdemeanor involving moral turpitude; 17252

(14) Commission of an act involving moral turpitude that 17253
constitutes a misdemeanor in this state, regardless of the 17254
jurisdiction in which the act was committed; 17255

(15) Violation of the conditions of limitation placed by 17256
the board upon a license or certificate to practice; 17257

(16) Failure to pay license renewal fees specified in this 17258
chapter; 17259

(17) Except as authorized in section 4731.31 of the 17260
Revised Code, engaging in the division of fees for referral of 17261
patients, or the receiving of a thing of value in return for a 17262
specific referral of a patient to utilize a particular service 17263
or business; 17264

(18) Subject to section 4731.226 of the Revised Code, 17265
violation of any provision of a code of ethics of the American 17266
medical association, the American osteopathic association, the 17267
American podiatric medical association, or any other national 17268
professional organizations that the board specifies by rule. The 17269
state medical board shall obtain and keep on file current copies 17270
of the codes of ethics of the various national professional 17271
organizations. The individual whose license or certificate is 17272
being suspended or revoked shall not be found to have violated 17273
any provision of a code of ethics of an organization not 17274
appropriate to the individual's profession. 17275

For purposes of this division, a "provision of a code of 17276
ethics of a national professional organization" does not include 17277
any provision that would preclude the making of a report by a 17278

physician of an employee's use of a drug of abuse, or of a 17279
condition of an employee other than one involving the use of a 17280
drug of abuse, to the employer of the employee as described in 17281
division (B) of section 2305.33 of the Revised Code. Nothing in 17282
this division affects the immunity from civil liability 17283
conferred by that section upon a physician who makes either type 17284
of report in accordance with division (B) of that section. As 17285
used in this division, "employee," "employer," and "physician" 17286
have the same meanings as in section 2305.33 of the Revised 17287
Code. 17288

(19) Inability to practice according to acceptable and 17289
prevailing standards of care by reason of mental illness or 17290
physical illness, including, but not limited to, physical 17291
deterioration that adversely affects cognitive, motor, or 17292
perceptive skills. 17293

In enforcing this division, the board, upon a showing of a 17294
possible violation, may compel any individual authorized to 17295
practice by this chapter or who has submitted an application 17296
pursuant to this chapter to submit to a mental examination, 17297
physical examination, including an HIV test, or both a mental 17298
and a physical examination. The expense of the examination is 17299
the responsibility of the individual compelled to be examined. 17300
Failure to submit to a mental or physical examination or consent 17301
to an HIV test ordered by the board constitutes an admission of 17302
the allegations against the individual unless the failure is due 17303
to circumstances beyond the individual's control, and a default 17304
and final order may be entered without the taking of testimony 17305
or presentation of evidence. If the board finds an individual 17306
unable to practice because of the reasons set forth in this 17307
division, the board shall require the individual to submit to 17308
care, counseling, or treatment by physicians approved or 17309

designated by the board, as a condition for initial, continued, 17310
reinstated, or renewed authority to practice. An individual 17311
affected under this division shall be afforded an opportunity to 17312
demonstrate to the board the ability to resume practice in 17313
compliance with acceptable and prevailing standards under the 17314
provisions of the individual's license or certificate. For the 17315
purpose of this division, any individual who applies for or 17316
receives a license or certificate to practice under this chapter 17317
accepts the privilege of practicing in this state and, by so 17318
doing, shall be deemed to have given consent to submit to a 17319
mental or physical examination when directed to do so in writing 17320
by the board, and to have waived all objections to the 17321
admissibility of testimony or examination reports that 17322
constitute a privileged communication. 17323

(20) Except as provided in division (F)(1)(b) of section 17324
4731.282 of the Revised Code or when civil penalties are imposed 17325
under section 4731.225 of the Revised Code, and subject to 17326
section 4731.226 of the Revised Code, violating or attempting to 17327
violate, directly or indirectly, or assisting in or abetting the 17328
violation of, or conspiring to violate, any provisions of this 17329
chapter or any rule promulgated by the board. 17330

This division does not apply to a violation or attempted 17331
violation of, assisting in or abetting the violation of, or a 17332
conspiracy to violate, any provision of this chapter or any rule 17333
adopted by the board that would preclude the making of a report 17334
by a physician of an employee's use of a drug of abuse, or of a 17335
condition of an employee other than one involving the use of a 17336
drug of abuse, to the employer of the employee as described in 17337
division (B) of section 2305.33 of the Revised Code. Nothing in 17338
this division affects the immunity from civil liability 17339
conferred by that section upon a physician who makes either type 17340

of report in accordance with division (B) of that section. As 17341
used in this division, "employee," "employer," and "physician" 17342
have the same meanings as in section 2305.33 of the Revised 17343
Code. 17344

(21) The violation of section 3701.79 of the Revised Code 17345
or of any abortion rule adopted by the director of health 17346
pursuant to section 3701.341 of the Revised Code; 17347

(22) Any of the following actions taken by an agency 17348
responsible for authorizing, certifying, or regulating an 17349
individual to practice a health care occupation or provide 17350
health care services in this state or another jurisdiction, for 17351
any reason other than the nonpayment of fees: the limitation, 17352
revocation, or suspension of an individual's license to 17353
practice; acceptance of an individual's license surrender; 17354
denial of a license; refusal to renew or reinstate a license; 17355
imposition of probation; or issuance of an order of censure or 17356
other reprimand; 17357

(23) The violation of section 2919.12 of the Revised Code 17358
or the performance or inducement of an abortion upon a pregnant 17359
woman with actual knowledge that the conditions specified in 17360
division (B) of section 2317.56 of the Revised Code have not 17361
been satisfied or with a heedless indifference as to whether 17362
those conditions have been satisfied, unless an affirmative 17363
defense as specified in division (H)(2) of that section would 17364
apply in a civil action authorized by division (H)(1) of that 17365
section; 17366

(24) The revocation, suspension, restriction, reduction, 17367
or termination of clinical privileges by the United States 17368
department of defense or department of veterans affairs or the 17369
termination or suspension of a certificate of registration to 17370

prescribe drugs by the drug enforcement administration of the 17371
United States department of justice; 17372

(25) Termination or suspension from participation in the 17373
medicare or medicaid programs by the department of health and 17374
human services or other responsible agency; 17375

(26) Impairment of ability to practice according to 17376
acceptable and prevailing standards of care because of habitual 17377
or excessive use or abuse of drugs, alcohol, or other substances 17378
that impair ability to practice. 17379

For the purposes of this division, any individual 17380
authorized to practice by this chapter accepts the privilege of 17381
practicing in this state subject to supervision by the board. By 17382
filing an application for or holding a license or certificate to 17383
practice under this chapter, an individual shall be deemed to 17384
have given consent to submit to a mental or physical examination 17385
when ordered to do so by the board in writing, and to have 17386
waived all objections to the admissibility of testimony or 17387
examination reports that constitute privileged communications. 17388

If it has reason to believe that any individual authorized 17389
to practice by this chapter or any applicant for licensure or 17390
certification to practice suffers such impairment, the board may 17391
compel the individual to submit to a mental or physical 17392
examination, or both. The expense of the examination is the 17393
responsibility of the individual compelled to be examined. Any 17394
mental or physical examination required under this division 17395
shall be undertaken by a treatment provider or physician who is 17396
qualified to conduct the examination and who is chosen by the 17397
board. 17398

Failure to submit to a mental or physical examination 17399

ordered by the board constitutes an admission of the allegations 17400
against the individual unless the failure is due to 17401
circumstances beyond the individual's control, and a default and 17402
final order may be entered without the taking of testimony or 17403
presentation of evidence. If the board determines that the 17404
individual's ability to practice is impaired, the board shall 17405
suspend the individual's license or certificate or deny the 17406
individual's application and shall require the individual, as a 17407
condition for initial, continued, reinstated, or renewed 17408
licensure or certification to practice, to submit to treatment. 17409

Before being eligible to apply for reinstatement of a 17410
license or certificate suspended under this division, the 17411
impaired practitioner shall demonstrate to the board the ability 17412
to resume practice in compliance with acceptable and prevailing 17413
standards of care under the provisions of the practitioner's 17414
license or certificate. The demonstration shall include, but 17415
shall not be limited to, the following: 17416

(a) Certification from a treatment provider approved under 17417
section 4731.25 of the Revised Code that the individual has 17418
successfully completed any required inpatient treatment; 17419

(b) Evidence of continuing full compliance with an 17420
aftercare contract or consent agreement; 17421

(c) Two written reports indicating that the individual's 17422
ability to practice has been assessed and that the individual 17423
has been found capable of practicing according to acceptable and 17424
prevailing standards of care. The reports shall be made by 17425
individuals or providers approved by the board for making the 17426
assessments and shall describe the basis for their 17427
determination. 17428

The board may reinstate a license or certificate suspended 17429
under this division after that demonstration and after the 17430
individual has entered into a written consent agreement. 17431

When the impaired practitioner resumes practice, the board 17432
shall require continued monitoring of the individual. The 17433
monitoring shall include, but not be limited to, compliance with 17434
the written consent agreement entered into before reinstatement 17435
or with conditions imposed by board order after a hearing, and, 17436
upon termination of the consent agreement, submission to the 17437
board for at least two years of annual written progress reports 17438
made under penalty of perjury stating whether the individual has 17439
maintained sobriety. 17440

(27) A second or subsequent violation of section 4731.66 17441
or 4731.69 of the Revised Code; 17442

(28) Except as provided in division (N) of this section: 17443

(a) Waiving the payment of all or any part of a deductible 17444
or copayment that a patient, pursuant to a health insurance or 17445
health care policy, contract, or plan that covers the 17446
individual's services, otherwise would be required to pay if the 17447
waiver is used as an enticement to a patient or group of 17448
patients to receive health care services from that individual; 17449

(b) Advertising that the individual will waive the payment 17450
of all or any part of a deductible or copayment that a patient, 17451
pursuant to a health insurance or health care policy, contract, 17452
or plan that covers the individual's services, otherwise would 17453
be required to pay. 17454

(29) Failure to use universal blood and body fluid 17455
precautions established by rules adopted under section 4731.051 17456
of the Revised Code; 17457

(30) Failure to provide notice to, and receive 17458
acknowledgment of the notice from, a patient when required by 17459
section 4731.143 of the Revised Code prior to providing 17460
nonemergency professional services, or failure to maintain that 17461
notice in the patient's medical record; 17462

(31) Failure of a physician supervising a physician 17463
assistant to maintain supervision in accordance with the 17464
requirements of Chapter 4730. of the Revised Code and the rules 17465
adopted under that chapter; 17466

(32) Failure of a physician or podiatrist to enter into a 17467
standard care arrangement with a clinical nurse specialist, 17468
certified nurse-midwife, or certified nurse practitioner with 17469
whom the physician or podiatrist is in collaboration pursuant to 17470
section 4731.27 of the Revised Code or failure to fulfill the 17471
responsibilities of collaboration after entering into a standard 17472
care arrangement; 17473

(33) Failure to comply with the terms of a consult 17474
agreement entered into with a pharmacist pursuant to section 17475
4729.39 of the Revised Code; 17476

(34) Failure to cooperate in an investigation conducted by 17477
the board under division (F) of this section, including failure 17478
to comply with a subpoena or order issued by the board or 17479
failure to answer truthfully a question presented by the board 17480
in an investigative interview, an investigative office 17481
conference, at a deposition, or in written interrogatories, 17482
except that failure to cooperate with an investigation shall not 17483
constitute grounds for discipline under this section if a court 17484
of competent jurisdiction has issued an order that either 17485
quashes a subpoena or permits the individual to withhold the 17486
testimony or evidence in issue; 17487

(35) Failure to supervise an oriental medicine practitioner or acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision;	17488 17489 17490 17491
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	17492 17493 17494
(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;	17495 17496
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	17497 17498
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	17499 17500 17501
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	17502 17503 17504 17505
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	17506 17507 17508 17509
(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	17510 17511 17512 17513
(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board	17514 17515

of pharmacy no longer maintains a drug database pursuant to 17516
section 4729.75 of the Revised Code; 17517

(44) Failure to comply with the requirements of section 17518
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 17519
to submit to the department of health in accordance with a court 17520
order a complete report as described in section 2919.171 or 17521
2919.202 of the Revised Code; 17522

(45) Practicing at a facility that is subject to licensure 17523
as a category III terminal distributor of dangerous drugs with a 17524
pain management clinic classification unless the person 17525
operating the facility has obtained and maintains the license 17526
with the classification; 17527

(46) Owning a facility that is subject to licensure as a 17528
category III terminal distributor of dangerous drugs with a pain 17529
management clinic classification unless the facility is licensed 17530
with the classification; 17531

(47) Failure to comply with the requirement regarding 17532
maintaining notes described in division (B) of section 2919.191 17533
of the Revised Code or failure to satisfy the requirements of 17534
section 2919.191 of the Revised Code prior to performing or 17535
inducing an abortion upon a pregnant woman; 17536

(48) Failure to comply with the requirements in section 17537
3719.061 of the Revised Code before issuing for a minor a 17538
prescription for an opioid analgesic, as defined in section 17539
3719.01 of the Revised Code; 17540

(49) Failure to comply with the requirements of section 17541
4731.30 of the Revised Code or rules adopted under section 17542
4731.301 of the Revised Code when recommending treatment with 17543
medical marijuana; 17544

(50) Practicing at a facility, clinic, or other location 17545
that is subject to licensure as a category III terminal 17546
distributor of dangerous drugs with an office-based opioid 17547
treatment classification unless the person operating that place 17548
has obtained and maintains the license with the classification; 17549

(51) Owning a facility, clinic, or other location that is 17550
subject to licensure as a category III terminal distributor of 17551
dangerous drugs with an office-based opioid treatment 17552
classification unless that place is licensed with the 17553
classification; 17554

(52) A pattern of continuous or repeated violations of 17555
division (E) (2) or (3) of section 3963.02 of the Revised Code. 17556

(C) Disciplinary actions taken by the board under 17557
divisions (A) and (B) of this section shall be taken pursuant to 17558
an adjudication under Chapter 119. of the Revised Code, except 17559
that in lieu of an adjudication, the board may enter into a 17560
consent agreement with an individual to resolve an allegation of 17561
a violation of this chapter or any rule adopted under it. A 17562
consent agreement, when ratified by an affirmative vote of not 17563
fewer than six members of the board, shall constitute the 17564
findings and order of the board with respect to the matter 17565
addressed in the agreement. If the board refuses to ratify a 17566
consent agreement, the admissions and findings contained in the 17567
consent agreement shall be of no force or effect. 17568

A telephone conference call may be utilized for 17569
ratification of a consent agreement that revokes or suspends an 17570
individual's license or certificate to practice or certificate 17571
to recommend. The telephone conference call shall be considered 17572
a special meeting under division (F) of section 121.22 of the 17573
Revised Code. 17574

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice.

(D) For purposes of divisions (B) (10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention

in lieu of conviction, the board issued a notice of opportunity 17606
for a hearing prior to the court's order to seal the records. 17607
The board shall not be required to seal, destroy, redact, or 17608
otherwise modify its records to reflect the court's sealing of 17609
conviction records. 17610

(F) (1) The board shall investigate evidence that appears 17611
to show that a person has violated any provision of this chapter 17612
or any rule adopted under it. Any person may report to the board 17613
in a signed writing any information that the person may have 17614
that appears to show a violation of any provision of this 17615
chapter or any rule adopted under it. In the absence of bad 17616
faith, any person who reports information of that nature or who 17617
testifies before the board in any adjudication conducted under 17618
Chapter 119. of the Revised Code shall not be liable in damages 17619
in a civil action as a result of the report or testimony. Each 17620
complaint or allegation of a violation received by the board 17621
shall be assigned a case number and shall be recorded by the 17622
board. 17623

(2) Investigations of alleged violations of this chapter 17624
or any rule adopted under it shall be supervised by the 17625
supervising member elected by the board in accordance with 17626
section 4731.02 of the Revised Code and by the secretary as 17627
provided in section 4731.39 of the Revised Code. The president 17628
may designate another member of the board to supervise the 17629
investigation in place of the supervising member. No member of 17630
the board who supervises the investigation of a case shall 17631
participate in further adjudication of the case. 17632

(3) In investigating a possible violation of this chapter 17633
or any rule adopted under this chapter, or in conducting an 17634
inspection under division (E) of section 4731.054 of the Revised 17635

Code, the board may question witnesses, conduct interviews, 17636
administer oaths, order the taking of depositions, inspect and 17637
copy any books, accounts, papers, records, or documents, issue 17638
subpoenas, and compel the attendance of witnesses and production 17639
of books, accounts, papers, records, documents, and testimony, 17640
except that a subpoena for patient record information shall not 17641
be issued without consultation with the attorney general's 17642
office and approval of the secretary and supervising member of 17643
the board. 17644

(a) Before issuance of a subpoena for patient record 17645
information, the secretary and supervising member shall 17646
determine whether there is probable cause to believe that the 17647
complaint filed alleges a violation of this chapter or any rule 17648
adopted under it and that the records sought are relevant to the 17649
alleged violation and material to the investigation. The 17650
subpoena may apply only to records that cover a reasonable 17651
period of time surrounding the alleged violation. 17652

(b) On failure to comply with any subpoena issued by the 17653
board and after reasonable notice to the person being 17654
subpoenaed, the board may move for an order compelling the 17655
production of persons or records pursuant to the Rules of Civil 17656
Procedure. 17657

(c) A subpoena issued by the board may be served by a 17658
sheriff, the sheriff's deputy, or a board employee or agent 17659
designated by the board. Service of a subpoena issued by the 17660
board may be made by delivering a copy of the subpoena to the 17661
person named therein, reading it to the person, or leaving it at 17662
the person's usual place of residence, usual place of business, 17663
or address on file with the board. When serving a subpoena to an 17664
applicant for or the holder of a license or certificate issued 17665

under this chapter, service of the subpoena may be made by 17666
certified mail, return receipt requested, and the subpoena shall 17667
be deemed served on the date delivery is made or the date the 17668
person refuses to accept delivery. If the person being served 17669
refuses to accept the subpoena or is not located, service may be 17670
made to an attorney who notifies the board that the attorney is 17671
representing the person. 17672

(d) A sheriff's deputy who serves a subpoena shall receive 17673
the same fees as a sheriff. Each witness who appears before the 17674
board in obedience to a subpoena shall receive the fees and 17675
mileage provided for under section 119.094 of the Revised Code. 17676

(4) All hearings, investigations, and inspections of the 17677
board shall be considered civil actions for the purposes of 17678
section 2305.252 of the Revised Code. 17679

(5) A report required to be submitted to the board under 17680
this chapter, a complaint, or information received by the board 17681
pursuant to an investigation or pursuant to an inspection under 17682
division (E) of section 4731.054 of the Revised Code is 17683
confidential and not subject to discovery in any civil action. 17684

The board shall conduct all investigations or inspections 17685
and proceedings in a manner that protects the confidentiality of 17686
patients and persons who file complaints with the board. The 17687
board shall not make public the names or any other identifying 17688
information about patients or complainants unless proper consent 17689
is given or, in the case of a patient, a waiver of the patient 17690
privilege exists under division (B) of section 2317.02 of the 17691
Revised Code, except that consent or a waiver of that nature is 17692
not required if the board possesses reliable and substantial 17693
evidence that no bona fide physician-patient relationship 17694
exists. 17695

The board may share any information it receives pursuant 17696
to an investigation or inspection, including patient records and 17697
patient record information, with law enforcement agencies, other 17698
licensing boards, and other governmental agencies that are 17699
prosecuting, adjudicating, or investigating alleged violations 17700
of statutes or administrative rules. An agency or board that 17701
receives the information shall comply with the same requirements 17702
regarding confidentiality as those with which the state medical 17703
board must comply, notwithstanding any conflicting provision of 17704
the Revised Code or procedure of the agency or board that 17705
applies when it is dealing with other information in its 17706
possession. In a judicial proceeding, the information may be 17707
admitted into evidence only in accordance with the Rules of 17708
Evidence, but the court shall require that appropriate measures 17709
are taken to ensure that confidentiality is maintained with 17710
respect to any part of the information that contains names or 17711
other identifying information about patients or complainants 17712
whose confidentiality was protected by the state medical board 17713
when the information was in the board's possession. Measures to 17714
ensure confidentiality that may be taken by the court include 17715
sealing its records or deleting specific information from its 17716
records. 17717

(6) On a quarterly basis, the board shall prepare a report 17718
that documents the disposition of all cases during the preceding 17719
three months. The report shall contain the following information 17720
for each case with which the board has completed its activities: 17721

(a) The case number assigned to the complaint or alleged 17722
violation; 17723

(b) The type of license or certificate to practice, if 17724
any, held by the individual against whom the complaint is 17725

directed; 17726

(c) A description of the allegations contained in the 17727
complaint; 17728

(d) The disposition of the case. 17729

The report shall state how many cases are still pending 17730
and shall be prepared in a manner that protects the identity of 17731
each person involved in each case. The report shall be a public 17732
record under section 149.43 of the Revised Code. 17733

(G) If the secretary and supervising member determine both 17734
of the following, they may recommend that the board suspend an 17735
individual's license or certificate to practice or certificate 17736
to recommend without a prior hearing: 17737

(1) That there is clear and convincing evidence that an 17738
individual has violated division (B) of this section; 17739

(2) That the individual's continued practice presents a 17740
danger of immediate and serious harm to the public. 17741

Written allegations shall be prepared for consideration by 17742
the board. The board, upon review of those allegations and by an 17743
affirmative vote of not fewer than six of its members, excluding 17744
the secretary and supervising member, may suspend a license or 17745
certificate without a prior hearing. A telephone conference call 17746
may be utilized for reviewing the allegations and taking the 17747
vote on the summary suspension. 17748

The board shall issue a written order of suspension by 17749
certified mail or in person in accordance with section 119.07 of 17750
the Revised Code. The order shall not be subject to suspension 17751
by the court during pendency of any appeal filed under section 17752
119.12 of the Revised Code. If the individual subject to the 17753

summary suspension requests an adjudicatory hearing by the 17754
board, the date set for the hearing shall be within fifteen 17755
days, but not earlier than seven days, after the individual 17756
requests the hearing, unless otherwise agreed to by both the 17757
board and the individual. 17758

Any summary suspension imposed under this division shall 17759
remain in effect, unless reversed on appeal, until a final 17760
adjudicative order issued by the board pursuant to this section 17761
and Chapter 119. of the Revised Code becomes effective. The 17762
board shall issue its final adjudicative order within seventy- 17763
five days after completion of its hearing. A failure to issue 17764
the order within seventy-five days shall result in dissolution 17765
of the summary suspension order but shall not invalidate any 17766
subsequent, final adjudicative order. 17767

(H) If the board takes action under division (B) (9), (11), 17768
or (13) of this section and the judicial finding of guilt, 17769
guilty plea, or judicial finding of eligibility for intervention 17770
in lieu of conviction is overturned on appeal, upon exhaustion 17771
of the criminal appeal, a petition for reconsideration of the 17772
order may be filed with the board along with appropriate court 17773
documents. Upon receipt of a petition of that nature and 17774
supporting court documents, the board shall reinstate the 17775
individual's license or certificate to practice. The board may 17776
then hold an adjudication under Chapter 119. of the Revised Code 17777
to determine whether the individual committed the act in 17778
question. Notice of an opportunity for a hearing shall be given 17779
in accordance with Chapter 119. of the Revised Code. If the 17780
board finds, pursuant to an adjudication held under this 17781
division, that the individual committed the act or if no hearing 17782
is requested, the board may order any of the sanctions 17783
identified under division (B) of this section. 17784

(I) The license or certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code. In addition, the license or certificate to practice or certificate to recommend issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, aggravated abortion murder, abortion murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a license or certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license or certificate is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall do whichever of the following is applicable:

(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code,

the board shall enter an order suspending the individual's 17816
license or certificate to practice for a period of at least one 17817
year or, if determined appropriate by the board, imposing a more 17818
serious sanction involving the individual's license or 17819
certificate to practice. 17820

(2) In all circumstances in which division (I)(1) of this 17821
section does not apply, enter a final order permanently revoking 17822
the individual's license or certificate to practice. 17823

(J) If the board is required by Chapter 119. of the 17824
Revised Code to give notice of an opportunity for a hearing and 17825
if the individual subject to the notice does not timely request 17826
a hearing in accordance with section 119.07 of the Revised Code, 17827
the board is not required to hold a hearing, but may adopt, by 17828
an affirmative vote of not fewer than six of its members, a 17829
final order that contains the board's findings. In that final 17830
order, the board may order any of the sanctions identified under 17831
division (A) or (B) of this section. 17832

(K) Any action taken by the board under division (B) of 17833
this section resulting in a suspension from practice shall be 17834
accompanied by a written statement of the conditions under which 17835
the individual's license or certificate to practice may be 17836
reinstated. The board shall adopt rules governing conditions to 17837
be imposed for reinstatement. Reinstatement of a license or 17838
certificate suspended pursuant to division (B) of this section 17839
requires an affirmative vote of not fewer than six members of 17840
the board. 17841

(L) When the board refuses to grant or issue a license or 17842
certificate to practice to an applicant, revokes an individual's 17843
license or certificate to practice, refuses to renew an 17844
individual's license or certificate to practice, or refuses to 17845

reinstate an individual's license or certificate to practice, 17846
the board may specify that its action is permanent. An 17847
individual subject to a permanent action taken by the board is 17848
forever thereafter ineligible to hold a license or certificate 17849
to practice and the board shall not accept an application for 17850
reinstatement of the license or certificate or for issuance of a 17851
new license or certificate. 17852

(M) Notwithstanding any other provision of the Revised 17853
Code, all of the following apply: 17854

(1) The surrender of a license or certificate issued under 17855
this chapter shall not be effective unless or until accepted by 17856
the board. A telephone conference call may be utilized for 17857
acceptance of the surrender of an individual's license or 17858
certificate to practice. The telephone conference call shall be 17859
considered a special meeting under division (F) of section 17860
121.22 of the Revised Code. Reinstatement of a license or 17861
certificate surrendered to the board requires an affirmative 17862
vote of not fewer than six members of the board. 17863

(2) An application for a license or certificate made under 17864
the provisions of this chapter may not be withdrawn without 17865
approval of the board. 17866

(3) Failure by an individual to renew a license or 17867
certificate to practice in accordance with this chapter or a 17868
certificate to recommend in accordance with rules adopted under 17869
section 4731.301 of the Revised Code shall not remove or limit 17870
the board's jurisdiction to take any disciplinary action under 17871
this section against the individual. 17872

(4) At the request of the board, a license or certificate 17873
holder shall immediately surrender to the board a license or 17874

certificate that the board has suspended, revoked, or 17875
permanently revoked. 17876

(N) Sanctions shall not be imposed under division (B) (28) 17877
of this section against any person who waives deductibles and 17878
copayments as follows: 17879

(1) In compliance with the health benefit plan that 17880
expressly allows such a practice. Waiver of the deductibles or 17881
copayments shall be made only with the full knowledge and 17882
consent of the plan purchaser, payer, and third-party 17883
administrator. Documentation of the consent shall be made 17884
available to the board upon request. 17885

(2) For professional services rendered to any other person 17886
authorized to practice pursuant to this chapter, to the extent 17887
allowed by this chapter and rules adopted by the board. 17888

(O) Under the board's investigative duties described in 17889
this section and subject to division (F) of this section, the 17890
board shall develop and implement a quality intervention program 17891
designed to improve through remedial education the clinical and 17892
communication skills of individuals authorized under this 17893
chapter to practice medicine and surgery, osteopathic medicine 17894
and surgery, and podiatric medicine and surgery. In developing 17895
and implementing the quality intervention program, the board may 17896
do all of the following: 17897

(1) Offer in appropriate cases as determined by the board 17898
an educational and assessment program pursuant to an 17899
investigation the board conducts under this section; 17900

(2) Select providers of educational and assessment 17901
services, including a quality intervention program panel of case 17902
reviewers; 17903

(3) Make referrals to educational and assessment service 17904
providers and approve individual educational programs 17905
recommended by those providers. The board shall monitor the 17906
progress of each individual undertaking a recommended individual 17907
educational program. 17908

(4) Determine what constitutes successful completion of an 17909
individual educational program and require further monitoring of 17910
the individual who completed the program or other action that 17911
the board determines to be appropriate; 17912

(5) Adopt rules in accordance with Chapter 119. of the 17913
Revised Code to further implement the quality intervention 17914
program. 17915

An individual who participates in an individual 17916
educational program pursuant to this division shall pay the 17917
financial obligations arising from that educational program. 17918

Sec. 4734.36. A chiropractor who in this state pleads 17919
guilty to or is convicted of aggravated murder, murder, 17920
aggravated abortion murder, abortion murder, voluntary 17921
manslaughter, felonious assault, kidnapping, rape, sexual 17922
battery, gross sexual imposition, aggravated arson, aggravated 17923
robbery, or aggravated burglary, or who in another jurisdiction 17924
pleads guilty to or is convicted of any substantially equivalent 17925
criminal offense, is automatically suspended from practice in 17926
this state and the license issued under this chapter to practice 17927
chiropractic is automatically suspended as of the date of the 17928
guilty plea or conviction. If applicable, the chiropractor's 17929
certificate issued under this chapter to practice acupuncture is 17930
automatically suspended at the same time. Continued practice 17931
after suspension under this section shall be considered 17932
practicing chiropractic without a license and, if applicable, 17933

acupuncture without a certificate. On receiving notice or 17934
otherwise becoming aware of the conviction, the state 17935
chiropractic board shall notify the individual of the suspension 17936
under this section by certified mail or in person in accordance 17937
with section 119.07 of the Revised Code. If an individual whose 17938
license and, if applicable, certificate to practice acupuncture 17939
is suspended under this section fails to make a timely request 17940
for an adjudication, the board shall enter a final order 17941
revoking the individual's license and, if applicable, 17942
certificate to practice acupuncture. 17943

Sec. 4741.22. (A) The state veterinary medical licensing 17944
board may refuse to issue or renew a license, limited license, 17945
registration, or temporary permit to or of any applicant who, 17946
and may issue a reprimand to, suspend or revoke the license, 17947
limited license, registration, or the temporary permit of, or 17948
impose a civil penalty pursuant to this section upon any person 17949
holding a license, limited license, or temporary permit to 17950
practice veterinary medicine or any person registered as a 17951
registered veterinary technician who: 17952

(1) In the conduct of the person's practice does not 17953
conform to the rules of the board or the standards of the 17954
profession governing proper, humane, sanitary, and hygienic 17955
methods to be used in the care and treatment of animals; 17956

(2) Uses fraud, misrepresentation, or deception in any 17957
application or examination for licensure, or any other 17958
documentation created in the course of practicing veterinary 17959
medicine; 17960

(3) Is found to be physically or psychologically addicted 17961
to alcohol or an illegal or controlled substance, as defined in 17962
section 3719.01 of the Revised Code, to such a degree as to 17963

render the person unfit to practice veterinary medicine;	17964
(4) Directly or indirectly employs or lends the person's services to a solicitor for the purpose of obtaining patients;	17965
	17966
(5) Obtains a fee on the assurance that an incurable disease can be cured;	17967
	17968
(6) Advertises in a manner that violates section 4741.21 of the Revised Code;	17969
	17970
(7) Divides fees or charges or has any arrangement to share fees or charges with any other person, except on the basis of services performed;	17971
	17972
	17973
(8) Sells any biologic containing living, dead, or sensitized organisms or products of those organisms, except in a manner that the board by rule has prescribed;	17974
	17975
	17976
(9) Is convicted of or pleads guilty to any felony or crime involving illegal or prescription drugs, or fails to report to the board within sixty days of the individual's conviction of, plea of guilty to, or treatment in lieu of conviction involving a felony, misdemeanor of the first degree, or offense involving illegal or prescription drugs;	17977
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	17982
(10) Is convicted of any violation of section 959.13 of the Revised Code;	17983
	17984
(11) Swears falsely in any affidavit required to be made by the person in the course of the practice of veterinary medicine;	17985
	17986
	17987
(12) Fails to report promptly to the proper official any known reportable disease;	17988
	17989
(13) Fails to report promptly vaccinations or the results	17990

of tests when required to do so by law or rule;	17991
(14) Has been adjudicated incompetent for the purpose of holding the license or permit by a court, as provided in Chapter 2111. of the Revised Code, and has not been restored to legal capacity for that purpose;	17992 17993 17994 17995
(15) Permits a person who is not a licensed veterinarian, a veterinary student, or a registered veterinary technician to engage in work or perform duties in violation of this chapter;	17996 17997 17998
(16) Is guilty of gross incompetence or gross negligence;	17999
(17) Has had a license to practice veterinary medicine or a license, registration, or certificate to engage in activities as a registered veterinary technician revoked, suspended, or acted against by disciplinary action by an agency similar to this board of another state, territory, or country or the District of Columbia;	18000 18001 18002 18003 18004 18005
(18) Is or has practiced with a revoked, suspended, inactive, expired, or terminated license or registration;	18006 18007
(19) Represents self as a specialist unless certified as a specialist by the board;	18008 18009
(20) In the person's capacity as a veterinarian or registered veterinary technician makes or files a report, health certificate, vaccination certificate, or other document that the person knows is false or negligently or intentionally fails to file a report or record required by any applicable state or federal law;	18010 18011 18012 18013 18014 18015
(21) Fails to use reasonable care in the administration of drugs or acceptable scientific methods in the selection of those drugs or other modalities for treatment of a disease or in	18016 18017 18018

conduct of surgery; 18019

(22) Makes available a dangerous drug, as defined in 18020
section 4729.01 of the Revised Code, to any person other than 18021
for the specific treatment of an animal patient; 18022

(23) Refuses to permit a board investigator or the board's 18023
designee to inspect the person's business premises during 18024
regular business hours, except as provided in division (A) of 18025
section 4741.26 of the Revised Code; 18026

(24) Violates any order of the board or fails to comply 18027
with a subpoena of the board; 18028

(25) Fails to maintain medical records as required by rule 18029
of the board; 18030

(26) Engages in cruelty to animals; 18031

(27) Uses, prescribes, or sells any veterinary 18032
prescription drug or biologic, or prescribes any extra-label use 18033
of any over-the-counter drug or dangerous drug in the absence of 18034
a valid veterinary-client-patient relationship. 18035

(B) Except as provided in division (D) of this section, 18036
before the board may revoke, deny, refuse to renew, or suspend a 18037
license, registration, or temporary permit or otherwise 18038
discipline the holder of a license, registration, or temporary 18039
permit, the executive director shall file written charges with 18040
the board. The board shall conduct a hearing on the charges as 18041
provided in Chapter 119. of the Revised Code. 18042

(C) If the board, after a hearing conducted pursuant to 18043
Chapter 119. of the Revised Code, revokes, refuses to renew, or 18044
suspends a license, registration, or temporary permit for a 18045
violation of this section, section 4741.23, division (C) or (D) 18046

of section 4741.19, or division (B), (C), or (D) of section 18047
4741.21 of the Revised Code, the board may impose a civil 18048
penalty upon the holder of the license, permit, or registration 18049
of not less than one hundred dollars or more than one thousand 18050
dollars. In addition to the civil penalty and any other 18051
penalties imposed pursuant to this chapter, the board may assess 18052
any holder of a license, permit, or registration the costs of 18053
the hearing conducted under this section if the board determines 18054
that the holder has violated any provision for which the board 18055
may impose a civil penalty under this section. 18056

(D) The executive director may recommend that the board 18057
suspend an individual's certificate of license without a prior 18058
hearing if the executive director determines both of the 18059
following: 18060

(1) There is clear and convincing evidence that division 18061
(A) (3), (9), (14), (22), or (26) of this section applies to the 18062
individual. 18063

(2) The individual's continued practice presents a danger 18064
of immediate and serious harm to the public. 18065

The executive director shall prepare written allegations 18066
for consideration by the board. The board, upon review of those 18067
allegations and by an affirmative vote of not fewer than four of 18068
its members, may suspend the certificate without a prior 18069
hearing. A telephone conference call may be utilized for 18070
reviewing the allegations and taking the vote on the suspension. 18071

The board shall issue a written order of suspension by 18072
certified mail or in person in accordance with section 119.07 of 18073
the Revised Code. If the individual subject to the suspension 18074
requests an adjudicatory hearing by the board, the date set for 18075

the hearing shall be not later than fifteen days, but not 18076
earlier than seven days after the individual requests the 18077
hearing unless otherwise agreed to by both the board and the 18078
individual. 18079

A suspension imposed under this division shall remain in 18080
effect, unless reversed on appeal, until a final adjudicative 18081
order issued by the board under this section and Chapter 119. of 18082
the Revised Code becomes effective. The board shall issue its 18083
final adjudicative order not later than ninety days after 18084
completion of its hearing. Failure to issue the order within 18085
ninety days results in dissolution of the suspension order, but 18086
does not invalidate any subsequent, final adjudicative order. 18087

(E) A license or registration issued to an individual 18088
under this chapter is automatically suspended upon that 18089
individual's conviction of or plea of guilty to or upon a 18090
judicial finding with regard to any of the following: aggravated 18091
murder, murder, aggravated abortion murder, abortion murder, 18092
voluntary manslaughter, felonious assault, kidnapping, rape, 18093
sexual battery, gross sexual imposition, aggravated arson, 18094
aggravated robbery, or aggravated burglary. The suspension shall 18095
remain in effect from the date of the conviction, plea, or 18096
finding until an adjudication is held under Chapter 119. of the 18097
Revised Code. If the board has knowledge that an automatic 18098
suspension has occurred, it shall notify the individual subject 18099
to the suspension. If the individual is notified and either 18100
fails to request an adjudication within the time periods 18101
established by Chapter 119. of the Revised Code or fails to 18102
participate in the adjudication, the board shall enter a final 18103
order permanently revoking the individual's license or 18104
registration. 18105

Sec. 4757.361. (A) As used in this section, with regard to 18106
offenses committed in Ohio, "aggravated murder," "murder," 18107
"aggravated abortion murder," "abortion murder," "voluntary 18108
manslaughter," "felonious assault," "kidnapping," "rape," 18109
"sexual battery," "gross sexual imposition," "aggravated arson," 18110
"aggravated robbery," and "aggravated burglary" mean such 18111
offenses as defined in Title XXIX of the Revised Code; with 18112
regard to offenses committed in other jurisdictions, the terms 18113
mean offenses comparable to offenses defined in Title XXIX of 18114
the Revised Code. 18115

(B) When there is clear and convincing evidence that 18116
continued practice by an individual licensed under this chapter 18117
presents a danger of immediate and serious harm to the public, 18118
as determined on consideration of the evidence by the 18119
professional standards committees of the counselor, social 18120
worker, and marriage and family therapist board, the appropriate 18121
committee shall impose on the individual a summary suspension 18122
without a hearing. 18123

Immediately following the decision to impose a summary 18124
suspension, the appropriate committee shall issue a written 18125
order of suspension and cause it to be delivered by certified 18126
mail or in person in accordance with section 119.07 of the 18127
Revised Code. The order shall not be subject to suspension by 18128
the court during the pendency of any appeal filed under section 18129
119.12 of the Revised Code. If the individual subject to the 18130
suspension requests an adjudication, the date set for the 18131
adjudication shall be within fifteen days but not earlier than 18132
seven days after the individual makes the request, unless 18133
another date is agreed to by both the individual and the 18134
committee imposing the suspension. The summary suspension shall 18135
remain in effect, unless reversed by the committee, until a 18136

final adjudication order issued by the committee pursuant to 18137
this section and Chapter 119. of the Revised Code becomes 18138
effective. 18139

The committee shall issue its final adjudication order 18140
within ninety days after completion of the adjudication. If the 18141
committee does not issue a final order within the ninety-day 18142
period, the summary suspension shall be void, but any final 18143
adjudication order issued subsequent to the ninety-day period 18144
shall not be affected. 18145

(C) The license issued to an individual under this chapter 18146
is automatically suspended on that individual's conviction of, 18147
plea of guilty to, or judicial finding with regard to any of the 18148
following: aggravated murder, murder, aggravated abortion 18149
murder, abortion murder, voluntary manslaughter, felonious 18150
assault, kidnapping, rape, sexual battery, gross sexual 18151
imposition, aggravated arson, aggravated robbery, or aggravated 18152
burglary. The suspension shall remain in effect from the date of 18153
the conviction, plea, or finding until an adjudication is held 18154
under Chapter 119. of the Revised Code. If the appropriate 18155
committee has knowledge that an automatic suspension has 18156
occurred, it shall notify the individual subject to the 18157
suspension. If the individual is notified and either fails to 18158
request an adjudication within the time periods established by 18159
Chapter 119. of the Revised Code or fails to participate in the 18160
adjudication, the committee shall enter a final order 18161
permanently revoking the person's license or certificate. 18162

Sec. 4759.07. (A) The state medical board, by an 18163
affirmative vote of not fewer than six members, shall, to the 18164
extent permitted by law, limit, revoke, or suspend an 18165
individual's license or limited permit, refuse to issue a 18166

license or limited permit to an individual, refuse to renew a 18167
license or limited permit, refuse to reinstate a license or 18168
limited permit, or reprimand or place on probation the holder of 18169
a license or limited permit for one or more of the following 18170
reasons: 18171

(1) Except when civil penalties are imposed under section 18172
4759.071 of the Revised Code, violating or attempting to 18173
violate, directly or indirectly, or assisting in or abetting the 18174
violation of, or conspiring to violate, any provision of this 18175
chapter or the rules adopted by the board; 18176

(2) Making a false, fraudulent, deceptive, or misleading 18177
statement in the solicitation of or advertising for patients; in 18178
relation to the practice of dietetics; or in securing or 18179
attempting to secure any license or permit issued by the board 18180
under this chapter. 18181

As used in division (A) (2) of this section, "false, 18182
fraudulent, deceptive, or misleading statement" means a 18183
statement that includes a misrepresentation of fact, is likely 18184
to mislead or deceive because of a failure to disclose material 18185
facts, is intended or is likely to create false or unjustified 18186
expectations of favorable results, or includes representations 18187
or implications that in reasonable probability will cause an 18188
ordinarily prudent person to misunderstand or be deceived. 18189

(3) Committing fraud during the administration of the 18190
examination for a license to practice or committing fraud, 18191
misrepresentation, or deception in applying for, renewing, or 18192
securing any license or permit issued by the board; 18193

(4) A plea of guilty to, a judicial finding of guilt of, 18194
or a judicial finding of eligibility for intervention in lieu of 18195

conviction for, a felony;	18196
(5) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	18197 18198 18199
(6) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	18200 18201 18202 18203
(7) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	18204 18205 18206
(8) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;	18207 18208 18209
(9) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	18210 18211 18212
(10) A record of engaging in incompetent or negligent conduct in the practice of dietetics;	18213 18214
(11) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;	18215 18216 18217 18218
(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	18219 18220 18221
(13) Violation of the conditions of limitation placed by the board on a license or permit;	18222 18223

(14) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, physical deterioration that adversely affects cognitive, motor, or perceptive skills;	18224 18225 18226 18227
(15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;	18228 18229 18230 18231 18232 18233 18234 18235 18236 18237
(16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs;	18238 18239 18240
(17) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (A) (11), (12), or (14) of this section;	18241 18242 18243 18244 18245
(18) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;	18246 18247 18248 18249
(19) Failure to cooperate in an investigation conducted by the board under division (B) of section 4759.05 of the Revised Code, including failure to comply with a subpoena or order	18250 18251 18252

issued by the board or failure to answer truthfully a question 18253
presented by the board in an investigative interview, an 18254
investigative office conference, at a deposition, or in written 18255
interrogatories, except that failure to cooperate with an 18256
investigation shall not constitute grounds for discipline under 18257
this section if a court of competent jurisdiction has issued an 18258
order that either quashes a subpoena or permits the individual 18259
to withhold the testimony or evidence in issue; 18260

(20) Representing with the purpose of obtaining 18261
compensation or other advantage as personal gain or for any 18262
other person, that an incurable disease or injury, or other 18263
incurable condition, can be permanently cured. 18264

(B) Any action taken by the board under division (A) of 18265
this section resulting in a suspension from practice shall be 18266
accompanied by a written statement of the conditions under which 18267
the individual's license or permit may be reinstated. The board 18268
shall adopt rules governing conditions to be imposed for 18269
reinstatement. Reinstatement of a license or permit suspended 18270
pursuant to division (A) of this section requires an affirmative 18271
vote of not fewer than six members of the board. 18272

(C) When the board refuses to grant or issue a license or 18273
permit to an applicant, revokes an individual's license or 18274
permit, refuses to renew an individual's license or permit, or 18275
refuses to reinstate an individual's license or permit, the 18276
board may specify that its action is permanent. An individual 18277
subject to a permanent action taken by the board is forever 18278
thereafter ineligible to hold a license or permit and the board 18279
shall not accept an application for reinstatement of the license 18280
or permit or for issuance of a new license or permit. 18281

(D) Disciplinary actions taken by the board under division 18282

(A) of this section shall be taken pursuant to an adjudication 18283
under Chapter 119. of the Revised Code, except that in lieu of 18284
an adjudication, the board may enter into a consent agreement 18285
with an individual to resolve an allegation of a violation of 18286
this chapter or any rule adopted under it. A consent agreement, 18287
when ratified by an affirmative vote of not fewer than six 18288
members of the board, shall constitute the findings and order of 18289
the board with respect to the matter addressed in the agreement. 18290
If the board refuses to ratify a consent agreement, the 18291
admissions and findings contained in the consent agreement shall 18292
be of no force or effect. 18293

A telephone conference call may be utilized for 18294
ratification of a consent agreement that revokes or suspends an 18295
individual's license or permit. The telephone conference call 18296
shall be considered a special meeting under division (F) of 18297
section 121.22 of the Revised Code. 18298

(E) In enforcing division (A) (14) of this section, the 18299
board, upon a showing of a possible violation, may compel any 18300
individual authorized to practice by this chapter or who has 18301
submitted an application pursuant to this chapter to submit to a 18302
mental examination, physical examination, including an HIV test, 18303
or both a mental and a physical examination. The expense of the 18304
examination is the responsibility of the individual compelled to 18305
be examined. Failure to submit to a mental or physical 18306
examination or consent to an HIV test ordered by the board 18307
constitutes an admission of the allegations against the 18308
individual unless the failure is due to circumstances beyond the 18309
individual's control, and a default and final order may be 18310
entered without the taking of testimony or presentation of 18311
evidence. If the board finds an individual unable to practice 18312
because of the reasons set forth in division (A) (14) of this 18313

section, the board shall require the individual to submit to 18314
care, counseling, or treatment by physicians approved or 18315
designated by the board, as a condition for initial, continued, 18316
reinstated, or renewed authority to practice. An individual 18317
affected under this division shall be afforded an opportunity to 18318
demonstrate to the board the ability to resume practice in 18319
compliance with acceptable and prevailing standards under the 18320
provisions of the individual's license or permit. For the 18321
purpose of division (A) (14) of this section, any individual who 18322
applies for or receives a license or permit under this chapter 18323
accepts the privilege of practicing in this state and, by so 18324
doing, shall be deemed to have given consent to submit to a 18325
mental or physical examination when directed to do so in writing 18326
by the board, and to have waived all objections to the 18327
admissibility of testimony or examination reports that 18328
constitute a privileged communication. 18329

(F) For the purposes of division (A) (18) of this section, 18330
any individual authorized to practice by this chapter accepts 18331
the privilege of practicing in this state subject to supervision 18332
by the board. By filing an application for or holding a license 18333
or permit under this chapter, an individual shall be deemed to 18334
have given consent to submit to a mental or physical examination 18335
when ordered to do so by the board in writing, and to have 18336
waived all objections to the admissibility of testimony or 18337
examination reports that constitute privileged communications. 18338

If it has reason to believe that any individual authorized 18339
to practice by this chapter or any applicant for a license or 18340
permit suffers such impairment, the board may compel the 18341
individual to submit to a mental or physical examination, or 18342
both. The expense of the examination is the responsibility of 18343
the individual compelled to be examined. Any mental or physical 18344

examination required under this division shall be undertaken by 18345
a treatment provider or physician who is qualified to conduct 18346
the examination and who is chosen by the board. 18347

Failure to submit to a mental or physical examination 18348
ordered by the board constitutes an admission of the allegations 18349
against the individual unless the failure is due to 18350
circumstances beyond the individual's control, and a default and 18351
final order may be entered without the taking of testimony or 18352
presentation of evidence. If the board determines that the 18353
individual's ability to practice is impaired, the board shall 18354
suspend the individual's license or permit or deny the 18355
individual's application and shall require the individual, as a 18356
condition for an initial, continued, reinstated, or renewed 18357
license or permit, to submit to treatment. 18358

Before being eligible to apply for reinstatement of a 18359
license or permit suspended under this division, the impaired 18360
practitioner shall demonstrate to the board the ability to 18361
resume practice in compliance with acceptable and prevailing 18362
standards of care under the provisions of the practitioner's 18363
license or permit. The demonstration shall include, but shall 18364
not be limited to, the following: 18365

(1) Certification from a treatment provider approved under 18366
section 4731.25 of the Revised Code that the individual has 18367
successfully completed any required inpatient treatment; 18368

(2) Evidence of continuing full compliance with an 18369
aftercare contract or consent agreement; 18370

(3) Two written reports indicating that the individual's 18371
ability to practice has been assessed and that the individual 18372
has been found capable of practicing according to acceptable and 18373

prevailing standards of care. The reports shall be made by 18374
individuals or providers approved by the board for making the 18375
assessments and shall describe the basis for their 18376
determination. 18377

The board may reinstate a license or permit suspended 18378
under this division after that demonstration and after the 18379
individual has entered into a written consent agreement. 18380

When the impaired practitioner resumes practice, the board 18381
shall require continued monitoring of the individual. The 18382
monitoring shall include, but not be limited to, compliance with 18383
the written consent agreement entered into before reinstatement 18384
or with conditions imposed by board order after a hearing, and, 18385
upon termination of the consent agreement, submission to the 18386
board for at least two years of annual written progress reports 18387
made under penalty of perjury stating whether the individual has 18388
maintained sobriety. 18389

(G) If the secretary and supervising member determine both 18390
of the following, they may recommend that the board suspend an 18391
individual's license or permit without a prior hearing: 18392

(1) That there is clear and convincing evidence that an 18393
individual has violated division (A) of this section; 18394

(2) That the individual's continued practice presents a 18395
danger of immediate and serious harm to the public. 18396

Written allegations shall be prepared for consideration by 18397
the board. The board, upon review of those allegations and by an 18398
affirmative vote of not fewer than six of its members, excluding 18399
the secretary and supervising member, may suspend a license or 18400
permit without a prior hearing. A telephone conference call may 18401
be utilized for reviewing the allegations and taking the vote on 18402

the summary suspension. 18403

The board shall issue a written order of suspension by 18404
certified mail or in person in accordance with section 119.07 of 18405
the Revised Code. The order shall not be subject to suspension 18406
by the court during pendency of any appeal filed under section 18407
119.12 of the Revised Code. If the individual subject to the 18408
summary suspension requests an adjudicatory hearing by the 18409
board, the date set for the hearing shall be within fifteen 18410
days, but not earlier than seven days, after the individual 18411
requests the hearing, unless otherwise agreed to by both the 18412
board and the individual. 18413

Any summary suspension imposed under this division shall 18414
remain in effect, unless reversed on appeal, until a final 18415
adjudicative order issued by the board pursuant to this section 18416
and Chapter 119. of the Revised Code becomes effective. The 18417
board shall issue its final adjudicative order within seventy- 18418
five days after completion of its hearing. A failure to issue 18419
the order within seventy-five days shall result in dissolution 18420
of the summary suspension order but shall not invalidate any 18421
subsequent, final adjudicative order. 18422

(H) If the board is required by Chapter 119. of the 18423
Revised Code to give notice of an opportunity for a hearing and 18424
if the individual subject to the notice does not timely request 18425
a hearing in accordance with section 119.07 of the Revised Code, 18426
the board is not required to hold a hearing, but may adopt, by 18427
an affirmative vote of not fewer than six of its members, a 18428
final order that contains the board's findings. In the final 18429
order, the board may order any of the sanctions identified under 18430
division (A) of this section. 18431

(I) For purposes of divisions (A) (5), (7), and (9) of this 18432

section, the commission of the act may be established by a 18433
finding by the board, pursuant to an adjudication under Chapter 18434
119. of the Revised Code, that the individual committed the act. 18435
The board does not have jurisdiction under those divisions if 18436
the trial court renders a final judgment in the individual's 18437
favor and that judgment is based upon an adjudication on the 18438
merits. The board has jurisdiction under those divisions if the 18439
trial court issues an order of dismissal upon technical or 18440
procedural grounds. 18441

(J) The sealing of conviction records by any court shall 18442
have no effect upon a prior board order entered under this 18443
section or upon the board's jurisdiction to take action under 18444
this section if, based upon a plea of guilty, a judicial finding 18445
of guilt, or a judicial finding of eligibility for intervention 18446
in lieu of conviction, the board issued a notice of opportunity 18447
for a hearing prior to the court's order to seal the records. 18448
The board shall not be required to seal, destroy, redact, or 18449
otherwise modify its records to reflect the court's sealing of 18450
conviction records. 18451

(K) If the board takes action under division (A) (4), (6), 18452
or (8) of this section, and the judicial finding of guilt, 18453
guilty plea, or judicial finding of eligibility for intervention 18454
in lieu of conviction is overturned on appeal, upon exhaustion 18455
of the criminal appeal, a petition for reconsideration of the 18456
order may be filed with the board along with appropriate court 18457
documents. Upon receipt of a petition for reconsideration and 18458
supporting court documents, the board shall reinstate the 18459
individual's license or permit. The board may then hold an 18460
adjudication under Chapter 119. of the Revised Code to determine 18461
whether the individual committed the act in question. Notice of 18462
an opportunity for a hearing shall be given in accordance with 18463

Chapter 119. of the Revised Code. If the board finds, pursuant 18464
to an adjudication held under this division, that the individual 18465
committed the act or if no hearing is requested, the board may 18466
order any of the sanctions identified under division (A) of this 18467
section. 18468

(L) The license or permit issued to an individual under 18469
this chapter and the individual's practice in this state are 18470
automatically suspended as of the date the individual pleads 18471
guilty to, is found by a judge or jury to be guilty of, or is 18472
subject to a judicial finding of eligibility for intervention in 18473
lieu of conviction in this state or treatment or intervention in 18474
lieu of conviction in another jurisdiction for any of the 18475
following criminal offenses in this state or a substantially 18476
equivalent criminal offense in another jurisdiction: aggravated 18477
murder, murder, aggravated abortion murder, abortion murder, 18478
voluntary manslaughter, felonious assault, kidnapping, rape, 18479
sexual battery, gross sexual imposition, aggravated arson, 18480
aggravated robbery, or aggravated burglary. Continued practice 18481
after suspension shall be considered practicing without a 18482
license or permit. 18483

The board shall notify the individual subject to the 18484
suspension by certified mail or in person in accordance with 18485
section 119.07 of the Revised Code. If an individual whose 18486
license or permit is automatically suspended under this division 18487
fails to make a timely request for an adjudication under Chapter 18488
119. of the Revised Code, the board shall enter a final order 18489
permanently revoking the individual's license or permit. 18490

(M) Notwithstanding any other provision of the Revised 18491
Code, all of the following apply: 18492

(1) The surrender of a license or permit issued under this 18493

chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license or permit surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a license or permit made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license or permit in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) At the request of the board, a license or permit holder shall immediately surrender to the board a license or permit that the board has suspended, revoked, or permanently revoked.

Sec. 4760.13. (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to practice as an anesthesiologist assistant to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice as an anesthesiologist assistant, refuse to issue a certificate to an

applicant, refuse to renew a certificate, refuse to reinstate a	18523
certificate, or reprimand or place on probation the holder of a	18524
certificate for any of the following reasons:	18525
(1) Permitting the holder's name or certificate to be used	18526
by another person;	18527
(2) Failure to comply with the requirements of this	18528
chapter, Chapter 4731. of the Revised Code, or any rules adopted	18529
by the board;	18530
(3) Violating or attempting to violate, directly or	18531
indirectly, or assisting in or abetting the violation of, or	18532
conspiring to violate, any provision of this chapter, Chapter	18533
4731. of the Revised Code, or the rules adopted by the board;	18534
(4) A departure from, or failure to conform to, minimal	18535
standards of care of similar practitioners under the same or	18536
similar circumstances whether or not actual injury to the	18537
patient is established;	18538
(5) Inability to practice according to acceptable and	18539
prevailing standards of care by reason of mental illness or	18540
physical illness, including physical deterioration that	18541
adversely affects cognitive, motor, or perceptive skills;	18542
(6) Impairment of ability to practice according to	18543
acceptable and prevailing standards of care because of habitual	18544
or excessive use or abuse of drugs, alcohol, or other substances	18545
that impair ability to practice;	18546
(7) Willfully betraying a professional confidence;	18547
(8) Making a false, fraudulent, deceptive, or misleading	18548
statement in securing or attempting to secure a certificate to	18549
practice as an anesthesiologist assistant.	18550

As used in this division, "false, fraudulent, deceptive, 18551
or misleading statement" means a statement that includes a 18552
misrepresentation of fact, is likely to mislead or deceive 18553
because of a failure to disclose material facts, is intended or 18554
is likely to create false or unjustified expectations of 18555
favorable results, or includes representations or implications 18556
that in reasonable probability will cause an ordinarily prudent 18557
person to misunderstand or be deceived. 18558

(9) The obtaining of, or attempting to obtain, money or a 18559
thing of value by fraudulent misrepresentations in the course of 18560
practice; 18561

(10) A plea of guilty to, a judicial finding of guilt of, 18562
or a judicial finding of eligibility for intervention in lieu of 18563
conviction for, a felony; 18564

(11) Commission of an act that constitutes a felony in 18565
this state, regardless of the jurisdiction in which the act was 18566
committed; 18567

(12) A plea of guilty to, a judicial finding of guilt of, 18568
or a judicial finding of eligibility for intervention in lieu of 18569
conviction for, a misdemeanor committed in the course of 18570
practice; 18571

(13) A plea of guilty to, a judicial finding of guilt of, 18572
or a judicial finding of eligibility for intervention in lieu of 18573
conviction for, a misdemeanor involving moral turpitude; 18574

(14) Commission of an act in the course of practice that 18575
constitutes a misdemeanor in this state, regardless of the 18576
jurisdiction in which the act was committed; 18577

(15) Commission of an act involving moral turpitude that 18578
constitutes a misdemeanor in this state, regardless of the 18579

jurisdiction in which the act was committed; 18580

(16) A plea of guilty to, a judicial finding of guilt of, 18581
or a judicial finding of eligibility for intervention in lieu of 18582
conviction for violating any state or federal law regulating the 18583
possession, distribution, or use of any drug, including 18584
trafficking in drugs; 18585

(17) Any of the following actions taken by the state 18586
agency responsible for regulating the practice of 18587
anesthesiologist assistants in another jurisdiction, for any 18588
reason other than the nonpayment of fees: the limitation, 18589
revocation, or suspension of an individual's license to 18590
practice; acceptance of an individual's license surrender; 18591
denial of a license; refusal to renew or reinstate a license; 18592
imposition of probation; or issuance of an order of censure or 18593
other reprimand; 18594

(18) Violation of the conditions placed by the board on a 18595
certificate to practice; 18596

(19) Failure to use universal blood and body fluid 18597
precautions established by rules adopted under section 4731.051 18598
of the Revised Code; 18599

(20) Failure to cooperate in an investigation conducted by 18600
the board under section 4760.14 of the Revised Code, including 18601
failure to comply with a subpoena or order issued by the board 18602
or failure to answer truthfully a question presented by the 18603
board at a deposition or in written interrogatories, except that 18604
failure to cooperate with an investigation shall not constitute 18605
grounds for discipline under this section if a court of 18606
competent jurisdiction has issued an order that either quashes a 18607
subpoena or permits the individual to withhold the testimony or 18608

evidence in issue; 18609

(21) Failure to comply with any code of ethics established 18610
by the national commission for the certification of 18611
anesthesiologist assistants; 18612

(22) Failure to notify the state medical board of the 18613
revocation or failure to maintain certification from the 18614
national commission for certification of anesthesiologist 18615
assistants. 18616

(C) Disciplinary actions taken by the board under 18617
divisions (A) and (B) of this section shall be taken pursuant to 18618
an adjudication under Chapter 119. of the Revised Code, except 18619
that in lieu of an adjudication, the board may enter into a 18620
consent agreement with an anesthesiologist assistant or 18621
applicant to resolve an allegation of a violation of this 18622
chapter or any rule adopted under it. A consent agreement, when 18623
ratified by an affirmative vote of not fewer than six members of 18624
the board, shall constitute the findings and order of the board 18625
with respect to the matter addressed in the agreement. If the 18626
board refuses to ratify a consent agreement, the admissions and 18627
findings contained in the consent agreement shall be of no force 18628
or effect. 18629

(D) For purposes of divisions (B) (11), (14), and (15) of 18630
this section, the commission of the act may be established by a 18631
finding by the board, pursuant to an adjudication under Chapter 18632
119. of the Revised Code, that the applicant or certificate 18633
holder committed the act in question. The board shall have no 18634
jurisdiction under these divisions in cases where the trial 18635
court renders a final judgment in the certificate holder's favor 18636
and that judgment is based upon an adjudication on the merits. 18637
The board shall have jurisdiction under these divisions in cases 18638

where the trial court issues an order of dismissal on technical 18639
or procedural grounds. 18640

(E) The sealing of conviction records by any court shall 18641
have no effect on a prior board order entered under the 18642
provisions of this section or on the board's jurisdiction to 18643
take action under the provisions of this section if, based upon 18644
a plea of guilty, a judicial finding of guilt, or a judicial 18645
finding of eligibility for intervention in lieu of conviction, 18646
the board issued a notice of opportunity for a hearing prior to 18647
the court's order to seal the records. The board shall not be 18648
required to seal, destroy, redact, or otherwise modify its 18649
records to reflect the court's sealing of conviction records. 18650

(F) For purposes of this division, any individual who 18651
holds a certificate to practice issued under this chapter, or 18652
applies for a certificate to practice, shall be deemed to have 18653
given consent to submit to a mental or physical examination when 18654
directed to do so in writing by the board and to have waived all 18655
objections to the admissibility of testimony or examination 18656
reports that constitute a privileged communication. 18657

(1) In enforcing division (B) (5) of this section, the 18658
board, on a showing of a possible violation, may compel any 18659
individual who holds a certificate to practice issued under this 18660
chapter or who has applied for a certificate to practice 18661
pursuant to this chapter to submit to a mental or physical 18662
examination, or both. A physical examination may include an HIV 18663
test. The expense of the examination is the responsibility of 18664
the individual compelled to be examined. Failure to submit to a 18665
mental or physical examination or consent to an HIV test ordered 18666
by the board constitutes an admission of the allegations against 18667
the individual unless the failure is due to circumstances beyond 18668

the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an anesthesiologist assistant unable to practice because of the reasons set forth in division (B) (5) of this section, the board shall require the anesthesiologist assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B) (6) of this section, if the board has reason to believe that any individual who holds a certificate to practice issued under this chapter or any applicant for a certificate to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for

an initial, continued, reinstated, or renewed certificate to 18700
practice, to submit to treatment. 18701

Before being eligible to apply for reinstatement of a 18702
certificate suspended under this division, the anesthesiologist 18703
assistant shall demonstrate to the board the ability to resume 18704
practice in compliance with acceptable and prevailing standards 18705
of care. The demonstration shall include the following: 18706

(a) Certification from a treatment provider approved under 18707
section 4731.25 of the Revised Code that the individual has 18708
successfully completed any required inpatient treatment; 18709

(b) Evidence of continuing full compliance with an 18710
aftercare contract or consent agreement; 18711

(c) Two written reports indicating that the individual's 18712
ability to practice has been assessed and that the individual 18713
has been found capable of practicing according to acceptable and 18714
prevailing standards of care. The reports shall be made by 18715
individuals or providers approved by the board for making such 18716
assessments and shall describe the basis for their 18717
determination. 18718

The board may reinstate a certificate suspended under this 18719
division after such demonstration and after the individual has 18720
entered into a written consent agreement. 18721

When the impaired anesthesiologist assistant resumes 18722
practice, the board shall require continued monitoring of the 18723
anesthesiologist assistant. The monitoring shall include 18724
monitoring of compliance with the written consent agreement 18725
entered into before reinstatement or with conditions imposed by 18726
board order after a hearing, and, on termination of the consent 18727
agreement, submission to the board for at least two years of 18728

annual written progress reports made under penalty of 18729
falsification stating whether the anesthesiologist assistant has 18730
maintained sobriety. 18731

(G) If the secretary and supervising member determine that 18732
there is clear and convincing evidence that an anesthesiologist 18733
assistant has violated division (B) of this section and that the 18734
individual's continued practice presents a danger of immediate 18735
and serious harm to the public, they may recommend that the 18736
board suspend the individual's certificate without a prior 18737
hearing. Written allegations shall be prepared for consideration 18738
by the board. 18739

The board, on review of the allegations and by an 18740
affirmative vote of not fewer than six of its members, excluding 18741
the secretary and supervising member, may suspend a certificate 18742
without a prior hearing. A telephone conference call may be 18743
utilized for reviewing the allegations and taking the vote on 18744
the summary suspension. 18745

The board shall issue a written order of suspension by 18746
certified mail or in person in accordance with section 119.07 of 18747
the Revised Code. The order shall not be subject to suspension 18748
by the court during pendency of any appeal filed under section 18749
119.12 of the Revised Code. If the anesthesiologist assistant 18750
requests an adjudicatory hearing by the board, the date set for 18751
the hearing shall be within fifteen days, but not earlier than 18752
seven days, after the anesthesiologist assistant requests the 18753
hearing, unless otherwise agreed to by both the board and the 18754
certificate holder. 18755

A summary suspension imposed under this division shall 18756
remain in effect, unless reversed on appeal, until a final 18757
adjudicative order issued by the board pursuant to this section 18758

and Chapter 119. of the Revised Code becomes effective. The 18759
board shall issue its final adjudicative order within sixty days 18760
after completion of its hearing. Failure to issue the order 18761
within sixty days shall result in dissolution of the summary 18762
suspension order, but shall not invalidate any subsequent, final 18763
adjudicative order. 18764

(H) If the board takes action under division (B) (11), 18765
(13), or (14) of this section, and the judicial finding of 18766
guilt, guilty plea, or judicial finding of eligibility for 18767
intervention in lieu of conviction is overturned on appeal, on 18768
exhaustion of the criminal appeal, a petition for 18769
reconsideration of the order may be filed with the board along 18770
with appropriate court documents. On receipt of a petition and 18771
supporting court documents, the board shall reinstate the 18772
certificate to practice. The board may then hold an adjudication 18773
under Chapter 119. of the Revised Code to determine whether the 18774
individual committed the act in question. Notice of opportunity 18775
for hearing shall be given in accordance with Chapter 119. of 18776
the Revised Code. If the board finds, pursuant to an 18777
adjudication held under this division, that the individual 18778
committed the act, or if no hearing is requested, it may order 18779
any of the sanctions specified in division (B) of this section. 18780

(I) The certificate to practice of an anesthesiologist 18781
assistant and the assistant's practice in this state are 18782
automatically suspended as of the date the anesthesiologist 18783
assistant pleads guilty to, is found by a judge or jury to be 18784
guilty of, or is subject to a judicial finding of eligibility 18785
for intervention in lieu of conviction in this state or 18786
treatment of intervention in lieu of conviction in another 18787
jurisdiction for any of the following criminal offenses in this 18788
state or a substantially equivalent criminal offense in another 18789

jurisdiction: aggravated murder, murder, aggravated abortion 18790
murder, abortion murder, voluntary manslaughter, felonious 18791
assault, kidnapping, rape, sexual battery, gross sexual 18792
imposition, aggravated arson, aggravated robbery, or aggravated 18793
burglary. Continued practice after the suspension shall be 18794
considered practicing without a certificate. 18795

The board shall notify the individual subject to the 18796
suspension by certified mail or in person in accordance with 18797
section 119.07 of the Revised Code. If an individual whose 18798
certificate is suspended under this division fails to make a 18799
timely request for an adjudication under Chapter 119. of the 18800
Revised Code, the board shall enter a final order permanently 18801
revoking the individual's certificate to practice. 18802

(J) In any instance in which the board is required by 18803
Chapter 119. of the Revised Code to give notice of opportunity 18804
for hearing and the individual subject to the notice does not 18805
timely request a hearing in accordance with section 119.07 of 18806
the Revised Code, the board is not required to hold a hearing, 18807
but may adopt, by an affirmative vote of not fewer than six of 18808
its members, a final order that contains the board's findings. 18809
In the final order, the board may order any of the sanctions 18810
identified under division (A) or (B) of this section. 18811

(K) Any action taken by the board under division (B) of 18812
this section resulting in a suspension shall be accompanied by a 18813
written statement of the conditions under which the 18814
anesthesiologist assistant's certificate may be reinstated. The 18815
board shall adopt rules in accordance with Chapter 119. of the 18816
Revised Code governing conditions to be imposed for 18817
reinstatement. Reinstatement of a certificate suspended pursuant 18818
to division (B) of this section requires an affirmative vote of 18819

not fewer than six members of the board. 18820

(L) When the board refuses to grant or issue a certificate 18821
to practice as an anesthesiologist assistant to an applicant, 18822
revokes an individual's certificate, refuses to renew an 18823
individual's certificate, or refuses to reinstate an 18824
individual's certificate, the board may specify that its action 18825
is permanent. An individual subject to a permanent action taken 18826
by the board is forever thereafter ineligible to hold a 18827
certificate to practice as an anesthesiologist assistant and the 18828
board shall not accept an application for reinstatement of the 18829
certificate or for issuance of a new certificate. 18830

(M) Notwithstanding any other provision of the Revised 18831
Code, all of the following apply: 18832

(1) The surrender of a certificate to practice issued 18833
under this chapter is not effective unless or until accepted by 18834
the board. Reinstatement of a certificate surrendered to the 18835
board requires an affirmative vote of not fewer than six members 18836
of the board. 18837

(2) An application made under this chapter for a 18838
certificate to practice may not be withdrawn without approval of 18839
the board. 18840

(3) Failure by an individual to renew a certificate to 18841
practice in accordance with section 4760.06 of the Revised Code 18842
shall not remove or limit the board's jurisdiction to take 18843
disciplinary action under this section against the individual. 18844

Sec. 4761.09. (A) The state medical board, by an 18845
affirmative vote of not fewer than six members, shall, to the 18846
extent permitted by law, limit, revoke, or suspend an 18847
individual's license or limited permit, refuse to issue a 18848

license or limited permit to an individual, refuse to renew a 18849
license or limited permit, refuse to reinstate a license or 18850
limited permit, or reprimand or place on probation the holder of 18851
a license or limited permit for one or more of the following 18852
reasons: 18853

(1) A plea of guilty to, a judicial finding of guilt of, 18854
or a judicial finding of eligibility for intervention in lieu of 18855
conviction for, a felony; 18856

(2) Commission of an act that constitutes a felony in this 18857
state, regardless of the jurisdiction in which the act was 18858
committed; 18859

(3) A plea of guilty to, a judicial finding of guilt of, 18860
or a judicial finding of eligibility for intervention in lieu of 18861
conviction for, a misdemeanor committed in the course of 18862
practice; 18863

(4) Commission of an act in the course of practice that 18864
constitutes a misdemeanor in this state, regardless of the 18865
jurisdiction in which the act was committed; 18866

(5) A plea of guilty to, a judicial finding of guilt of, 18867
or a judicial finding of eligibility for intervention in lieu of 18868
conviction for, a misdemeanor involving moral turpitude; 18869

(6) Commission of an act involving moral turpitude that 18870
constitutes a misdemeanor in this state, regardless of the 18871
jurisdiction in which the act was committed; 18872

(7) Except when civil penalties are imposed under section 18873
4761.091 of the Revised Code, violating or attempting to 18874
violate, directly or indirectly, or assisting in or abetting the 18875
violation of, or conspiring to violate, any provision of this 18876
chapter or the rules adopted by the board; 18877

(8) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of respiratory care; or in securing or attempting to secure any license or permit issued by the board under this chapter. 18878
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As used in division (A) (8) of this section, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived. 18883
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(9) Committing fraud during the administration of the examination for a license to practice or committing fraud, misrepresentation, or deception in applying for, renewing, or securing any license or permit issued by the board; 18891
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(10) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established; 18895
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(11) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care; 18899
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(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice; 18901
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(13) Violation of the conditions of limitation placed by the board upon a license or permit; 18904
18905

(14) Inability to practice according to acceptable and 18906

prevailing standards of care by reason of mental illness or 18907
physical illness, including physical deterioration that 18908
adversely affects cognitive, motor, or perceptive skills; 18909

(15) Any of the following actions taken by an agency 18910
responsible for authorizing, certifying, or regulating an 18911
individual to practice a health care occupation or provide 18912
health care services in this state or another jurisdiction, for 18913
any reason other than the nonpayment of fees: the limitation, 18914
revocation, or suspension of an individual's license; acceptance 18915
of an individual's license surrender; denial of a license; 18916
refusal to renew or reinstate a license; imposition of 18917
probation; or issuance of an order of censure or other 18918
reprimand; 18919

(16) The revocation, suspension, restriction, reduction, 18920
or termination of practice privileges by the United States 18921
department of defense or department of veterans affairs; 18922

(17) Termination or suspension from participation in the 18923
medicare or medicaid programs by the department of health and 18924
human services or other responsible agency for any act or acts 18925
that also would constitute a violation of division (A) (10), 18926
(12), or (14) of this section; 18927

(18) Impairment of ability to practice according to 18928
acceptable and prevailing standards of care because of habitual 18929
or excessive use or abuse of drugs, alcohol, or other substances 18930
that impair ability to practice; 18931

(19) Failure to cooperate in an investigation conducted by 18932
the board under division (E) of section 4761.03 of the Revised 18933
Code, including failure to comply with a subpoena or order 18934
issued by the board or failure to answer truthfully a question 18935

presented by the board in an investigative interview, an 18936
investigative office conference, at a deposition, or in written 18937
interrogatories, except that failure to cooperate with an 18938
investigation shall not constitute grounds for discipline under 18939
this section if a court of competent jurisdiction has issued an 18940
order that either quashes a subpoena or permits the individual 18941
to withhold the testimony or evidence in issue; 18942

(20) Practicing in an area of respiratory care for which 18943
the person is clearly untrained or incompetent or practicing in 18944
a manner that conflicts with section 4761.17 of the Revised 18945
Code; 18946

(21) Employing, directing, or supervising a person who is 18947
not authorized to practice respiratory care under this chapter 18948
in the performance of respiratory care procedures; 18949

(22) Misrepresenting educational attainments or authorized 18950
functions for the purpose of obtaining some benefit related to 18951
the practice of respiratory care; 18952

(23) Assisting suicide as defined in section 3795.01 of 18953
the Revised Code; 18954

(24) Representing, with the purpose of obtaining 18955
compensation or other advantage as personal gain or for any 18956
other person, that an incurable disease or injury, or other 18957
incurable condition, can be permanently cured. 18958

Disciplinary actions taken by the board under division (A) 18959
of this section shall be taken pursuant to an adjudication under 18960
Chapter 119. of the Revised Code, except that in lieu of an 18961
adjudication, the board may enter into a consent agreement with 18962
an individual to resolve an allegation of a violation of this 18963
chapter or any rule adopted under it. A consent agreement, when 18964

ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

(B) Any action taken by the board under division (A) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's license or permit may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a license or permit suspended pursuant to division (A) of this section requires an affirmative vote of not fewer than six members of the board.

(C) When the board refuses to grant or issue a license or permit to an applicant, revokes an individual's license or permit, refuses to renew an individual's license or permit, or refuses to reinstate an individual's license or permit, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or permit and the board shall not accept an application for reinstatement of the license or permit or for issuance of a new license or permit.

(D) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and

if the individual subject to the notice does not timely request 18995
a hearing in accordance with section 119.07 of the Revised Code, 18996
the board is not required to hold a hearing, but may adopt, by 18997
an affirmative vote of not fewer than six of its members, a 18998
final order that contains the board's findings. In the final 18999
order, the board may order any of the sanctions identified under 19000
division (A) of this section. 19001

(E) In enforcing division (A)(14) of this section, the 19002
board, upon a showing of a possible violation, may compel any 19003
individual authorized to practice by this chapter or who has 19004
submitted an application pursuant to this chapter to submit to a 19005
mental examination, physical examination, including an HIV test, 19006
or both a mental and a physical examination. The expense of the 19007
examination is the responsibility of the individual compelled to 19008
be examined. Failure to submit to a mental or physical 19009
examination or consent to an HIV test ordered by the board 19010
constitutes an admission of the allegations against the 19011
individual unless the failure is due to circumstances beyond the 19012
individual's control, and a default and final order may be 19013
entered without the taking of testimony or presentation of 19014
evidence. If the board finds an individual unable to practice 19015
because of the reasons set forth in division (A)(14) of this 19016
section, the board shall require the individual to submit to 19017
care, counseling, or treatment by physicians approved or 19018
designated by the board, as a condition for initial, continued, 19019
reinstated, or renewed authority to practice. An individual 19020
affected under this division shall be afforded an opportunity to 19021
demonstrate to the board the ability to resume practice in 19022
compliance with acceptable and prevailing standards under the 19023
provisions of the individual's license or permit. For the 19024
purpose of division (A)(14) of this section, any individual who 19025

applies for or receives a license or permit to practice under 19026
this chapter accepts the privilege of practicing in this state 19027
and, by so doing, shall be deemed to have given consent to 19028
submit to a mental or physical examination when directed to do 19029
so in writing by the board, and to have waived all objections to 19030
the admissibility of testimony or examination reports that 19031
constitute a privileged communication. 19032

(F) For the purposes of division (A) (18) of this section, 19033
any individual authorized to practice by this chapter accepts 19034
the privilege of practicing in this state subject to supervision 19035
by the board. By filing an application for or holding a license 19036
or permit under this chapter, an individual shall be deemed to 19037
have given consent to submit to a mental or physical examination 19038
when ordered to do so by the board in writing, and to have 19039
waived all objections to the admissibility of testimony or 19040
examination reports that constitute privileged communications. 19041

If it has reason to believe that any individual authorized 19042
to practice by this chapter or any applicant for a license or 19043
permit suffers such impairment, the board may compel the 19044
individual to submit to a mental or physical examination, or 19045
both. The expense of the examination is the responsibility of 19046
the individual compelled to be examined. Any mental or physical 19047
examination required under this division shall be undertaken by 19048
a treatment provider or physician who is qualified to conduct 19049
the examination and who is chosen by the board. 19050

Failure to submit to a mental or physical examination 19051
ordered by the board constitutes an admission of the allegations 19052
against the individual unless the failure is due to 19053
circumstances beyond the individual's control, and a default and 19054
final order may be entered without the taking of testimony or 19055

presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or permit or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license or permit, to submit to treatment.

Before being eligible to apply for reinstatement of a license or permit suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's license or permit. The demonstration shall include, but shall not be limited to, the following:

(1) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(2) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a license or permit suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board

shall require continued monitoring of the individual. The 19085
monitoring shall include, but not be limited to, compliance with 19086
the written consent agreement entered into before reinstatement 19087
or with conditions imposed by board order after a hearing, and, 19088
upon termination of the consent agreement, submission to the 19089
board for at least two years of annual written progress reports 19090
made under penalty of perjury stating whether the individual has 19091
maintained sobriety. 19092

(G) If the secretary and supervising member determine both 19093
of the following, they may recommend that the board suspend an 19094
individual's license or permit without a prior hearing: 19095

(1) That there is clear and convincing evidence that an 19096
individual has violated division (A) of this section; 19097

(2) That the individual's continued practice presents a 19098
danger of immediate and serious harm to the public. 19099

Written allegations shall be prepared for consideration by 19100
the board. The board, upon review of those allegations and by an 19101
affirmative vote of not fewer than six of its members, excluding 19102
the secretary and supervising member, may suspend a license or 19103
permit without a prior hearing. A telephone conference call may 19104
be utilized for reviewing the allegations and taking the vote on 19105
the summary suspension. 19106

The board shall issue a written order of suspension by 19107
certified mail or in person in accordance with section 119.07 of 19108
the Revised Code. The order shall not be subject to suspension 19109
by the court during pendency of any appeal filed under section 19110
119.12 of the Revised Code. If the individual subject to the 19111
summary suspension requests an adjudicatory hearing by the 19112
board, the date set for the hearing shall be within fifteen 19113

days, but not earlier than seven days, after the individual 19114
requests the hearing, unless otherwise agreed to by both the 19115
board and the individual. 19116

Any summary suspension imposed under this division shall 19117
remain in effect, unless reversed on appeal, until a final 19118
adjudicative order issued by the board pursuant to this section 19119
and Chapter 119. of the Revised Code becomes effective. The 19120
board shall issue its final adjudicative order within seventy- 19121
five days after completion of its hearing. A failure to issue 19122
the order within seventy-five days shall result in dissolution 19123
of the summary suspension order but shall not invalidate any 19124
subsequent, final adjudicative order. 19125

(H) For purposes of divisions (A) (2), (4), and (6) of this 19126
section, the commission of the act may be established by a 19127
finding by the board, pursuant to an adjudication under Chapter 19128
119. of the Revised Code, that the individual committed the act. 19129
The board does not have jurisdiction under those divisions if 19130
the trial court renders a final judgment in the individual's 19131
favor and that judgment is based upon an adjudication on the 19132
merits. The board has jurisdiction under those divisions if the 19133
trial court issues an order of dismissal upon technical or 19134
procedural grounds. 19135

(I) The sealing of conviction records by any court shall 19136
have no effect upon a prior board order entered under this 19137
section or upon the board's jurisdiction to take action under 19138
this section if, based upon a plea of guilty, a judicial finding 19139
of guilt, or a judicial finding of eligibility for intervention 19140
in lieu of conviction, the board issued a notice of opportunity 19141
for a hearing prior to the court's order to seal the records. 19142
The board shall not be required to seal, destroy, redact, or 19143

otherwise modify its records to reflect the court's sealing of conviction records. 19144
19145

(J) If the board takes action under division (A) (1), (3), 19146
or (5) of this section, and the judicial finding of guilt, 19147
guilty plea, or judicial finding of eligibility for intervention 19148
in lieu of conviction is overturned on appeal, upon exhaustion 19149
of the criminal appeal, a petition for reconsideration of the 19150
order may be filed with the board along with appropriate court 19151
documents. Upon receipt of a petition for reconsideration and 19152
supporting court documents, the board shall reinstate the 19153
individual's license or permit. The board may then hold an 19154
adjudication under Chapter 119. of the Revised Code to determine 19155
whether the individual committed the act in question. Notice of 19156
an opportunity for a hearing shall be given in accordance with 19157
Chapter 119. of the Revised Code. If the board finds, pursuant 19158
to an adjudication held under this division, that the individual 19159
committed the act or if no hearing is requested, the board may 19160
order any of the sanctions identified under division (A) of this 19161
section. 19162

(K) The license or permit issued to an individual under 19163
this chapter and the individual's practice in this state are 19164
automatically suspended as of the date the individual pleads 19165
guilty to, is found by a judge or jury to be guilty of, or is 19166
subject to a judicial finding of eligibility for intervention in 19167
lieu of conviction in this state or treatment or intervention in 19168
lieu of conviction in another jurisdiction for any of the 19169
following criminal offenses in this state or a substantially 19170
equivalent criminal offense in another jurisdiction: aggravated 19171
murder, murder, aggravated abortion murder, abortion murder, 19172
voluntary manslaughter, felonious assault, kidnapping, rape, 19173
sexual battery, gross sexual imposition, aggravated arson, 19174

aggravated robbery, or aggravated burglary. Continued practice 19175
after suspension shall be considered practicing without a 19176
license or permit. 19177

The board shall notify the individual subject to the 19178
suspension by certified mail or in person in accordance with 19179
section 119.07 of the Revised Code. If an individual whose 19180
license or permit is automatically suspended under this division 19181
fails to make a timely request for an adjudication under Chapter 19182
119. of the Revised Code, the board shall enter a final order 19183
permanently revoking the individual's license or permit. 19184

(L) Notwithstanding any other provision of the Revised 19185
Code, all of the following apply: 19186

(1) The surrender of a license or permit issued under this 19187
chapter shall not be effective unless or until accepted by the 19188
board. A telephone conference call may be utilized for 19189
acceptance of the surrender of an individual's license or 19190
permit. The telephone conference call shall be considered a 19191
special meeting under division (F) of section 121.22 of the 19192
Revised Code. Reinstatement of a license or permit surrendered 19193
to the board requires an affirmative vote of not fewer than six 19194
members of the board. 19195

(2) An application for a license or permit made under the 19196
provisions of this chapter may not be withdrawn without approval 19197
of the board. 19198

(3) Failure by an individual to renew a license or permit 19199
in accordance with this chapter shall not remove or limit the 19200
board's jurisdiction to take any disciplinary action under this 19201
section against the individual. 19202

(4) At the request of the board, a license or permit 19203

holder shall immediately surrender to the board a license or 19204
permit that the board has suspended, revoked, or permanently 19205
revoked. 19206

Sec. 4762.13. (A) The state medical board, by an 19207
affirmative vote of not fewer than six members, may revoke or 19208
may refuse to grant a certificate to practice as an oriental 19209
medicine practitioner or certificate to practice as an 19210
acupuncturist to a person found by the board to have committed 19211
fraud, misrepresentation, or deception in applying for or 19212
securing the certificate. 19213

(B) The board, by an affirmative vote of not fewer than 19214
six members, shall, to the extent permitted by law, limit, 19215
revoke, or suspend an individual's certificate to practice, 19216
refuse to issue a certificate to an applicant, refuse to renew a 19217
certificate, refuse to reinstate a certificate, or reprimand or 19218
place on probation the holder of a certificate for any of the 19219
following reasons: 19220

(1) Permitting the holder's name or certificate to be used 19221
by another person; 19222

(2) Failure to comply with the requirements of this 19223
chapter, Chapter 4731. of the Revised Code, or any rules adopted 19224
by the board; 19225

(3) Violating or attempting to violate, directly or 19226
indirectly, or assisting in or abetting the violation of, or 19227
conspiring to violate, any provision of this chapter, Chapter 19228
4731. of the Revised Code, or the rules adopted by the board; 19229

(4) A departure from, or failure to conform to, minimal 19230
standards of care of similar practitioners under the same or 19231
similar circumstances whether or not actual injury to the 19232

patient is established;	19233
(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	19234 19235 19236 19237
(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;	19238 19239 19240 19241
(7) Willfully betraying a professional confidence;	19242
(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for patients or in securing or attempting to secure a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist.	19243 19244 19245 19246 19247
As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.	19248 19249 19250 19251 19252 19253 19254 19255
(9) Representing, with the purpose of obtaining compensation or other advantage personally or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;	19256 19257 19258 19259
(10) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of	19260 19261

practice;	19262
(11) A plea of guilty to, a judicial finding of guilt of,	19263
or a judicial finding of eligibility for intervention in lieu of	19264
conviction for, a felony;	19265
(12) Commission of an act that constitutes a felony in	19266
this state, regardless of the jurisdiction in which the act was	19267
committed;	19268
(13) A plea of guilty to, a judicial finding of guilt of,	19269
or a judicial finding of eligibility for intervention in lieu of	19270
conviction for, a misdemeanor committed in the course of	19271
practice;	19272
(14) A plea of guilty to, a judicial finding of guilt of,	19273
or a judicial finding of eligibility for intervention in lieu of	19274
conviction for, a misdemeanor involving moral turpitude;	19275
(15) Commission of an act in the course of practice that	19276
constitutes a misdemeanor in this state, regardless of the	19277
jurisdiction in which the act was committed;	19278
(16) Commission of an act involving moral turpitude that	19279
constitutes a misdemeanor in this state, regardless of the	19280
jurisdiction in which the act was committed;	19281
(17) A plea of guilty to, a judicial finding of guilt of,	19282
or a judicial finding of eligibility for intervention in lieu of	19283
conviction for violating any state or federal law regulating the	19284
possession, distribution, or use of any drug, including	19285
trafficking in drugs;	19286
(18) Any of the following actions taken by the state	19287
agency responsible for regulating the practice of oriental	19288
medicine or acupuncture in another jurisdiction, for any reason	19289

other than the nonpayment of fees: the limitation, revocation, 19290
or suspension of an individual's license to practice; acceptance 19291
of an individual's license surrender; denial of a license; 19292
refusal to renew or reinstate a license; imposition of 19293
probation; or issuance of an order of censure or other 19294
reprimand; 19295

(19) Violation of the conditions placed by the board on a 19296
certificate to practice as an oriental medicine practitioner or 19297
certificate to practice as an acupuncturist; 19298

(20) Failure to use universal blood and body fluid 19299
precautions established by rules adopted under section 4731.051 19300
of the Revised Code; 19301

(21) Failure to cooperate in an investigation conducted by 19302
the board under section 4762.14 of the Revised Code, including 19303
failure to comply with a subpoena or order issued by the board 19304
or failure to answer truthfully a question presented by the 19305
board at a deposition or in written interrogatories, except that 19306
failure to cooperate with an investigation shall not constitute 19307
grounds for discipline under this section if a court of 19308
competent jurisdiction has issued an order that either quashes a 19309
subpoena or permits the individual to withhold the testimony or 19310
evidence in issue; 19311

(22) Failure to comply with the standards of the national 19312
certification commission for acupuncture and oriental medicine 19313
regarding professional ethics, commitment to patients, 19314
commitment to the profession, and commitment to the public; 19315

(23) Failure to have adequate professional liability 19316
insurance coverage in accordance with section 4762.22 of the 19317
Revised Code; 19318

(24) Failure to maintain a current and active designation 19319
as a diplomate in oriental medicine, diplomate of acupuncture 19320
and Chinese herbology, or diplomate in acupuncture, as 19321
applicable, from the national certification commission for 19322
acupuncture and oriental medicine, including revocation by the 19323
commission of the individual's designation, failure by the 19324
individual to meet the commission's requirements for 19325
redesignation, or failure to notify the board that the 19326
appropriate designation has not been maintained. 19327

(C) Disciplinary actions taken by the board under 19328
divisions (A) and (B) of this section shall be taken pursuant to 19329
an adjudication under Chapter 119. of the Revised Code, except 19330
that in lieu of an adjudication, the board may enter into a 19331
consent agreement with an oriental medicine practitioner or 19332
acupuncturist or applicant to resolve an allegation of a 19333
violation of this chapter or any rule adopted under it. A 19334
consent agreement, when ratified by an affirmative vote of not 19335
fewer than six members of the board, shall constitute the 19336
findings and order of the board with respect to the matter 19337
addressed in the agreement. If the board refuses to ratify a 19338
consent agreement, the admissions and findings contained in the 19339
consent agreement shall be of no force or effect. 19340

(D) For purposes of divisions (B) (12), (15), and (16) of 19341
this section, the commission of the act may be established by a 19342
finding by the board, pursuant to an adjudication under Chapter 19343
119. of the Revised Code, that the applicant or certificate 19344
holder committed the act in question. The board shall have no 19345
jurisdiction under these divisions in cases where the trial 19346
court renders a final judgment in the certificate holder's favor 19347
and that judgment is based upon an adjudication on the merits. 19348
The board shall have jurisdiction under these divisions in cases 19349

where the trial court issues an order of dismissal upon 19350
technical or procedural grounds. 19351

(E) The sealing of conviction records by any court shall 19352
have no effect upon a prior board order entered under the 19353
provisions of this section or upon the board's jurisdiction to 19354
take action under the provisions of this section if, based upon 19355
a plea of guilty, a judicial finding of guilt, or a judicial 19356
finding of eligibility for intervention in lieu of conviction, 19357
the board issued a notice of opportunity for a hearing or 19358
entered into a consent agreement prior to the court's order to 19359
seal the records. The board shall not be required to seal, 19360
destroy, redact, or otherwise modify its records to reflect the 19361
court's sealing of conviction records. 19362

(F) For purposes of this division, any individual who 19363
holds a certificate to practice issued under this chapter, or 19364
applies for a certificate to practice, shall be deemed to have 19365
given consent to submit to a mental or physical examination when 19366
directed to do so in writing by the board and to have waived all 19367
objections to the admissibility of testimony or examination 19368
reports that constitute a privileged communication. 19369

(1) In enforcing division (B)(5) of this section, the 19370
board, upon a showing of a possible violation, may compel any 19371
individual who holds a certificate to practice issued under this 19372
chapter or who has applied for a certificate pursuant to this 19373
chapter to submit to a mental examination, physical examination, 19374
including an HIV test, or both a mental and physical 19375
examination. The expense of the examination is the 19376
responsibility of the individual compelled to be examined. 19377
Failure to submit to a mental or physical examination or consent 19378
to an HIV test ordered by the board constitutes an admission of 19379

the allegations against the individual unless the failure is due 19380
to circumstances beyond the individual's control, and a default 19381
and final order may be entered without the taking of testimony 19382
or presentation of evidence. If the board finds an oriental 19383
medicine practitioner or acupuncturist unable to practice 19384
because of the reasons set forth in division (B) (5) of this 19385
section, the board shall require the individual to submit to 19386
care, counseling, or treatment by physicians approved or 19387
designated by the board, as a condition for an initial, 19388
continued, reinstated, or renewed certificate to practice. An 19389
individual affected by this division shall be afforded an 19390
opportunity to demonstrate to the board the ability to resume 19391
practicing in compliance with acceptable and prevailing 19392
standards of care. 19393

(2) For purposes of division (B) (6) of this section, if 19394
the board has reason to believe that any individual who holds a 19395
certificate to practice issued under this chapter or any 19396
applicant for a certificate suffers such impairment, the board 19397
may compel the individual to submit to a mental or physical 19398
examination, or both. The expense of the examination is the 19399
responsibility of the individual compelled to be examined. Any 19400
mental or physical examination required under this division 19401
shall be undertaken by a treatment provider or physician 19402
qualified to conduct such examination and chosen by the board. 19403

Failure to submit to a mental or physical examination 19404
ordered by the board constitutes an admission of the allegations 19405
against the individual unless the failure is due to 19406
circumstances beyond the individual's control, and a default and 19407
final order may be entered without the taking of testimony or 19408
presentation of evidence. If the board determines that the 19409
individual's ability to practice is impaired, the board shall 19410

suspend the individual's certificate or deny the individual's 19411
application and shall require the individual, as a condition for 19412
an initial, continued, reinstated, or renewed certificate, to 19413
submit to treatment. 19414

Before being eligible to apply for reinstatement of a 19415
certificate suspended under this division, the oriental medicine 19416
practitioner or acupuncturist shall demonstrate to the board the 19417
ability to resume practice in compliance with acceptable and 19418
prevailing standards of care. The demonstration shall include 19419
the following: 19420

(a) Certification from a treatment provider approved under 19421
section 4731.25 of the Revised Code that the individual has 19422
successfully completed any required inpatient treatment; 19423

(b) Evidence of continuing full compliance with an 19424
aftercare contract or consent agreement; 19425

(c) Two written reports indicating that the individual's 19426
ability to practice has been assessed and that the individual 19427
has been found capable of practicing according to acceptable and 19428
prevailing standards of care. The reports shall be made by 19429
individuals or providers approved by the board for making such 19430
assessments and shall describe the basis for their 19431
determination. 19432

The board may reinstate a certificate suspended under this 19433
division after such demonstration and after the individual has 19434
entered into a written consent agreement. 19435

When the impaired individual resumes practice, the board 19436
shall require continued monitoring of the individual. The 19437
monitoring shall include monitoring of compliance with the 19438
written consent agreement entered into before reinstatement or 19439

with conditions imposed by board order after a hearing, and, 19440
upon termination of the consent agreement, submission to the 19441
board for at least two years of annual written progress reports 19442
made under penalty of falsification stating whether the 19443
individual has maintained sobriety. 19444

(G) If the secretary and supervising member determine both 19445
of the following, they may recommend that the board suspend an 19446
individual's certificate to practice without a prior hearing: 19447

(1) That there is clear and convincing evidence that an 19448
oriental medicine practitioner or acupuncturist has violated 19449
division (B) of this section; 19450

(2) That the individual's continued practice presents a 19451
danger of immediate and serious harm to the public. 19452

Written allegations shall be prepared for consideration by 19453
the board. The board, upon review of the allegations and by an 19454
affirmative vote of not fewer than six of its members, excluding 19455
the secretary and supervising member, may suspend a certificate 19456
without a prior hearing. A telephone conference call may be 19457
utilized for reviewing the allegations and taking the vote on 19458
the summary suspension. 19459

The board shall issue a written order of suspension by 19460
certified mail or in person in accordance with section 119.07 of 19461
the Revised Code. The order shall not be subject to suspension 19462
by the court during pendency of any appeal filed under section 19463
119.12 of the Revised Code. If the oriental medicine 19464
practitioner or acupuncturist requests an adjudicatory hearing 19465
by the board, the date set for the hearing shall be within 19466
fifteen days, but not earlier than seven days, after the hearing 19467
is requested, unless otherwise agreed to by both the board and 19468

the certificate holder. 19469

A summary suspension imposed under this division shall 19470
remain in effect, unless reversed on appeal, until a final 19471
adjudicative order issued by the board pursuant to this section 19472
and Chapter 119. of the Revised Code becomes effective. The 19473
board shall issue its final adjudicative order within sixty days 19474
after completion of its hearing. Failure to issue the order 19475
within sixty days shall result in dissolution of the summary 19476
suspension order, but shall not invalidate any subsequent, final 19477
adjudicative order. 19478

(H) If the board takes action under division (B) (11), 19479
(13), or (14) of this section, and the judicial finding of 19480
guilt, guilty plea, or judicial finding of eligibility for 19481
intervention in lieu of conviction is overturned on appeal, upon 19482
exhaustion of the criminal appeal, a petition for 19483
reconsideration of the order may be filed with the board along 19484
with appropriate court documents. Upon receipt of a petition and 19485
supporting court documents, the board shall reinstate the 19486
certificate to practice. The board may then hold an adjudication 19487
under Chapter 119. of the Revised Code to determine whether the 19488
individual committed the act in question. Notice of opportunity 19489
for hearing shall be given in accordance with Chapter 119. of 19490
the Revised Code. If the board finds, pursuant to an 19491
adjudication held under this division, that the individual 19492
committed the act, or if no hearing is requested, it may order 19493
any of the sanctions specified in division (B) of this section. 19494

(I) The certificate to practice of an oriental medicine 19495
practitioner or acupuncturist and the practitioner's or 19496
acupuncturist's practice in this state are automatically 19497
suspended as of the date the practitioner or acupuncturist 19498

pleads guilty to, is found by a judge or jury to be guilty of, 19499
or is subject to a judicial finding of eligibility for 19500
intervention in lieu of conviction in this state or treatment or 19501
intervention in lieu of conviction in another jurisdiction for 19502
any of the following criminal offenses in this state or a 19503
substantially equivalent criminal offense in another 19504
jurisdiction: aggravated murder, murder, aggravated abortion 19505
murder, abortion murder, voluntary manslaughter, felonious 19506
assault, kidnapping, rape, sexual battery, gross sexual 19507
imposition, aggravated arson, aggravated robbery, or aggravated 19508
burglary. Continued practice after the suspension shall be 19509
considered practicing without a certificate. 19510

The board shall notify the individual subject to the 19511
suspension by certified mail or in person in accordance with 19512
section 119.07 of the Revised Code. If an individual whose 19513
certificate is suspended under this division fails to make a 19514
timely request for an adjudication under Chapter 119. of the 19515
Revised Code, the board shall enter a final order permanently 19516
revoking the individual's certificate to practice. 19517

(J) In any instance in which the board is required by 19518
Chapter 119. of the Revised Code to give notice of opportunity 19519
for hearing and the individual subject to the notice does not 19520
timely request a hearing in accordance with section 119.07 of 19521
the Revised Code, the board is not required to hold a hearing, 19522
but may adopt, by an affirmative vote of not fewer than six of 19523
its members, a final order that contains the board's findings. 19524
In the final order, the board may order any of the sanctions 19525
identified under division (A) or (B) of this section. 19526

(K) Any action taken by the board under division (B) of 19527
this section resulting in a suspension shall be accompanied by a 19528

written statement of the conditions under which the certificate
to practice may be reinstated. The board shall adopt rules in
accordance with Chapter 119. of the Revised Code governing
conditions to be imposed for reinstatement. Reinstatement of a
certificate suspended pursuant to division (B) of this section
requires an affirmative vote of not fewer than six members of
the board.

(L) When the board refuses to grant or issue a certificate
to practice to an applicant, revokes an individual's
certificate, refuses to renew an individual's certificate, or
refuses to reinstate an individual's certificate, the board may
specify that its action is permanent. An individual subject to a
permanent action taken by the board is forever thereafter
ineligible to hold a certificate to practice as an oriental
medicine practitioner or certificate to practice as an
acupuncturist and the board shall not accept an application for
reinstatement of the certificate or for issuance of a new
certificate.

(M) Notwithstanding any other provision of the Revised
Code, all of the following apply:

(1) The surrender of a certificate to practice as an
oriental medicine practitioner or certificate to practice as an
acupuncturist issued under this chapter is not effective unless
or until accepted by the board. Reinstatement of a certificate
surrendered to the board requires an affirmative vote of not
fewer than six members of the board.

(2) An application made under this chapter for a
certificate may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate in

accordance with section 4762.06 of the Revised Code shall not 19558
remove or limit the board's jurisdiction to take disciplinary 19559
action under this section against the individual. 19560

Sec. 4765.114. (A) A certificate to practice emergency 19561
medical services issued under this chapter is automatically 19562
suspended on the certificate holder's conviction of, plea of 19563
guilty to, or judicial finding of guilt of any of the following: 19564
aggravated murder, murder, aggravated abortion murder, abortion 19565
murder, voluntary manslaughter, felonious assault, kidnapping, 19566
rape, sexual battery, gross sexual imposition, aggravated arson, 19567
aggravated burglary, aggravated robbery, or a substantially 19568
equivalent offense committed in this or another jurisdiction. 19569
Continued practice after the suspension is practicing without a 19570
certificate. 19571

(B) If the state board of emergency medical, fire, and 19572
transportation services has knowledge that an automatic 19573
suspension has occurred, it shall notify, in accordance with 19574
section 119.07 of the Revised Code, the certificate holder of 19575
the suspension and of the opportunity for a hearing. If timely 19576
requested by the certificate holder, a hearing shall be 19577
conducted in accordance with section 4765.115 of the Revised 19578
Code. 19579

Sec. 4774.13. (A) The state medical board, by an 19580
affirmative vote of not fewer than six members, may revoke or 19581
may refuse to grant a certificate to practice as a radiologist 19582
assistant to an individual found by the board to have committed 19583
fraud, misrepresentation, or deception in applying for or 19584
securing the certificate. 19585

(B) The board, by an affirmative vote of not fewer than 19586
six members, shall, to the extent permitted by law, limit, 19587

revoke, or suspend an individual's certificate to practice as a radiologist assistant, refuse to issue a certificate to an applicant, refuse to renew a certificate, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:

(1) Permitting the holder's name or certificate to be used by another person;

(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;

(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;

(4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;

(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading

statement in securing or attempting to secure a certificate to 19616
practice as a radiologist assistant. 19617

As used in this division, "false, fraudulent, deceptive, 19618
or misleading statement" means a statement that includes a 19619
misrepresentation of fact, is likely to mislead or deceive 19620
because of a failure to disclose material facts, is intended or 19621
is likely to create false or unjustified expectations of 19622
favorable results, or includes representations or implications 19623
that in reasonable probability will cause an ordinarily prudent 19624
person to misunderstand or be deceived. 19625

(9) The obtaining of, or attempting to obtain, money or a 19626
thing of value by fraudulent misrepresentations in the course of 19627
practice; 19628

(10) A plea of guilty to, a judicial finding of guilt of, 19629
or a judicial finding of eligibility for intervention in lieu of 19630
conviction for, a felony; 19631

(11) Commission of an act that constitutes a felony in 19632
this state, regardless of the jurisdiction in which the act was 19633
committed; 19634

(12) A plea of guilty to, a judicial finding of guilt of, 19635
or a judicial finding of eligibility for intervention in lieu of 19636
conviction for, a misdemeanor committed in the course of 19637
practice; 19638

(13) A plea of guilty to, a judicial finding of guilt of, 19639
or a judicial finding of eligibility for intervention in lieu of 19640
conviction for, a misdemeanor involving moral turpitude; 19641

(14) Commission of an act in the course of practice that 19642
constitutes a misdemeanor in this state, regardless of the 19643
jurisdiction in which the act was committed; 19644

(15) Commission of an act involving moral turpitude that 19645
constitutes a misdemeanor in this state, regardless of the 19646
jurisdiction in which the act was committed; 19647

(16) A plea of guilty to, a judicial finding of guilt of, 19648
or a judicial finding of eligibility for intervention in lieu of 19649
conviction for violating any state or federal law regulating the 19650
possession, distribution, or use of any drug, including 19651
trafficking in drugs; 19652

(17) Any of the following actions taken by the state 19653
agency responsible for regulating the practice of radiologist 19654
assistants in another jurisdiction, for any reason other than 19655
the nonpayment of fees: the limitation, revocation, or 19656
suspension of an individual's license to practice; acceptance of 19657
an individual's license surrender; denial of a license; refusal 19658
to renew or reinstate a license; imposition of probation; or 19659
issuance of an order of censure or other reprimand; 19660

(18) Violation of the conditions placed by the board on a 19661
certificate to practice as a radiologist assistant; 19662

(19) Failure to use universal blood and body fluid 19663
precautions established by rules adopted under section 4731.051 19664
of the Revised Code; 19665

(20) Failure to cooperate in an investigation conducted by 19666
the board under section 4774.14 of the Revised Code, including 19667
failure to comply with a subpoena or order issued by the board 19668
or failure to answer truthfully a question presented by the 19669
board at a deposition or in written interrogatories, except that 19670
failure to cooperate with an investigation shall not constitute 19671
grounds for discipline under this section if a court of 19672
competent jurisdiction has issued an order that either quashes a 19673

subpoena or permits the individual to withhold the testimony or
evidence in issue; 19674
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(21) Failure to maintain a license as a radiographer under
Chapter 4773. of the Revised Code; 19676
19677

(22) Failure to maintain certification as a registered
radiologist assistant from the American registry of radiologic
technologists, including revocation by the registry of the
assistant's certification or failure by the assistant to meet
the registry's requirements for annual registration, or failure
to notify the board that the certification as a registered
radiologist assistant has not been maintained; 19678
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(23) Failure to comply with any of the rules of ethics
included in the standards of ethics established by the American
registry of radiologic technologists, as those rules apply to an
individual who holds the registry's certification as a
registered radiologist assistant. 19685
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(C) Disciplinary actions taken by the board under
divisions (A) and (B) of this section shall be taken pursuant to
an adjudication under Chapter 119. of the Revised Code, except
that in lieu of an adjudication, the board may enter into a
consent agreement with a radiologist assistant or applicant to
resolve an allegation of a violation of this chapter or any rule
adopted under it. A consent agreement, when ratified by an
affirmative vote of not fewer than six members of the board,
shall constitute the findings and order of the board with
respect to the matter addressed in the agreement. If the board
refuses to ratify a consent agreement, the admissions and
findings contained in the consent agreement shall be of no force
or effect. 19690
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(D) For purposes of divisions (B) (11), (14), and (15) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or certificate holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the certificate holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect on a prior board order entered under the provisions of this section or on the board's jurisdiction to take action under the provisions of this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) For purposes of this division, any individual who holds a certificate to practice as a radiologist assistant issued under this chapter, or applies for a certificate to practice, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B) (5) of this section, the

board, on a showing of a possible violation, may compel any 19733
individual who holds a certificate to practice as a radiologist 19734
assistant issued under this chapter or who has applied for a 19735
certificate to practice to submit to a mental or physical 19736
examination, or both. A physical examination may include an HIV 19737
test. The expense of the examination is the responsibility of 19738
the individual compelled to be examined. Failure to submit to a 19739
mental or physical examination or consent to an HIV test ordered 19740
by the board constitutes an admission of the allegations against 19741
the individual unless the failure is due to circumstances beyond 19742
the individual's control, and a default and final order may be 19743
entered without the taking of testimony or presentation of 19744
evidence. If the board finds a radiologist assistant unable to 19745
practice because of the reasons set forth in division (B) (5) of 19746
this section, the board shall require the radiologist assistant 19747
to submit to care, counseling, or treatment by physicians 19748
approved or designated by the board, as a condition for an 19749
initial, continued, reinstated, or renewed certificate to 19750
practice. An individual affected by this division shall be 19751
afforded an opportunity to demonstrate to the board the ability 19752
to resume practicing in compliance with acceptable and 19753
prevailing standards of care. 19754

(2) For purposes of division (B) (6) of this section, if 19755
the board has reason to believe that any individual who holds a 19756
certificate to practice as a radiologist assistant issued under 19757
this chapter or any applicant for a certificate to practice 19758
suffers such impairment, the board may compel the individual to 19759
submit to a mental or physical examination, or both. The expense 19760
of the examination is the responsibility of the individual 19761
compelled to be examined. Any mental or physical examination 19762
required under this division shall be undertaken by a treatment 19763

provider or physician qualified to conduct such examination and 19764
chosen by the board. 19765

Failure to submit to a mental or physical examination 19766
ordered by the board constitutes an admission of the allegations 19767
against the individual unless the failure is due to 19768
circumstances beyond the individual's control, and a default and 19769
final order may be entered without the taking of testimony or 19770
presentation of evidence. If the board determines that the 19771
individual's ability to practice is impaired, the board shall 19772
suspend the individual's certificate or deny the individual's 19773
application and shall require the individual, as a condition for 19774
an initial, continued, reinstated, or renewed certificate to 19775
practice, to submit to treatment. 19776

Before being eligible to apply for reinstatement of a 19777
certificate suspended under this division, the radiologist 19778
assistant shall demonstrate to the board the ability to resume 19779
practice in compliance with acceptable and prevailing standards 19780
of care. The demonstration shall include the following: 19781

(a) Certification from a treatment provider approved under 19782
section 4731.25 of the Revised Code that the individual has 19783
successfully completed any required inpatient treatment; 19784

(b) Evidence of continuing full compliance with an 19785
aftercare contract or consent agreement; 19786

(c) Two written reports indicating that the individual's 19787
ability to practice has been assessed and that the individual 19788
has been found capable of practicing according to acceptable and 19789
prevailing standards of care. The reports shall be made by 19790
individuals or providers approved by the board for making such 19791
assessments and shall describe the basis for their 19792

determination. 19793

The board may reinstate a certificate suspended under this 19794
division after such demonstration and after the individual has 19795
entered into a written consent agreement. 19796

When the impaired radiologist assistant resumes practice, 19797
the board shall require continued monitoring of the radiologist 19798
assistant. The monitoring shall include monitoring of compliance 19799
with the written consent agreement entered into before 19800
reinstatement or with conditions imposed by board order after a 19801
hearing, and, on termination of the consent agreement, 19802
submission to the board for at least two years of annual written 19803
progress reports made under penalty of falsification stating 19804
whether the radiologist assistant has maintained sobriety. 19805

(G) If the secretary and supervising member determine that 19806
there is clear and convincing evidence that a radiologist 19807
assistant has violated division (B) of this section and that the 19808
individual's continued practice presents a danger of immediate 19809
and serious harm to the public, they may recommend that the 19810
board suspend the individual's certificate to practice without a 19811
prior hearing. Written allegations shall be prepared for 19812
consideration by the board. 19813

The board, on review of the allegations and by an 19814
affirmative vote of not fewer than six of its members, excluding 19815
the secretary and supervising member, may suspend a certificate 19816
without a prior hearing. A telephone conference call may be 19817
utilized for reviewing the allegations and taking the vote on 19818
the summary suspension. 19819

The board shall issue a written order of suspension by 19820
certified mail or in person in accordance with section 119.07 of 19821

the Revised Code. The order shall not be subject to suspension 19822
by the court during pendency of any appeal filed under section 19823
119.12 of the Revised Code. If the radiologist assistant 19824
requests an adjudicatory hearing by the board, the date set for 19825
the hearing shall be within fifteen days, but not earlier than 19826
seven days, after the radiologist assistant requests the 19827
hearing, unless otherwise agreed to by both the board and the 19828
certificate holder. 19829

A summary suspension imposed under this division shall 19830
remain in effect, unless reversed on appeal, until a final 19831
adjudicative order issued by the board pursuant to this section 19832
and Chapter 119. of the Revised Code becomes effective. The 19833
board shall issue its final adjudicative order within sixty days 19834
after completion of its hearing. Failure to issue the order 19835
within sixty days shall result in dissolution of the summary 19836
suspension order, but shall not invalidate any subsequent, final 19837
adjudicative order. 19838

(H) If the board takes action under division (B) (10), 19839
(12), or (13) of this section, and the judicial finding of 19840
guilt, guilty plea, or judicial finding of eligibility for 19841
intervention in lieu of conviction is overturned on appeal, on 19842
exhaustion of the criminal appeal, a petition for 19843
reconsideration of the order may be filed with the board along 19844
with appropriate court documents. On receipt of a petition and 19845
supporting court documents, the board shall reinstate the 19846
certificate to practice as a radiologist assistant. The board 19847
may then hold an adjudication under Chapter 119. of the Revised 19848
Code to determine whether the individual committed the act in 19849
question. Notice of opportunity for hearing shall be given in 19850
accordance with Chapter 119. of the Revised Code. If the board 19851
finds, pursuant to an adjudication held under this division, 19852

that the individual committed the act, or if no hearing is 19853
requested, it may order any of the sanctions specified in 19854
division (B) of this section. 19855

(I) The certificate to practice of a radiologist assistant 19856
and the assistant's practice in this state are automatically 19857
suspended as of the date the radiologist assistant pleads guilty 19858
to, is found by a judge or jury to be guilty of, or is subject 19859
to a judicial finding of eligibility for intervention in lieu of 19860
conviction in this state or treatment of intervention in lieu of 19861
conviction in another jurisdiction for any of the following 19862
criminal offenses in this state or a substantially equivalent 19863
criminal offense in another jurisdiction: aggravated murder, 19864
murder, aggravated abortion murder, abortion murder, voluntary 19865
manslaughter, felonious assault, kidnapping, rape, sexual 19866
battery, gross sexual imposition, aggravated arson, aggravated 19867
robbery, or aggravated burglary. Continued practice after the 19868
suspension shall be considered practicing without a certificate. 19869

The board shall notify the individual subject to the 19870
suspension by certified mail or in person in accordance with 19871
section 119.07 of the Revised Code. If an individual whose 19872
certificate is suspended under this division fails to make a 19873
timely request for an adjudication under Chapter 119. of the 19874
Revised Code, the board shall enter a final order permanently 19875
revoking the individual's certificate to practice. 19876

(J) In any instance in which the board is required by 19877
Chapter 119. of the Revised Code to give notice of opportunity 19878
for hearing and the individual subject to the notice does not 19879
timely request a hearing in accordance with section 119.07 of 19880
the Revised Code, the board is not required to hold a hearing, 19881
but may adopt, by an affirmative vote of not fewer than six of 19882

its members, a final order that contains the board's findings. 19883
In the final order, the board may order any of the sanctions 19884
identified under division (A) or (B) of this section. 19885

(K) Any action taken by the board under division (B) of 19886
this section resulting in a suspension shall be accompanied by a 19887
written statement of the conditions under which the radiologist 19888
assistant's certificate may be reinstated. The board shall adopt 19889
rules in accordance with Chapter 119. of the Revised Code 19890
governing conditions to be imposed for reinstatement. 19891
Reinstatement of a certificate suspended pursuant to division 19892
(B) of this section requires an affirmative vote of not fewer 19893
than six members of the board. 19894

(L) When the board refuses to grant or issue a certificate 19895
to practice as a radiologist assistant to an applicant, revokes 19896
an individual's certificate, refuses to renew an individual's 19897
certificate, or refuses to reinstate an individual's 19898
certificate, the board may specify that its action is permanent. 19899
An individual subject to a permanent action taken by the board 19900
is forever thereafter ineligible to hold a certificate to 19901
practice as a radiologist assistant and the board shall not 19902
accept an application for reinstatement of the certificate or 19903
for issuance of a new certificate. 19904

(M) Notwithstanding any other provision of the Revised 19905
Code, all of the following apply: 19906

(1) The surrender of a certificate to practice as a 19907
radiologist assistant issued under this chapter is not effective 19908
unless or until accepted by the board. Reinstatement of a 19909
certificate surrendered to the board requires an affirmative 19910
vote of not fewer than six members of the board. 19911

(2) An application made under this chapter for a certificate to practice may not be withdrawn without approval of the board. 19912
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(3) Failure by an individual to renew a certificate to practice in accordance with section 4774.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual. 19915
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Sec. 4776.10. As used in Chapters 4713., 4738., 4740., 4747., 4749., and 4764., and sections 4725.40 to 4725.59 of the Revised Code: 19919
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(A) "Crime of moral turpitude" or "moral turpitude" means all of the following: 19922
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(1) A violation of section 2903.01 ~~or~~ 2903.02, 2904.03, or 2904.04 of the Revised Code; 19924
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(2) A sexually oriented offense as defined in section 2950.01 of the Revised Code; 19926
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(3) An offense that is an offense of violence as defined in section 2901.01 of the Revised Code, if the offense is a felony of the first or second degree; 19928
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(4) Complicity in committing an offense described in division (A)(1) of this section; 19931
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(5) An attempt or conspiracy to commit or complicity in committing any offense described in division (A)(1), (2), (3), or (4) of this section if the attempt, conspiracy, or complicity is a felony of the first or second degree; 19933
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(6) A violation of any former law of this state, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation 19937
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other than the United States that is or was substantially 19940
equivalent to any offense listed in division (A) (1), (2), (3), 19941
(4), or (5) of this section. 19942

(B) "Direct nexus" means that the nature of the offense 19943
for which the individual was convicted or to which the 19944
individual pleaded guilty has a direct bearing on the fitness or 19945
ability of the individual to perform one or more of the duties 19946
or responsibilities necessarily related to a particular 19947
occupation, profession, or trade. 19948

(C) "Disqualifying offense" means an offense that is a 19949
felony and that has a direct nexus to an individual's proposed 19950
or current field of licensure, certification, or employment. 19951

Sec. 4778.14. (A) The state medical board, by an 19952
affirmative vote of not fewer than six members, may revoke or 19953
may refuse to grant a license to practice as a genetic counselor 19954
to an individual found by the board to have committed fraud, 19955
misrepresentation, or deception in applying for or securing the 19956
license. 19957

(B) The board, by an affirmative vote of not fewer than 19958
six members, shall, to the extent permitted by law, limit, 19959
revoke, or suspend an individual's license to practice as a 19960
genetic counselor, refuse to issue a license to an applicant, 19961
refuse to renew a license, refuse to reinstate a license, or 19962
reprimand or place on probation the holder of a license for any 19963
of the following reasons: 19964

(1) Permitting the holder's name or license to be used by 19965
another person; 19966

(2) Failure to comply with the requirements of this 19967
chapter, Chapter 4731. of the Revised Code, or any rules adopted 19968

by the board;	19969
(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;	19970 19971 19972 19973
(4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;	19974 19975 19976 19977
(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;	19978 19979 19980 19981
(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;	19982 19983 19984 19985
(7) Willfully betraying a professional confidence;	19986
(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as a genetic counselor.	19987 19988 19989
As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.	19990 19991 19992 19993 19994 19995 19996 19997

(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;	19998 19999 20000
(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	20001 20002 20003
(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	20004 20005 20006
(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	20007 20008 20009 20010
(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;	20011 20012 20013
(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	20014 20015 20016
(15) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	20017 20018 20019
(16) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;	20020 20021 20022 20023 20024
(17) Any of the following actions taken by an agency	20025

responsible for authorizing, certifying, or regulating an 20026
individual to practice a health care occupation or provide 20027
health care services in this state or in another jurisdiction, 20028
for any reason other than the nonpayment of fees: the 20029
limitation, revocation, or suspension of an individual's license 20030
to practice; acceptance of an individual's license surrender; 20031
denial of a license; refusal to renew or reinstate a license; 20032
imposition of probation; or issuance of an order of censure or 20033
other reprimand; 20034

(18) Violation of the conditions placed by the board on a 20035
license to practice as a genetic counselor; 20036

(19) Failure to cooperate in an investigation conducted by 20037
the board under section 4778.18 of the Revised Code, including 20038
failure to comply with a subpoena or order issued by the board 20039
or failure to answer truthfully a question presented by the 20040
board at a deposition or in written interrogatories, except that 20041
failure to cooperate with an investigation shall not constitute 20042
grounds for discipline under this section if a court of 20043
competent jurisdiction has issued an order that either quashes a 20044
subpoena or permits the individual to withhold the testimony or 20045
evidence in issue; 20046

(20) Failure to maintain the individual's status as a 20047
certified genetic counselor; 20048

(21) Failure to comply with the code of ethics established 20049
by the national society of genetic counselors. 20050

(C) Disciplinary actions taken by the board under 20051
divisions (A) and (B) of this section shall be taken pursuant to 20052
an adjudication under Chapter 119. of the Revised Code, except 20053
that in lieu of an adjudication, the board may enter into a 20054

consent agreement with a genetic counselor or applicant to 20055
resolve an allegation of a violation of this chapter or any rule 20056
adopted under it. A consent agreement, when ratified by an 20057
affirmative vote of not fewer than six members of the board, 20058
shall constitute the findings and order of the board with 20059
respect to the matter addressed in the agreement. If the board 20060
refuses to ratify a consent agreement, the admissions and 20061
findings contained in the consent agreement shall be of no force 20062
or effect. 20063

A telephone conference call may be utilized for 20064
ratification of a consent agreement that revokes or suspends an 20065
individual's license. The telephone conference call shall be 20066
considered a special meeting under division (F) of section 20067
121.22 of the Revised Code. 20068

(D) For purposes of divisions (B) (11), (14), and (15) of 20069
this section, the commission of the act may be established by a 20070
finding by the board, pursuant to an adjudication under Chapter 20071
119. of the Revised Code, that the applicant or license holder 20072
committed the act in question. The board shall have no 20073
jurisdiction under these divisions in cases where the trial 20074
court renders a final judgment in the license holder's favor and 20075
that judgment is based upon an adjudication on the merits. The 20076
board shall have jurisdiction under these divisions in cases 20077
where the trial court issues an order of dismissal on technical 20078
or procedural grounds. 20079

(E) The sealing of conviction records by any court shall 20080
have no effect on a prior board order entered under the 20081
provisions of this section or on the board's jurisdiction to 20082
take action under the provisions of this section if, based upon 20083
a plea of guilty, a judicial finding of guilt, or a judicial 20084

finding of eligibility for intervention in lieu of conviction, 20085
the board issued a notice of opportunity for a hearing or took 20086
other formal action under Chapter 119. of the Revised Code prior 20087
to the court's order to seal the records. The board shall not be 20088
required to seal, destroy, redact, or otherwise modify its 20089
records to reflect the court's sealing of conviction records. 20090

(F) For purposes of this division, any individual who 20091
holds a license to practice as a genetic counselor, or applies 20092
for a license, shall be deemed to have given consent to submit 20093
to a mental or physical examination when directed to do so in 20094
writing by the board and to have waived all objections to the 20095
admissibility of testimony or examination reports that 20096
constitute a privileged communication. 20097

(1) In enforcing division (B)(5) of this section, the 20098
board, on a showing of a possible violation, may compel any 20099
individual who holds a license to practice as a genetic 20100
counselor or who has applied for a license to practice as a 20101
genetic counselor to submit to a mental or physical examination, 20102
or both. A physical examination may include an HIV test. The 20103
expense of the examination is the responsibility of the 20104
individual compelled to be examined. Failure to submit to a 20105
mental or physical examination or consent to an HIV test ordered 20106
by the board constitutes an admission of the allegations against 20107
the individual unless the failure is due to circumstances beyond 20108
the individual's control, and a default and final order may be 20109
entered without the taking of testimony or presentation of 20110
evidence. If the board finds a genetic counselor unable to 20111
practice because of the reasons set forth in division (B)(5) of 20112
this section, the board shall require the genetic counselor to 20113
submit to care, counseling, or treatment by physicians approved 20114
or designated by the board, as a condition for an initial, 20115

continued, reinstated, or renewed license to practice. An 20116
individual affected by this division shall be afforded an 20117
opportunity to demonstrate to the board the ability to resume 20118
practicing in compliance with acceptable and prevailing 20119
standards of care. 20120

(2) For purposes of division (B)(6) of this section, if 20121
the board has reason to believe that any individual who holds a 20122
license to practice as a genetic counselor or any applicant for 20123
a license suffers such impairment, the board may compel the 20124
individual to submit to a mental or physical examination, or 20125
both. The expense of the examination is the responsibility of 20126
the individual compelled to be examined. Any mental or physical 20127
examination required under this division shall be undertaken by 20128
a treatment provider or physician qualified to conduct such 20129
examination and chosen by the board. 20130

Failure to submit to a mental or physical examination 20131
ordered by the board constitutes an admission of the allegations 20132
against the individual unless the failure is due to 20133
circumstances beyond the individual's control, and a default and 20134
final order may be entered without the taking of testimony or 20135
presentation of evidence. If the board determines that the 20136
individual's ability to practice is impaired, the board shall 20137
suspend the individual's license or deny the individual's 20138
application and shall require the individual, as a condition for 20139
an initial, continued, reinstated, or renewed license, to submit 20140
to treatment. 20141

Before being eligible to apply for reinstatement of a 20142
license suspended under this division, the genetic counselor 20143
shall demonstrate to the board the ability to resume practice in 20144
compliance with acceptable and prevailing standards of care. The 20145

demonstration shall include the following: 20146

(a) Certification from a treatment provider approved under 20147
section 4731.25 of the Revised Code that the individual has 20148
successfully completed any required inpatient treatment; 20149

(b) Evidence of continuing full compliance with an 20150
aftercare contract or consent agreement; 20151

(c) Two written reports indicating that the individual's 20152
ability to practice has been assessed and that the individual 20153
has been found capable of practicing according to acceptable and 20154
prevailing standards of care. The reports shall be made by 20155
individuals or providers approved by the board for making such 20156
assessments and shall describe the basis for their 20157
determination. 20158

The board may reinstate a license suspended under this 20159
division after such demonstration and after the individual has 20160
entered into a written consent agreement. 20161

When the impaired genetic counselor resumes practice, the 20162
board shall require continued monitoring of the genetic 20163
counselor. The monitoring shall include monitoring of compliance 20164
with the written consent agreement entered into before 20165
reinstatement or with conditions imposed by board order after a 20166
hearing, and, on termination of the consent agreement, 20167
submission to the board for at least two years of annual written 20168
progress reports made under penalty of falsification stating 20169
whether the genetic counselor has maintained sobriety. 20170

(G) If the secretary and supervising member determine both 20171
of the following, they may recommend that the board suspend an 20172
individual's license to practice without a prior hearing: 20173

(1) That there is clear and convincing evidence that a 20174

genetic counselor has violated division (B) of this section; 20175

(2) That the individual's continued practice presents a 20176
danger of immediate and serious harm to the public. 20177

Written allegations shall be prepared for consideration by 20178
the board. The board, on review of the allegations and by an 20179
affirmative vote of not fewer than six of its members, excluding 20180
the secretary and supervising member, may suspend a license 20181
without a prior hearing. A telephone conference call may be 20182
utilized for reviewing the allegations and taking the vote on 20183
the summary suspension. 20184

The board shall issue a written order of suspension by 20185
certified mail or in person in accordance with section 119.07 of 20186
the Revised Code. The order shall not be subject to suspension 20187
by the court during pendency of any appeal filed under section 20188
119.12 of the Revised Code. If the genetic counselor requests an 20189
adjudicatory hearing by the board, the date set for the hearing 20190
shall be within fifteen days, but not earlier than seven days, 20191
after the genetic counselor requests the hearing, unless 20192
otherwise agreed to by both the board and the genetic counselor. 20193

A summary suspension imposed under this division shall 20194
remain in effect, unless reversed on appeal, until a final 20195
adjudicative order issued by the board pursuant to this section 20196
and Chapter 119. of the Revised Code becomes effective. The 20197
board shall issue its final adjudicative order within sixty days 20198
after completion of its hearing. Failure to issue the order 20199
within sixty days shall result in dissolution of the summary 20200
suspension order, but shall not invalidate any subsequent, final 20201
adjudicative order. 20202

(H) If the board takes action under division (B) (10), 20203

(12), or (13) of this section, and the judicial finding of 20204
guilt, guilty plea, or judicial finding of eligibility for 20205
intervention in lieu of conviction is overturned on appeal, on 20206
exhaustion of the criminal appeal, a petition for 20207
reconsideration of the order may be filed with the board along 20208
with appropriate court documents. On receipt of a petition and 20209
supporting court documents, the board shall reinstate the 20210
license to practice as a genetic counselor. The board may then 20211
hold an adjudication under Chapter 119. of the Revised Code to 20212
determine whether the individual committed the act in question. 20213
Notice of opportunity for hearing shall be given in accordance 20214
with Chapter 119. of the Revised Code. If the board finds, 20215
pursuant to an adjudication held under this division, that the 20216
individual committed the act, or if no hearing is requested, it 20217
may order any of the sanctions specified in division (B) of this 20218
section. 20219

(I) The license to practice as a genetic counselor and the 20220
counselor's practice in this state are automatically suspended 20221
as of the date the genetic counselor pleads guilty to, is found 20222
by a judge or jury to be guilty of, or is subject to a judicial 20223
finding of eligibility for intervention in lieu of conviction in 20224
this state or treatment of intervention in lieu of conviction in 20225
another jurisdiction for any of the following criminal offenses 20226
in this state or a substantially equivalent criminal offense in 20227
another jurisdiction: aggravated murder, murder, aggravated 20228
abortion murder, abortion murder, voluntary manslaughter, 20229
felonious assault, kidnapping, rape, sexual battery, gross 20230
sexual imposition, aggravated arson, aggravated robbery, or 20231
aggravated burglary. Continued practice after the suspension 20232
shall be considered practicing without a license. 20233

The board shall notify the individual subject to the 20234

suspension by certified mail or in person in accordance with 20235
section 119.07 of the Revised Code. If an individual whose 20236
license is suspended under this division fails to make a timely 20237
request for an adjudication under Chapter 119. of the Revised 20238
Code, the board shall enter a final order permanently revoking 20239
the individual's license to practice. 20240

(J) In any instance in which the board is required by 20241
Chapter 119. of the Revised Code to give notice of opportunity 20242
for hearing and the individual subject to the notice does not 20243
timely request a hearing in accordance with section 119.07 of 20244
the Revised Code, the board is not required to hold a hearing, 20245
but may adopt, by an affirmative vote of not fewer than six of 20246
its members, a final order that contains the board's findings. 20247
In the final order, the board may order any of the sanctions 20248
identified under division (A) or (B) of this section. 20249

(K) Any action taken by the board under division (B) of 20250
this section resulting in a suspension shall be accompanied by a 20251
written statement of the conditions under which the license of 20252
the genetic counselor may be reinstated. The board shall adopt 20253
rules in accordance with Chapter 119. of the Revised Code 20254
governing conditions to be imposed for reinstatement. 20255
Reinstatement of a license suspended pursuant to division (B) of 20256
this section requires an affirmative vote of not fewer than six 20257
members of the board. 20258

(L) When the board refuses to grant or issue a license to 20259
practice as a genetic counselor to an applicant, revokes an 20260
individual's license, refuses to renew an individual's license, 20261
or refuses to reinstate an individual's license, the board may 20262
specify that its action is permanent. An individual subject to a 20263
permanent action taken by the board is forever thereafter 20264

ineligible to hold a license to practice as a genetic counselor 20265
and the board shall not accept an application for reinstatement 20266
of the license or for issuance of a new license. 20267

(M) Notwithstanding any other provision of the Revised 20268
Code, all of the following apply: 20269

(1) The surrender of a license to practice as a genetic 20270
counselor is not effective unless or until accepted by the 20271
board. A telephone conference call may be utilized for 20272
acceptance of the surrender of an individual's license. The 20273
telephone conference call shall be considered a special meeting 20274
under division (F) of section 121.22 of the Revised Code. 20275
Reinstatement of a license surrendered to the board requires an 20276
affirmative vote of not fewer than six members of the board. 20277

(2) An application made under this chapter for a license 20278
to practice may not be withdrawn without approval of the board. 20279

(3) Failure by an individual to renew a license in 20280
accordance with section 4778.06 of the Revised Code shall not 20281
remove or limit the board's jurisdiction to take disciplinary 20282
action under this section against the individual. 20283

Sec. 5103.0319. (A) No foster caregiver or prospective 20284
foster caregiver shall fail to notify the recommending agency 20285
that recommended or is recommending the foster caregiver or 20286
prospective foster caregiver for certification in writing if a 20287
person at least twelve years of age but less than eighteen years 20288
of age residing with the foster caregiver or prospective foster 20289
caregiver has been convicted of or pleaded guilty to any of the 20290
following or has been adjudicated to be a delinquent child for 20291
committing an act that if committed by an adult would have 20292
constituted such a violation: 20293

(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2904.03, 2904.04, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, ~~2923.13~~ 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, a violation of section 2923.01 of the Revised Code that involved an attempt to commit aggravated murder or murder or aggravated abortion murder or abortion murder, an OVI or OVUAC violation if the person previously was convicted of or pleaded guilty to one or more OVI or OVUAC violations within the three years immediately preceding the current violation, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(2) An offense that would be a felony if committed by an adult and the court determined that the child, if an adult, would be guilty of a specification found in section 2941.141, 2941.144, or 2941.145 of the Revised Code or in another section of the Revised Code that relates to the possession or use of a firearm, as defined in section 2923.11 of the Revised Code, during the commission of the act for which the child was adjudicated a delinquent child;

(3) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses described in division (A) (1) or (2) of this section.

(B) If a recommending agency learns that a foster caregiver has failed to comply with division (A) of this section, it shall notify the department of job and family services and the department shall revoke the foster caregiver's foster home certificate.

(C) As used in this section, "OVI or OVUAC violation" means a violation of section 4511.19 of the Revised Code or a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to section 4511.19 of the Revised Code.

Sec. 5120.032. (A) No later than January 1, 1998, the department of rehabilitation and correction may develop and implement intensive program prisons for male and female prisoners other than prisoners described in division (B) (2) of this section. The intensive program prisons, if developed and implemented, shall include institutions at which imprisonment of the type described in division (B) (2) (a) of section 5120.031 of the Revised Code is provided and prisons that focus on educational achievement, vocational training, alcohol and other drug abuse treatment, community service and conservation work, and other intensive regimens or combinations of intensive regimens.

(B) (1) (a) Except as provided in division (B) (2) of this section, if one or more intensive program prisons are established under this section, if an offender is sentenced to a term of imprisonment under the custody of the department, if the

sentencing court either recommends the prisoner for placement in 20355
an intensive program prison under this section or makes no 20356
recommendation on placement of the prisoner, and if the 20357
department determines that the prisoner is eligible for 20358
placement in an intensive program prison under this section, the 20359
department may place the prisoner in an intensive program prison 20360
established pursuant to division (A) of this section. If the 20361
sentencing court disapproves placement of the prisoner in an 20362
intensive program prison, the department shall not place the 20363
prisoner in any intensive program prison. 20364

If the sentencing court recommends a prisoner for 20365
placement in an intensive program prison and if the department 20366
subsequently places the prisoner in the recommended prison, the 20367
department shall notify the court of the prisoner's placement in 20368
the recommended intensive program prison and shall include with 20369
the notice a brief description of the placement. 20370

If the sentencing court recommends placement of a prisoner 20371
in an intensive program prison and the department for any reason 20372
does not subsequently place the prisoner in the recommended 20373
prison, the department shall send a notice to the court 20374
indicating why the prisoner was not placed in the recommended 20375
prison. 20376

If the sentencing court does not make a recommendation on 20377
the placement of a prisoner in an intensive program prison and 20378
if the department determines that the prisoner is eligible for 20379
placement in a prison of that nature, the department shall 20380
screen the prisoner and determine if the prisoner is suited for 20381
the prison. If the prisoner is suited for an intensive program 20382
prison, at least three weeks prior to placing the prisoner in 20383
the prison, the department shall notify the sentencing court of 20384

the proposed placement of the prisoner in the intensive program 20385
prison and shall include with the notice a brief description of 20386
the placement. The court shall have ten days from receipt of the 20387
notice to disapprove the placement. If the sentencing court 20388
disapproves the placement, the department shall not proceed with 20389
it. If the sentencing court does not timely disapprove of the 20390
placement, the department may proceed with plans for it. 20391

If the department determines that a prisoner is not 20392
eligible for placement in an intensive program prison, the 20393
department shall not place the prisoner in any intensive program 20394
prison. 20395

(b) The department may reduce the stated prison term of a 20396
prisoner upon the prisoner's successful completion of a ninety- 20397
day period in an intensive program prison. A prisoner whose term 20398
has been so reduced shall be required to serve an intermediate, 20399
transitional type of detention followed by a release under post- 20400
release control sanctions or, in the alternative, shall be 20401
placed under post-release control sanctions, as described in 20402
division (B) (2) (b) (ii) of section 5120.031 of the Revised Code. 20403
In either case, the placement under post-release control 20404
sanctions shall be under terms set by the parole board in 20405
accordance with section 2967.28 of the Revised Code and shall be 20406
subject to the provisions of that section and section 2929.141 20407
of the Revised Code with respect to a violation of any post- 20408
release control sanction. 20409

(2) A prisoner who is in any of the following categories 20410
is not eligible to participate in an intensive program prison 20411
established pursuant to division (A) of this section: 20412

(a) The prisoner is serving a prison term for aggravated 20413
murder, murder, aggravated abortion murder, abortion murder, or 20414

a felony of the first or second degree or a comparable offense 20415
under the law in effect prior to July 1, 1996, or the prisoner 20416
previously has been imprisoned for aggravated murder, murder, 20417
aggravated abortion murder, abortion murder, or a felony of the 20418
first or second degree or a comparable offense under the law in 20419
effect prior to July 1, 1996. 20420

(b) The prisoner is serving a mandatory prison term, as 20421
defined in section 2929.01 of the Revised Code. 20422

(c) The prisoner is serving a prison term for a felony of 20423
the third, fourth, or fifth degree that either is a sex offense, 20424
an offense betraying public trust, or an offense in which the 20425
prisoner caused or attempted to cause actual physical harm to a 20426
person, the prisoner is serving a prison term for a comparable 20427
offense under the law in effect prior to July 1, 1996, or the 20428
prisoner previously has been imprisoned for an offense of that 20429
type or a comparable offense under the law in effect prior to 20430
July 1, 1996. 20431

(d) The prisoner is serving a mandatory prison term in 20432
prison for a third or fourth degree felony OVI offense, as 20433
defined in section 2929.01 of the Revised Code, that was imposed 20434
pursuant to division (G) (2) of section 2929.13 of the Revised 20435
Code. 20436

(C) Upon the implementation of intensive program prisons 20437
pursuant to division (A) of this section, the department at all 20438
times shall maintain intensive program prisons sufficient in 20439
number to reduce the prison terms of at least three hundred 20440
fifty prisoners who are eligible for reduction of their stated 20441
prison terms as a result of their completion of a regimen in an 20442
intensive program prison under this section. 20443

Sec. 5120.53. (A) If a treaty between the United States 20444
and a foreign country provides for the transfer or exchange, 20445
from one of the signatory countries to the other signatory 20446
country, of convicted offenders who are citizens or nationals of 20447
the other signatory country, the governor, subject to and in 20448
accordance with the terms of the treaty, may authorize the 20449
director of rehabilitation and correction to allow the transfer 20450
or exchange of convicted offenders and to take any action 20451
necessary to initiate participation in the treaty. If the 20452
governor grants the director the authority described in this 20453
division, the director may take the necessary action to initiate 20454
participation in the treaty and, subject to and in accordance 20455
with division (B) of this section and the terms of the treaty, 20456
may allow the transfer or exchange to a foreign country that has 20457
signed the treaty of any convicted offender who is a citizen or 20458
national of that signatory country. 20459

(B) (1) No convicted offender who is serving a term of 20460
imprisonment in this state for aggravated murder, murder, 20461
aggravated abortion murder, abortion murder, or a felony of the 20462
first or second degree, who is serving a mandatory prison term 20463
imposed under section 2925.03 or 2925.11 of the Revised Code in 20464
circumstances in which the court was required to impose as the 20465
mandatory prison term the maximum definite prison term or 20466
longest minimum prison term authorized for the degree of offense 20467
committed, who is serving a term of imprisonment in this state 20468
imposed for an offense committed prior to July 1, 1996, that was 20469
an aggravated felony of the first or second degree or that was 20470
aggravated trafficking in violation of division (A) (9) or (10) 20471
of section 2925.03 of the Revised Code, or who has been 20472
sentenced to death in this state shall be transferred or 20473
exchanged to another country pursuant to a treaty of the type 20474

described in division (A) of this section. 20475

(2) If a convicted offender is serving a term of 20476
imprisonment in this state and the offender is a citizen or 20477
national of a foreign country that has signed a treaty of the 20478
type described in division (A) of this section, if the governor 20479
has granted the director of rehabilitation and correction the 20480
authority described in that division, and if the transfer or 20481
exchange of the offender is not barred by division (B) (1) of 20482
this section, the director or the director's designee may 20483
approve the offender for transfer or exchange pursuant to the 20484
treaty if the director or the designee, after consideration of 20485
the factors set forth in the rules adopted by the department 20486
under division (D) of this section and all other relevant 20487
factors, determines that the transfer or exchange of the 20488
offender is appropriate. 20489

(C) Notwithstanding any provision of the Revised Code 20490
regarding the parole eligibility of, or the duration or 20491
calculation of a sentence of imprisonment imposed upon, an 20492
offender, if a convicted offender is serving a term of 20493
imprisonment in this state and the offender is a citizen or 20494
national of a foreign country that has signed a treaty of the 20495
type described in division (A) of this section, if the offender 20496
is serving an indefinite term of imprisonment, if the offender 20497
is barred from being transferred or exchanged pursuant to the 20498
treaty due to the indefinite nature of the offender's term of 20499
imprisonment, and if in accordance with division (B) (2) of this 20500
section the director of rehabilitation and correction or the 20501
director's designee approves the offender for transfer or 20502
exchange pursuant to the treaty, the parole board, pursuant to 20503
rules adopted by the director, shall set a date certain for the 20504
release of the offender. To the extent possible, the date 20505

certain that is set shall be reasonably proportionate to the 20506
indefinite term of imprisonment that the offender is serving. 20507
The date certain that is set for the release of the offender 20508
shall be considered only for purposes of facilitating the 20509
international transfer or exchange of the offender, shall not be 20510
viable or actionable for any other purpose, and shall not create 20511
any expectation or guarantee of release. If an offender for whom 20512
a date certain for release is set under this division is not 20513
transferred to or exchanged with the foreign country pursuant to 20514
the treaty, the date certain is null and void, and the 20515
offender's release shall be determined pursuant to the laws and 20516
rules of this state pertaining to parole eligibility and the 20517
duration and calculation of an indefinite sentence of 20518
imprisonment. 20519

(D) If the governor, pursuant to division (A) of this 20520
section, authorizes the director of rehabilitation and 20521
correction to allow any transfer or exchange of convicted 20522
offenders as described in that division, the director shall 20523
adopt rules under Chapter 119. of the Revised Code to implement 20524
the provisions of this section. The rules shall include a rule 20525
that requires the director or the director's designee, in 20526
determining whether to approve a convicted offender who is 20527
serving a term of imprisonment in this state for transfer or 20528
exchange pursuant to a treaty of the type described in division 20529
(A) of this section, to consider all of the following factors: 20530

(1) The nature of the offense for which the offender is 20531
serving the term of imprisonment in this state; 20532

(2) The likelihood that, if the offender is transferred or 20533
exchanged to a foreign country pursuant to the treaty, the 20534
offender will serve a shorter period of time in imprisonment in 20535

the foreign country than the offender would serve if the 20536
offender is not transferred or exchanged to the foreign country 20537
pursuant to the treaty; 20538

(3) The likelihood that, if the offender is transferred or 20539
exchanged to a foreign country pursuant to the treaty, the 20540
offender will return or attempt to return to this state after 20541
the offender has been released from imprisonment in the foreign 20542
country; 20543

(4) The degree of any shock to the conscience of justice 20544
and society that will be experienced in this state if the 20545
offender is transferred or exchanged to a foreign country 20546
pursuant to the treaty; 20547

(5) All other factors that the department determines are 20548
relevant to the determination. 20549

Sec. 5120.61. (A) (1) Not later than ninety days after 20550
January 1, 1997, the department of rehabilitation and correction 20551
shall adopt standards that it will use under this section to 20552
assess the following criminal offenders and may periodically 20553
revise the standards: 20554

(a) A criminal offender who is convicted of or pleads 20555
guilty to a violent sex offense or designated homicide, assault, 20556
or kidnapping offense and is adjudicated a sexually violent 20557
predator in relation to that offense; 20558

(b) A criminal offender who is convicted of or pleads 20559
guilty to a violation of division (A) (1) (b) of section 2907.02 20560
of the Revised Code committed on or after January 2, 2007, and 20561
either who is sentenced under section 2971.03 of the Revised 20562
Code or upon whom a sentence of life without parole is imposed 20563
under division (B) of section 2907.02 of the Revised Code; 20564

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

(d) A criminal offender who 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 who is sentenced pursuant to section 2971.03 of the Revised Code;

(e) A criminal offender who is convicted of or pleads guilty to either aggravated murder or aggravated abortion 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 who pursuant to division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code is sentenced pursuant to division (B) (3) of section 2971.03 of the Revised Code;

(f) A criminal offender who is convicted of or pleads guilty to either murder or abortion 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 who pursuant to division (B) (2) of section 2929.02 of the Revised Code is sentenced pursuant to section 2971.03 of the Revised Code.

(2) When the department is requested by the parole board or the court to provide a risk assessment report of the offender

under section 2971.04 or 2971.05 of the Revised Code, it shall 20595
assess the offender and complete the assessment as soon as 20596
possible after the offender has commenced serving the prison 20597
term or term of life imprisonment without parole imposed under 20598
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 20599
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 20600
Code. Thereafter, the department shall update a risk assessment 20601
report pertaining to an offender as follows: 20602

(a) Periodically, in the discretion of the department, 20603
provided that each report shall be updated no later than two 20604
years after its initial preparation or most recent update; 20605

(b) Upon the request of the parole board for use in 20606
determining pursuant to section 2971.04 of the Revised Code 20607
whether it should terminate its control over an offender's 20608
service of a prison term imposed upon the offender under 20609
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 20610
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 20611
Code; 20612

(c) Upon the request of the court. 20613

(3) After the department of rehabilitation and correction 20614
assesses an offender pursuant to division (A) (2) of this 20615
section, it shall prepare a report that contains its risk 20616
assessment for the offender or, if a risk assessment report 20617
previously has been prepared, it shall update the risk 20618
assessment report. 20619

(4) The department of rehabilitation and correction shall 20620
provide each risk assessment report that it prepares or updates 20621
pursuant to this section regarding an offender to all of the 20622
following: 20623

(a) The parole board for its use in determining pursuant 20624
to section 2971.04 of the Revised Code whether it should 20625
terminate its control over an offender's service of a prison 20626
term imposed upon the offender under division (A) (3), (B) (1) (a), 20627
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 20628
(d) of section 2971.03 of the Revised Code, if the parole board 20629
has not terminated its control over the offender; 20630

(b) The court for use in determining, pursuant to section 20631
2971.05 of the Revised Code, whether to modify the requirement 20632
that the offender serve the entire prison term imposed upon the 20633
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 20634
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 20635
2971.03 of the Revised Code in a state correctional institution, 20636
whether to revise any modification previously made, or whether 20637
to terminate the prison term; 20638

(c) The prosecuting attorney who prosecuted the case, or 20639
the successor in office to that prosecuting attorney; 20640

(d) The offender. 20641

(B) When the department of rehabilitation and correction 20642
provides a risk assessment report regarding an offender to the 20643
parole board or court pursuant to division (A) (4) (a) or (b) of 20644
this section, the department, prior to the parole board's or 20645
court's hearing, also shall provide to the offender or to the 20646
offender's attorney of record a copy of the report and a copy of 20647
any other relevant documents the department possesses regarding 20648
the offender that the department does not consider to be 20649
confidential. 20650

(C) As used in this section: 20651

(1) "Adjudicated a sexually violent predator" has the same 20652

meaning as in section 2929.01 of the Revised Code, and a person 20653
is "adjudicated a sexually violent predator" in the same manner 20654
and the same circumstances as are described in that section. 20655

(2) "Designated homicide, assault, or kidnapping offense" 20656
and "violent sex offense" have the same meanings as in section 20657
2971.01 of the Revised Code. 20658

Sec. 5139.05. (A) The juvenile court may commit any child 20659
to the department of youth services as authorized in Chapter 20660
2152. of the Revised Code, provided that any child so committed 20661
shall be at least ten years of age at the time of the child's 20662
delinquent act, and, if the child is ten or eleven years of age, 20663
the delinquent act is a violation of section 2909.03 of the 20664
Revised Code or would be aggravated murder, murder, aggravated 20665
abortion murder, abortion murder, or a first or second degree 20666
felony offense of violence if committed by an adult. Any order 20667
to commit a child to an institution under the control and 20668
management of the department shall have the effect of ordering 20669
that the child be committed to the department and assigned to an 20670
institution or placed in a community corrections facility in 20671
accordance with division (E) of section 5139.36 of the Revised 20672
Code as follows: 20673

(1) For an indefinite term consisting of the prescribed 20674
minimum period specified by the court under division (A) (1) of 20675
section 2152.16 of the Revised Code and a maximum period not to 20676
exceed the child's attainment of twenty-one years of age, if the 20677
child was committed pursuant to section 2152.16 of the Revised 20678
Code; 20679

(2) Until the child's attainment of twenty-one years of 20680
age, if the child was committed for aggravated murder ~~or,~~ 20681
murder, aggravated abortion murder, or abortion murder pursuant 20682

to section 2152.16 of the Revised Code; 20683

(3) For a period of commitment that shall be in addition 20684
to, and shall be served consecutively with and prior to, a 20685
period of commitment described in division (A)(1) or (2) of this 20686
section, if the child was committed pursuant to section 2152.17 20687
of the Revised Code; 20688

(4) If the child is ten or eleven years of age, to an 20689
institution, a residential care facility, a residential 20690
facility, or a facility licensed by the department of job and 20691
family services that the department of youth services considers 20692
best designated for the training and rehabilitation of the child 20693
and protection of the public. The child shall be housed 20694
separately from children who are twelve years of age or older 20695
until the child is released or discharged or until the child 20696
attains twelve years of age, whichever occurs first. Upon the 20697
child's attainment of twelve years of age, if the child has not 20698
been released or discharged, the department is not required to 20699
house the child separately. 20700

(B)(1) Except as otherwise provided in section 5139.54 of 20701
the Revised Code, the release authority of the department of 20702
youth services, in accordance with section 5139.51 of the 20703
Revised Code and at any time after the end of the minimum period 20704
specified under division (A)(1) of section 2152.16 of the 20705
Revised Code, may grant the release from custody of any child 20706
committed to the department. 20707

The order committing a child to the department of youth 20708
services shall state that the child has been adjudicated a 20709
delinquent child and state the minimum period. The jurisdiction 20710
of the court terminates at the end of the minimum period except 20711
as follows: 20712

- (a) In relation to judicial release procedures, 20713
supervision, and violations; 20714
- (b) With respect to functions of the court related to the 20715
revocation of supervised release that are specified in sections 20716
5139.51 and 5139.52 of the Revised Code; 20717
- (c) In relation to its duties relating to serious youthful 20718
offender dispositional sentences under sections 2152.13 and 20719
2152.14 of the Revised Code. 20720
- (2) When a child has been committed to the department 20721
under section 2152.16 of the Revised Code, the department shall 20722
retain legal custody of the child until one of the following: 20723
- (a) The department discharges the child to the exclusive 20724
management, control, and custody of the child's parent or the 20725
guardian of the child's person or, if the child is eighteen 20726
years of age or older, discharges the child. 20727
- (b) The committing court, upon its own motion, upon 20728
petition of the parent, guardian of the person, or next friend 20729
of a child, or upon petition of the department, terminates the 20730
department's legal custody of the child. 20731
- (c) The committing court grants the child a judicial 20732
release to court supervision under section 2152.22 of the 20733
Revised Code. 20734
- (d) The department's legal custody of the child is 20735
terminated automatically by the child attaining twenty-one years 20736
of age. 20737
- (e) If the child is subject to a serious youthful offender 20738
dispositional sentence, the adult portion of that dispositional 20739
sentence is imposed under section 2152.14 of the Revised Code. 20740

(C) When a child is committed to the department of youth services, the department may assign the child to a hospital for mental, physical, and other examination, inquiry, or treatment for the period of time that is necessary. The department may remove any child in its custody to a hospital for observation, and a complete report of every observation at the hospital shall be made in writing and shall include a record of observation, treatment, and medical history and a recommendation for future treatment, custody, and maintenance. The department shall thereupon order the placement and treatment that it determines to be most conducive to the purposes of Chapters 2151. and 5139. of the Revised Code. The committing court and all public authorities shall make available to the department all pertinent data in their possession with respect to the case.

(D) Records maintained by the department of youth services pertaining to the children in its custody shall be accessible only to department employees, except by consent of the department, upon the order of the judge of a court of record, or as provided in divisions (D)(1) and (2) of this section. These records shall not be considered "public records," as defined in section 149.43 of the Revised Code.

(1) Except as otherwise provided by a law of this state or the United States, the department of youth services may release records that are maintained by the department of youth services and that pertain to children in its custody to the department of rehabilitation and correction regarding persons who are under the jurisdiction of the department of rehabilitation and correction and who have previously been committed to the department of youth services. The department of rehabilitation and correction may use those records for the limited purpose of carrying out the duties of the department of rehabilitation and

correction. Records released by the department of youth services 20772
to the department of rehabilitation and correction shall remain 20773
confidential and shall not be considered public records as 20774
defined in section 149.43 of the Revised Code. 20775

(2) The department of youth services shall provide to the 20776
superintendent of the school district in which a child 20777
discharged or released from the custody of the department is 20778
entitled to attend school under section 3313.64 or 3313.65 of 20779
the Revised Code the records described in divisions (D) (4) (a) to 20780
(d) of section 2152.18 of the Revised Code. Subject to the 20781
provisions of section 3319.321 of the Revised Code and the 20782
Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, as 20783
amended, the records released to the superintendent shall remain 20784
confidential and shall not be considered public records as 20785
defined in section 149.43 of the Revised Code. 20786

(E) (1) When a child is committed to the department of 20787
youth services, the department, orally or in writing, shall 20788
notify the parent, guardian, or custodian of a child that the 20789
parent, guardian, or custodian may request at any time from the 20790
superintendent of the institution in which the child is located 20791
any of the information described in divisions (E) (1) (a), (b), 20792
(c), and (d) of this section. The parent, guardian, or custodian 20793
may provide the department with the name, address, and telephone 20794
number of the parent, guardian, or custodian, and, until the 20795
department is notified of a change of name, address, or 20796
telephone number, the department shall use the name, address, 20797
and telephone number provided by the parent, guardian, or 20798
custodian to provide notices or answer inquiries concerning the 20799
following information: 20800

(a) When the department of youth services makes a 20801

permanent assignment of the child to a facility, the department, 20802
orally or in writing and on or before the third business day 20803
after the day the permanent assignment is made, shall notify the 20804
parent, guardian, or custodian of the child of the name of the 20805
facility to which the child has been permanently assigned. 20806

If a parent, guardian, or custodian of a child who is 20807
committed to the department of youth services requests, orally 20808
or in writing, the department to provide the parent, guardian, 20809
or custodian with the name of the facility in which the child is 20810
currently located, the department, orally or in writing and on 20811
or before the next business day after the day on which the 20812
request is made, shall provide the name of that facility to the 20813
parent, guardian, or custodian. 20814

(b) If a parent, guardian, or custodian of a child who is 20815
committed to the department of youth services, orally or in 20816
writing, asks the superintendent of the institution in which the 20817
child is located whether the child is being disciplined by the 20818
personnel of the institution, what disciplinary measure the 20819
personnel of the institution are using for the child, or why the 20820
child is being disciplined, the superintendent or the 20821
superintendent's designee, on or before the next business day 20822
after the day on which the request is made, shall provide the 20823
parent, guardian, or custodian with written or oral responses to 20824
the questions. 20825

(c) If a parent, guardian, or custodian of a child who is 20826
committed to the department of youth services, orally or in 20827
writing, asks the superintendent of the institution in which the 20828
child is held whether the child is receiving any medication from 20829
personnel of the institution, what type of medication the child 20830
is receiving, or what condition of the child the medication is 20831

intended to treat, the superintendent or the superintendent's 20832
designee, on or before the next business day after the day on 20833
which the request is made, shall provide the parent, guardian, 20834
or custodian with oral or written responses to the questions. 20835

(d) When a major incident occurs with respect to a child 20836
who is committed to the department of youth services, the 20837
department, as soon as reasonably possible after the major 20838
incident occurs, shall notify the parent, guardian, or custodian 20839
of the child that a major incident has occurred with respect to 20840
the child and of all the details of that incident that the 20841
department has ascertained. 20842

(2) The failure of the department of youth services to 20843
provide any notification required by or answer any requests made 20844
pursuant to division (E) of this section does not create a cause 20845
of action against the state. 20846

(F) The department of youth services, as a means of 20847
punishment while the child is in its custody, shall not prohibit 20848
a child who is committed to the department from seeing that 20849
child's parent, guardian, or custodian during standard 20850
visitation periods allowed by the department of youth services 20851
unless the superintendent of the institution in which the child 20852
is held determines that permitting that child to visit with the 20853
child's parent, guardian, or custodian would create a safety 20854
risk to that child, that child's parents, guardian, or 20855
custodian, the personnel of the institution, or other children 20856
held in that institution. 20857

(G) As used in this section: 20858

(1) "Permanent assignment" means the assignment or 20859
transfer for an extended period of time of a child who is 20860

committed to the department of youth services to a facility in 20861
which the child will receive training or participate in 20862
activities that are directed toward the child's successful 20863
rehabilitation. "Permanent assignment" does not include the 20864
transfer of a child to a facility for judicial release hearings 20865
pursuant to section 2152.22 of the Revised Code or for any other 20866
temporary assignment or transfer to a facility. 20867

(2) "Major incident" means the escape or attempted escape 20868
of a child who has been committed to the department of youth 20869
services from the facility to which the child is assigned; the 20870
return to the custody of the department of a child who has 20871
escaped or otherwise fled the custody and control of the 20872
department without authorization; the allegation of any sexual 20873
activity with a child committed to the department; physical 20874
injury to a child committed to the department as a result of 20875
alleged abuse by department staff; an accident resulting in 20876
injury to a child committed to the department that requires 20877
medical care or treatment outside the institution in which the 20878
child is located; the discovery of a controlled substance upon 20879
the person or in the property of a child committed to the 20880
department; a suicide attempt by a child committed to the 20881
department; a suicide attempt by a child committed to the 20882
department that results in injury to the child requiring 20883
emergency medical services outside the institution in which the 20884
child is located; the death of a child committed to the 20885
department; an injury to a visitor at an institution under the 20886
control of the department that is caused by a child committed to 20887
the department; and the commission or suspected commission of an 20888
act by a child committed to the department that would be an 20889
offense if committed by an adult. 20890

(3) "Sexual activity" has the same meaning as in section 20891

2907.01 of the Revised Code. 20892

(4) "Controlled substance" has the same meaning as in 20893
section 3719.01 of the Revised Code. 20894

(5) "Residential care facility" and "residential facility" 20895
have the same meanings as in section 2151.011 of the Revised 20896
Code. 20897

Sec. 5139.20. (A) Notwithstanding any other provision of 20898
the Revised Code that sets forth the minimum periods or period 20899
for which a child committed to the department of youth services 20900
is to be institutionalized or institutionalized in a secure 20901
facility or the procedures for the judicial release to court 20902
supervision or judicial release to department of youth services 20903
supervision, the department may grant emergency releases to 20904
children confined in state juvenile institutions if the 20905
governor, upon request of the director of the department 20906
authorizes the director, in writing, to issue a declaration that 20907
an emergency overcrowding condition exists in all of the 20908
institutions in which males are confined, or in all of the 20909
institutions in which females are confined, that are under the 20910
control of the department. If the governor authorizes the 20911
issuance of a declaration, the director may issue the 20912
declaration. If the director issues the declaration, the 20913
director shall file a copy of it with the secretary of state, 20914
which copy shall be a public record. Upon the filing of the 20915
copy, the department is authorized to grant emergency releases 20916
to children within its custody subject to division (B) of this 20917
section. The authority to grant the emergency releases shall 20918
continue until the expiration of thirty days from the day on 20919
which the declaration was filed. The director shall not issue a 20920
declaration that an emergency overcrowding condition exists 20921

unless the director determines that no other method of 20922
alleviating the overcrowding condition is available. 20923

(B) (1) If the department is authorized under division (A) 20924
of this section to grant emergency releases to children within 20925
its custody, the department shall determine which, if any, 20926
children to release under that authority only in accordance with 20927
this division and divisions (C), (D), and (E) of this section. 20928
The department, in determining which, if any, children to 20929
release, initially shall classify each child within its custody 20930
according to the degree of offense that the act for which the 20931
child is serving the period of institutionalization would have 20932
been if committed by an adult. The department then shall 20933
scrutinize individual children for emergency release, based upon 20934
their degree of offense, in accordance with the categories and 20935
the order of consideration set forth in division (B) (2) of this 20936
section. After scrutiny of all children within the particular 20937
category under consideration, the department shall designate 20938
individual children within that category to whom it wishes to 20939
grant an emergency release. 20940

(2) The categories of children in the custody of the 20941
department that may be considered for emergency release under 20942
this section, and the order in which the categories shall be 20943
considered, are as follows: 20944

(a) Initially, only children who are not serving a period 20945
of institutionalization for an act that would have been 20946
aggravated murder, murder, aggravated abortion murder, abortion 20947
murder, or a felony of the first, second, third, or fourth 20948
degree if committed by an adult or for an act that was committed 20949
before July 1, 1996, and that would have been an aggravated 20950
felony of the first, second, or third degree if committed by an 20951

adult may be considered. 20952

(b) When all children in the category described in 20953
division (B) (2) (a) of this section have been scrutinized and all 20954
children in that category who have been designated for emergency 20955
release under division (B) (1) of this section have been so 20956
released, then all children who are not serving a period of 20957
institutionalization for an act that would have been aggravated 20958
murder, murder, aggravated abortion murder, abortion murder, or 20959
a felony of the first or second degree if committed by an adult 20960
or for an act that was committed before July 1, 1996, and that 20961
would have been an aggravated felony of the first or second 20962
degree if committed by an adult may be considered. 20963

(c) When all children in the categories described in 20964
divisions (B) (2) (a) and (b) of this section have been 20965
scrutinized and all children in those categories who have been 20966
designated for emergency release under division (B) (1) of this 20967
section have been released, then all children who are not 20968
serving a term of institutionalization for an act that would 20969
have been aggravated murder, murder, aggravated abortion murder, 20970
abortion murder, or a felony of the first degree if committed by 20971
an adult or for an act that was committed before July 1, 1996, 20972
and that would have been an aggravated felony of the first or 20973
second degree if committed by an adult may be considered. 20974

(d) In no case shall the department consider for emergency 20975
release any child who is serving a term of institutionalization 20976
for an act that would have been aggravated murder, murder, 20977
aggravated abortion murder, abortion murder, or a felony of the 20978
first degree if committed by an adult or for an act that was 20979
committed before July 1, 1996, and that would have been an 20980
aggravated felony of the first degree if committed by an adult, 20981

and in no case shall the department grant an emergency release 20982
to any such child pursuant to this section. 20983

(C) An emergency release granted pursuant to this section 20984
shall consist of one of the following: 20985

(1) A supervised release under terms and conditions that 20986
the department believes conducive to law-abiding conduct; 20987

(2) A discharge of the child from the custody and control 20988
of the department if the department is satisfied that the 20989
discharge is consistent with the welfare of the individual and 20990
protection of the public; 20991

(3) An assignment to a family home, a group care facility, 20992
or other place maintained under public or private auspices, 20993
within or without this state, for necessary treatment or 20994
rehabilitation, the costs of which may be paid by the 20995
department. 20996

(D) If a child is granted an emergency release pursuant to 20997
this section, the child thereafter shall be considered to have 20998
been institutionalized or institutionalized in a secure facility 20999
for the prescribed minimum period of time under division (A) (1) 21000
(b), (c), (d), or (e) of section 2152.16 of the Revised Code, or 21001
all definite periods of commitment imposed under division (A), 21002
(B), (C), or (D) of section 2152.17 of the Revised Code plus the 21003
prescribed minimum period of time imposed under division (A) (1) 21004
(b), (c), (d), or (e) of section 2152.16 of the Revised Code, 21005
whichever is applicable. The department shall retain legal 21006
custody of a child so released until it discharges the child or 21007
until its custody is terminated as otherwise provided by law. 21008

(E) (1) If a child is granted an emergency release so that 21009
the child is released on supervised release or assigned to a 21010

family home, group care facility, or other place for treatment 21011
or rehabilitation, the department shall prepare a written 21012
treatment and rehabilitation plan for the child in accordance 21013
with division (F) of section 2152.22 of the Revised Code, which 21014
shall include the conditions of the child's release or 21015
assignment, and shall send the committing court and the juvenile 21016
court of the county in which the child is placed a copy of the 21017
plan and the conditions that it fixed. The court of the county 21018
in which the child is placed may adopt the conditions as an 21019
order of the court and may add any additional consistent 21020
conditions it considers appropriate. If a child is released on 21021
supervised release or is assigned subject to specified 21022
conditions and the court of the county in which the child is 21023
placed has reason to believe that the child's department is not 21024
in accordance with any post-release conditions established by 21025
the court in its journal entry, the court of the county in which 21026
the child is placed, in its discretion, may schedule a time for 21027
a hearing on whether the child violated any of the post-release 21028
conditions. If that court conducts a hearing and determines at 21029
the hearing that the child violated any of the post-release 21030
conditions established in its journal entry, the court, if it 21031
determines that the violation of the conditions was a serious 21032
violation, may order the child to be returned to the department 21033
of youth services for institutionalization or, in any case, may 21034
make any other disposition of the child authorized by law that 21035
the court considers proper. If the court of the county in which 21036
the child is placed orders the child to be returned to a 21037
department of youth services institution, the child shall remain 21038
institutionalized for a minimum period of three months. 21039

(2) The department also shall file a written progress 21040
report with the committing court regarding each child granted an 21041

emergency release pursuant to this section at least once every 21042
thirty days unless specifically directed otherwise by the court. 21043
The report shall include the information required of reports 21044
described in division (G) of section 2152.22 of the Revised 21045
Code. 21046

Sec. 5149.101. (A) (1) A board hearing officer, a board 21047
member, or the office of victims' services may petition the 21048
board for a full board hearing that relates to the proposed 21049
parole or re-parole of a prisoner. At a meeting of the board at 21050
which a majority of board members are present, the majority of 21051
those present shall determine whether a full board hearing shall 21052
be held. 21053

(2) A victim of a violation of section 2903.01 ~~or,~~ 21054
2903.02, 2904.03, or 2904.04 of the Revised Code, an offense of 21055
violence that is a felony of the first, second, or third degree, 21056
or an offense punished by a sentence of life imprisonment, the 21057
victim's representative, or any person described in division (B) 21058
(5) of this section may request the board to hold a full board 21059
hearing that relates to the proposed parole or re-parole of the 21060
person that committed the violation. If a victim, victim's 21061
representative, or other person requests a full board hearing 21062
pursuant to this division, the board shall hold a full board 21063
hearing. 21064

At least thirty days before the full hearing, except as 21065
otherwise provided in this division, the board shall give notice 21066
of the date, time, and place of the hearing to the victim 21067
regardless of whether the victim has requested the notification. 21068
The notice of the date, time, and place of the hearing shall not 21069
be given under this division to a victim if the victim has 21070
requested pursuant to division (B) (2) of section 2930.03 of the 21071

Revised Code that the notice not be provided to the victim. At 21072
least thirty days before the full board hearing and regardless 21073
of whether the victim has requested that the notice be provided 21074
or not be provided under this division to the victim, the board 21075
shall give similar notice to the prosecuting attorney in the 21076
case, the law enforcement agency that arrested the prisoner if 21077
any officer of that agency was a victim of the offense, and, if 21078
different than the victim, the person who requested the full 21079
hearing. If the prosecuting attorney has not previously been 21080
sent an institutional summary report with respect to the 21081
prisoner, upon the request of the prosecuting attorney, the 21082
board shall include with the notice sent to the prosecuting 21083
attorney an institutional summary report that covers the 21084
offender's participation while confined in a state correctional 21085
institution in training, work, and other rehabilitative 21086
activities and any disciplinary action taken against the 21087
offender while so confined. Upon the request of a law 21088
enforcement agency that has not previously been sent an 21089
institutional summary report with respect to the prisoner, the 21090
board also shall send a copy of the institutional summary report 21091
to the law enforcement agency. If notice is to be provided as 21092
described in this division, the board may give the notice by any 21093
reasonable means, including regular mail, telephone, and 21094
electronic mail, in accordance with division (D) (1) of section 21095
2930.16 of the Revised Code. If the notice is based on an 21096
offense committed prior to ~~the effective date of this amendment~~ 21097
March 22, 2013, the notice also shall include the opt-out 21098
information described in division (D) (1) of section 2930.16 of 21099
the Revised Code. The board, in accordance with division (D) (2) 21100
of section 2930.16 of the Revised Code, shall keep a record of 21101
all attempts to provide the notice, and of all notices provided, 21102
under this division. 21103

The preceding paragraph, and the notice-related provisions 21104
of divisions (E) (2) and (K) of section 2929.20, division (D) (1) 21105
of section 2930.16, division (H) of section 2967.12, division 21106
(E) (1) (b) of section 2967.19, division (A) (3) (b) of section 21107
2967.26, and division (D) (1) of section 2967.28 of the Revised 21108
Code enacted in the act in which this paragraph was enacted, 21109
shall be known as "Roberta's Law." 21110

(B) At a full board hearing that relates to the proposed 21111
parole or re-parole of a prisoner and that has been petitioned 21112
for or requested in accordance with division (A) of this 21113
section, the parole board shall permit the following persons to 21114
appear and to give testimony or to submit written statements: 21115

(1) The prosecuting attorney of the county in which the 21116
original indictment against the prisoner was found and members 21117
of any law enforcement agency that assisted in the prosecution 21118
of the original offense; 21119

(2) The judge of the court of common pleas who imposed the 21120
original sentence of incarceration upon the prisoner, or the 21121
judge's successor; 21122

(3) The victim of the original offense for which the 21123
prisoner is serving the sentence or the victim's representative 21124
designated pursuant to section 2930.02 of the Revised Code; 21125

(4) The victim of any behavior that resulted in parole 21126
being revoked; 21127

(5) With respect to a full board hearing held pursuant to 21128
division (A) (2) of this section, all of the following: 21129

(a) The spouse of the victim of the original offense; 21130

(b) The parent or parents of the victim of the original 21131

offense; 21132

(c) The sibling of the victim of the original offense; 21133

(d) The child or children of the victim of the original offense. 21134
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(6) Counsel or some other person designated by the prisoner as a representative, as described in division (C) of this section. 21136
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(C) Except as otherwise provided in this division, a full board hearing of the parole board is not subject to section 121.22 of the Revised Code. The persons who may attend a full board hearing are the persons described in divisions (B) (1) to (6) of this section, and representatives of the press, radio and television stations, and broadcasting networks who are members of a generally recognized professional media organization. 21139
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At the request of a person described in division (B) (3) of this section, representatives of the news media described in this division shall be excluded from the hearing while that person is giving testimony at the hearing. The prisoner being considered for parole has no right to be present at the hearing, but may be represented by counsel or some other person designated by the prisoner. 21146
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If there is an objection at a full board hearing to a recommendation for the parole of a prisoner, the board may approve or disapprove the recommendation or defer its decision until a subsequent full board hearing. The board may permit interested persons other than those listed in this division and division (B) of this section to attend full board hearings pursuant to rules adopted by the adult parole authority. 21153
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(D) If the victim of the original offense died as a result 21160

of the offense and the offense was aggravated murder, murder, 21161
aggravated abortion murder, abortion murder, an offense of 21162
violence that is a felony of the first, second, or third degree, 21163
or an offense punished by a sentence of life imprisonment, the 21164
family of the victim may show at a full board hearing a video 21165
recording not exceeding five minutes in length memorializing the 21166
victim. 21167

(E) The adult parole authority shall adopt rules for the 21168
implementation of this section. The rules shall specify 21169
reasonable restrictions on the number of media representatives 21170
that may attend a hearing, based on considerations of space, and 21171
other procedures designed to accomplish an effective, orderly 21172
process for full board hearings. 21173

Sec. 5153.111. (A) (1) The executive director of a public 21174
children services agency shall request the superintendent of the 21175
bureau of criminal identification and investigation to conduct a 21176
criminal records check with respect to any applicant who has 21177
applied to the agency for employment as a person responsible for 21178
the care, custody, or control of a child. If the applicant does 21179
not present proof that the applicant has been a resident of this 21180
state for the five-year period immediately prior to the date 21181
upon which the criminal records check is requested or does not 21182
provide evidence that within that five-year period the 21183
superintendent has requested information about the applicant 21184
from the federal bureau of investigation in a criminal records 21185
check, the executive director shall request that the 21186
superintendent obtain information from the federal bureau of 21187
investigation as a part of the criminal records check for the 21188
applicant. If the applicant presents proof that the applicant 21189
has been a resident of this state for that five-year period, the 21190
executive director may request that the superintendent include 21191

information from the federal bureau of investigation in the 21192
criminal records check. 21193

(2) Any person required by division (A)(1) of this section 21194
to request a criminal records check shall provide to each 21195
applicant a copy of the form prescribed pursuant to division (C) 21196
(1) of section 109.572 of the Revised Code, provide to each 21197
applicant a standard impression sheet to obtain fingerprint 21198
impressions prescribed pursuant to division (C)(2) of section 21199
109.572 of the Revised Code, obtain the completed form and 21200
impression sheet from each applicant, and forward the completed 21201
form and impression sheet to the superintendent of the bureau of 21202
criminal identification and investigation at the time the person 21203
requests a criminal records check pursuant to division (A)(1) of 21204
this section. 21205

(3) Any applicant who receives pursuant to division (A)(2) 21206
of this section a copy of the form prescribed pursuant to 21207
division (C)(1) of section 109.572 of the Revised Code and a 21208
copy of an impression sheet prescribed pursuant to division (C) 21209
(2) of that section and who is requested to complete the form 21210
and provide a set of fingerprint impressions shall complete the 21211
form or provide all the information necessary to complete the 21212
form and shall provide the impression sheet with the impressions 21213
of the applicant's fingerprints. If an applicant, upon request, 21214
fails to provide the information necessary to complete the form 21215
or fails to provide impressions of the applicant's fingerprints, 21216
that agency shall not employ that applicant for any position for 21217
which a criminal records check is required by division (A)(1) of 21218
this section. 21219

(B)(1) Except as provided in rules adopted by the director 21220
of job and family services in accordance with division (E) of 21221

this section, no public children services agency shall employ a 21222
person as a person responsible for the care, custody, or control 21223
of a child if the person previously has been convicted of or 21224
pleaded guilty to any of the following: 21225

(a) A violation of section 2903.01, 2903.02, 2903.03, 21226
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 21227
2904.03, 2904.04, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 21228
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 21229
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 21230
2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 21231
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 21232
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the 21233
Revised Code, a violation of section 2905.04 of the Revised Code 21234
as it existed prior to July 1, 1996, a violation of section 21235
2919.23 of the Revised Code that would have been a violation of 21236
section 2905.04 of the Revised Code as it existed prior to July 21237
1, 1996, had the violation occurred prior to that date, a 21238
violation of section 2925.11 of the Revised Code that is not a 21239
minor drug possession offense, or felonious sexual penetration 21240
in violation of former section 2907.12 of the Revised Code; 21241

(b) A violation of an existing or former law of this 21242
state, any other state, or the United States that is 21243
substantially equivalent to any of the offenses or violations 21244
described in division (B)(1)(a) of this section. 21245

(2) A public children services agency may employ an 21246
applicant conditionally until the criminal records check 21247
required by this section is completed and the agency receives 21248
the results of the criminal records check. If the results of the 21249
criminal records check indicate that, pursuant to division (B) 21250
(1) of this section, the applicant does not qualify for 21251

employment, the agency shall release the applicant from 21252
employment. 21253

(C) (1) Each public children services agency shall pay to 21254
the bureau of criminal identification and investigation the fee 21255
prescribed pursuant to division (C) (3) of section 109.572 of the 21256
Revised Code for each criminal records check conducted in 21257
accordance with that section upon the request pursuant to 21258
division (A) (1) of this section of the executive director of the 21259
agency. 21260

(2) A public children services agency may charge an 21261
applicant a fee for the costs it incurs in obtaining a criminal 21262
records check under this section. A fee charged under this 21263
division shall not exceed the amount of fees the agency pays 21264
under division (C) (1) of this section. If a fee is charged under 21265
this division, the agency shall notify the applicant at the time 21266
of the applicant's initial application for employment of the 21267
amount of the fee and that, unless the fee is paid, the agency 21268
will not consider the applicant for employment. 21269

(D) The report of any criminal records check conducted by 21270
the bureau of criminal identification and investigation in 21271
accordance with section 109.572 of the Revised Code and pursuant 21272
to a request under division (A) (1) of this section is not a 21273
public record for the purposes of section 149.43 of the Revised 21274
Code and shall not be made available to any person other than 21275
the applicant who is the subject of the criminal records check 21276
or the applicant's representative, the public children services 21277
agency requesting the criminal records check or its 21278
representative, and any court, hearing officer, or other 21279
necessary individual involved in a case dealing with the denial 21280
of employment to the applicant. 21281

(E) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a public children services agency may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with the agency as a person responsible for the care, custody, or control of a child.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

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

Section 2. That existing sections 109.57, 109.572, 109.97, 177.01, 313.131, 2105.19, 2108.77, 2151.356, 2151.414, 2151.419, 2152.02, 2152.021, 2152.11, 2152.12, 2152.16, 2152.17, 2152.20, 2152.59, 2152.72, 2152.74, 2152.86, 2317.02, 2901.01, 2901.02,

2901.07, 2901.13, 2903.41, 2909.24, 2921.32, 2921.34, 2923.01, 21311
2923.02, 2923.131, 2923.132, 2923.31, 2923.32, 2927.21, 2929.01, 21312
2929.02, 2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 21313
2929.04, 2929.05, 2929.06, 2929.13, 2929.14, 2929.143, 2929.31, 21314
2929.32, 2929.34, 2930.16, 2933.51, 2933.81, 2933.82, 2937.222, 21315
2941.14, 2941.143, 2941.147, 2941.148, 2945.06, 2945.11, 21316
2945.38, 2945.57, 2945.74, 2949.02, 2950.01, 2950.99, 2953.08, 21317
2953.09, 2953.11, 2953.21, 2953.25, 2967.01, 2967.05, 2967.12, 21318
2967.121, 2967.13, 2967.18, 2967.19, 2967.193, 2967.26, 2971.01, 21319
2971.03, 2971.07, 3301.32, 3301.541, 3313.662, 3319.31, 3319.39, 21320
3712.09, 3721.121, 3734.44, 4715.30, 4717.05, 4717.051, 4717.14, 21321
4723.092, 4723.281, 4730.25, 4731.22, 4734.36, 4741.22, 21322
4757.361, 4759.07, 4760.13, 4761.09, 4762.13, 4765.114, 4774.13, 21323
4776.10, 4778.14, 5103.0319, 5120.032, 5120.53, 5120.61, 21324
5139.05, 5139.20, 5149.101, and 5153.111 of the Revised Code are 21325
hereby repealed. 21326

Section 3. The General Assembly, applying the principle 21327
stated in division (B) of section 1.52 of the Revised Code that 21328
amendments are to be harmonized if reasonably capable of 21329
simultaneous operation, finds that the following sections, 21330
presented in this act as composites of the sections as amended 21331
by the acts indicated, are the resulting versions of the 21332
sections in effect prior to the effective date of the sections 21333
as presented in this act: 21334

Section 109.572 of the Revised Code is presented in this 21335
act as a composite of the section as amended by Am. Sub. H.B. 21336
49, Sub. H.B. 199, Sub. H.B. 213, Am. Sub. S.B. 51, Sub. S.B. 21337
229, Am. Sub. S.B. 255, and Sub. S.B. 263, all of the 132nd 21338
General Assembly. 21339

Section 2923.31 of the Revised Code as amended by both 21340

Sub. H.B. 199 and Am. H.B. 405 of the 132nd General Assembly.	21341
Section 2929.01 of the Revised Code as amended by Sub.	21342
H.B. 63, Sub. H.B. 411, Am. Sub. S.B. 1, Sub. S.B. 20, and Am.	21343
Sub. S.B. 201, all of the 132nd General Assembly.	21344
Section 2929.13 of the Revised Code as amended by Sub.	21345
H.B. 63, Am. Sub. S.B. 1, Sub. S.B. 20, Am. Sub. S.B. 66, and	21346
Am. Sub. S.B. 201, all of the 132nd General Assembly.	21347
Section 2929.14 of the Revised Code as amended by Sub.	21348
H.B. 63, Am. Sub. S.B. 1, Sub. S.B. 20, and Am. Sub. S.B. 201,	21349
all of the 132nd General Assembly.	21350
Section 2967.18 of the Revised Code as amended by both Am.	21351
Sub. H.B. 180 and Am. Sub. H.B. 445 of the 121st General	21352
Assembly.	21353
Section 2967.193 of the Revised Code as amended by both	21354
Sub. S.B. 145 and Am. Sub. S.B. 201 of the 132nd General	21355
Assembly.	21356
Section 4730.25 of the Revised Code as amended by Am. Sub.	21357
H.B. 64 and Sub. S.B. 110 of the 131st General Assembly and Am.	21358
Sub. H.B. 394 and Am. Sub. S.B. 276 of the 130th General	21359
Assembly.	21360
Section 4731.22 of the Revised Code as amended by both Am.	21361
Sub. H.B. 111 and Sub. H.B. 156 of the 132nd General Assembly.	21362