

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 353

Senators Huffman, S., Manning

A BILL

To amend sections 2903.212, 2907.41, 2919.251, 1
2935.15, 2937.01, 2937.22, 2937.222, 2937.23, 2
and 2941.58 and to enact sections 2937.231 and 3
2937.47 of the Revised Code to modify the 4
pretrial detention and release laws regarding 5
risk assessment tools, bond schedules, non-cash 6
release methods, a continuum of pretrial 7
supervision options, cite-and-release, pretrial 8
screening and diversion, criminal justice system 9
personnel training, a statewide bail data 10
collection system, and request Supreme Court 11
modification of certain rules. 12

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

Section 1. That sections 2903.212, 2907.41, 2919.251, 13
2935.15, 2937.01, 2937.22, 2937.222, 2937.23, and 2941.58 be 14
amended and sections 2937.231 and 2937.47 of the Revised Code be 15
enacted to read as follows: 16

Sec. 2903.212. (A) Except when the complaint involves a 17
person who is a family or household member as defined in section 18
2919.25 of the Revised Code, if a person is charged with a 19

violation of section 2903.21, 2903.211, 2903.22, or 2911.211 of 20
the Revised Code, a violation of a municipal ordinance that is 21
substantially similar to one of those sections, or a sexually 22
oriented offense and if the person, at the time of the alleged 23
violation, was subject to the terms of any order issued pursuant 24
to section 2903.213, 2933.08, or 2945.04 of the Revised Code or 25
previously had been convicted of or pleaded guilty to a 26
violation of section 2903.21, 2903.211, 2903.22, or 2911.211 of 27
the Revised Code that involves the same complainant, a violation 28
of a municipal ordinance that is substantially similar to one of 29
those sections and that involves the same complainant, or a 30
sexually oriented offense that involves the same complainant, 31
the court shall consider all of the following, in addition to 32
any other circumstances considered by the court including the 33
results of a validated risk assessment tool and notwithstanding 34
any provisions to the contrary contained in Criminal Rule 46, 35
before setting ~~the amount and conditions of the bail~~ for the 36
person: 37

(1) Whether the person has a history of violence toward 38
the complainant or a history of other violent acts; 39

(2) The mental health of the person; 40

(3) Whether the person has a history of violating the 41
orders of any court or governmental entity; 42

(4) Whether the person is potentially a threat to any 43
other person; 44

(5) Whether setting bail at a high level will interfere 45
with any treatment or counseling that the person is undergoing. 46

(B) ~~Any~~ (1) (a) Subject to division (B) (1) (b) of this 47
section, any court that has jurisdiction over violations of 48

section 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, violations of a municipal ordinance that is substantially similar to one of those sections, or sexually oriented offenses may set a schedule for bail to be used in cases involving those violations, provided that the schedule shall be used only when a judicial officer is not available to make a bail determination.
~~The~~

(b) In any county that is served by more than one municipal court, more than one county court, or a combination of municipal courts and county courts, the courts shall set a uniform bond schedule to be used by all of those courts in cases involving the violations and offenses specified in division (B) (1) (a) of this section that are misdemeanors, provided that the schedule shall be used only when a judicial officer is not available to make a bail determination.

(2) A schedule set under division (B) (1) (a) or (b) of this section shall require that a ~~judge~~ person using the schedule consider all of the factors listed in division (A) of this section and may require ~~judges to set that~~ bail be set at a certain level or ~~impose that~~ other reasonable conditions related to a release on bail or on recognizance be imposed if the history of the alleged offender or the circumstances of the alleged offense meet certain criteria in the schedule.

(3) In all cases, a person who sets bail as described in division (B) (1) or (2) of this section shall first consider setting conditions for bail, as described in division (A) (1) of section 2937.22 of the Revised Code. In no case may the decision on bail and the release of an alleged offender be predicated on the alleged offender's ability to pay for pretrial services.

(C) As used in this section, ~~"sexually:~~

(1) "Sexually oriented offense" has the same meaning as in 79
section 2950.01 of the Revised Code. 80

(2) "Validated risk assessment tool" has the same meaning 81
as in section 2937.01 of the Revised Code. 82

Sec. 2907.41. (A) Subject to division (D) of this section, 83
a person who is charged with the commission of any sexually 84
oriented offense or with a violation of section 2907.09 of the 85
Revised Code shall appear before the court for the setting of 86
bail if the person charged previously was convicted of or 87
pleaded guilty to a sexually oriented offense, a violation of 88
section 2907.09 of the Revised Code, or a violation of an 89
existing or former municipal ordinance or law of this or any 90
other state or the United States that is substantially similar 91
to section 2907.09 of the Revised Code. 92

(B) To the extent that information about any of the 93
following is available to the court, the court, in addition to 94
any other circumstances considered by the court including the 95
results of a validated risk assessment tool and notwithstanding 96
any provisions to the contrary contained in Criminal Rule 46, 97
shall consider all of the following before setting bail for a 98
person who appears before the court pursuant to division (A) of 99
this section: 100

(1) Whether the person previously has been adjudicated a 101
sexual predator or child-victim predator pursuant to Chapter 102
2950. of the Revised Code, previously has been determined to be 103
a habitual sex offender or habitual child-victim offender 104
pursuant to that ~~Chapter~~ chapter, has a history of committing 105
sexually oriented offenses or child-victim oriented offenses, or 106
has a history of committing violations of section 2907.09 of the 107
Revised Code or violations of an existing or former municipal 108

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| ordinance or law of this or any other state or the United States | 109 |
| that is substantially similar to that section; | 110 |
| (2) The mental health of the person; | 111 |
| (3) Whether the person has a history of violating the | 112 |
| orders of any court or governmental entity; | 113 |
| (4) Whether the person is potentially a threat to any | 114 |
| other person; | 115 |
| (5) Whether the person has access to deadly weapons or a | 116 |
| history of using deadly weapons; | 117 |
| (6) Whether the person has a history of abusing alcohol or | 118 |
| any controlled substance; | 119 |
| (7) The severity of the alleged conduct of the person that | 120 |
| is the basis of the offense, including but not limited to, the | 121 |
| duration of the alleged conduct, and whether the alleged conduct | 122 |
| involved physical injury, assault, violence, or forcible entry | 123 |
| to gain access to an alleged victim; | 124 |
| (8) Whether the person has exhibited obsessive or | 125 |
| controlling behaviors toward another person, including, but not | 126 |
| limited to, stalking, surveillance, or isolation of another | 127 |
| person; | 128 |
| (9) Whether the person has expressed suicidal or homicidal | 129 |
| ideations; | 130 |
| (10) Any information contained in the complaint and any | 131 |
| police reports, affidavits, or other documents accompanying the | 132 |
| complaint. | 133 |
| (C) Any <u>(1) (a) Subject to division (C) (1) (b) of this</u> | 134 |
| <u>section, any court that has jurisdiction over charges alleging</u> | 135 |

the commission of a sexually oriented offense or a violation of 136
section 2907.09 of the Revised Code, in circumstances in which 137
the person charged previously was convicted of or pleaded guilty 138
to any of the offenses or violations described in division (A) 139
of this section, may set a schedule for bail to be used in cases 140
involving those offenses and violations, provided that the 141
schedule shall be used only when a judicial officer is not 142
available to make a bail determination. ~~The~~ 143

(b) In any county that is served by more than one 144
municipal court, more than one county court, or a combination of 145
municipal courts and county courts, the courts shall set a 146
uniform bond schedule to be used by all of those courts in cases 147
involving the violations and offenses specified in division (B) 148
(1) (a) of this section that are misdemeanors, provided that the 149
schedule shall be used only when a judicial officer is not 150
available to make a bail determination. 151

(2) A schedule set under division (C) (1) (a) or (b) of this 152
section shall require that a ~~judge~~ person using the schedule 153
consider all of the factors listed in division (B) of this 154
section and may require ~~judges to set that bail be set~~ at a 155
certain level if the history of the alleged offender or the 156
circumstances of the alleged offense meet certain criteria in 157
the schedule. 158

(3) In all cases, a person who sets bail as described in 159
division (C) (1) or (2) of this section shall first consider 160
setting conditions for bail, as described in division (A) (1) of 161
section 2937.22 of the Revised Code. In no case may the decision 162
on bail and the release of an alleged offender be predicated on 163
the alleged offender's ability to pay for pretrial services. 164

(D) (1) Upon the court's own motion or the motion of a 165

party and upon any terms that the court may direct, a court may 166
permit a person who is required to appear before it by division 167
(A) of this section to appear by video conferencing equipment. 168

(2) If, in the opinion of the court, the appearance in 169
person or by video conferencing equipment of a person who is 170
charged with a misdemeanor and who is required to appear before 171
the court by division (A) of this section is not practicable, 172
the court may waive the appearance and release the person on 173
bail in accordance with the ~~court's~~ schedule for bail ~~set under~~ 174
applicable to the court as described in division (C) of this 175
section or, if there is no schedule for bail applicable to the 176
~~court has not set a schedule for bail under that division, on~~ 177
~~one or both of the following types of bail in an amount set by~~ 178
~~the court:~~ 179

~~(a) A bail bond secured by a deposit of ten per cent of~~ 180
~~the amount of the bond in cash;~~ 181

~~(b) A surety bond, a bond secured by real estate or~~ 182
~~securities as allowed by law, or the deposit of cash, at the~~ 183
~~option of the person, on bail set after considering all of the~~ 184
factors listed in division (B) of this section. Division (C) (3) 185
of this section applies with respect to bail set under this 186
division. 187

(3) Division (A) of this section does not create a right 188
in a person to appear before the court for the setting of bail 189
or prohibit a court from requiring any person charged with a 190
sexually oriented offense or a violation of section 2907.09 of 191
the Revised Code who is not described in that division from 192
appearing before the court for the setting of bail. 193

(E) As used in this section, ~~"child victim:~~ 194

(1) "Child-victim oriented offense," "child-victim predator," "habitual child-victim offender," "habitual sex offender," "sexually oriented offense," and "sexual predator" have the same meanings as in section 2950.01 of the Revised Code. 195
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(2) "Validated risk assessment tool" has the same meaning as in section 2937.01 of the Revised Code. 200
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Sec. 2919.251. (A) Subject to division (D) of this 202
section, a person who is charged with the commission of any 203
offense of violence shall appear before the court for the 204
setting of bail if the alleged victim of the offense charged was 205
a family or household member at the time of the offense and if 206
any of the following applies: 207

(1) The person charged, at the time of the alleged 208
offense, was subject to the terms of a protection order issued 209
or consent agreement approved pursuant to section 2919.26 or 210
3113.31 of the Revised Code or previously was convicted of or 211
pleaded guilty to a violation of section 2919.25 of the Revised 212
Code or a violation of section 2919.27 of the Revised Code 213
involving a protection order or consent agreement of that type, 214
a violation of an existing or former municipal ordinance or law 215
of this or any other state or the United States that is 216
substantially similar to either section, a violation of section 217
2909.06, 2909.07, 2911.12, or 2911.211 of the Revised Code if 218
the victim of the violation was a family or household member at 219
the time of the violation, a violation of an existing or former 220
municipal ordinance or law of this or any other state or the 221
United States that is substantially similar to any of those 222
sections if the victim of the violation was a family or 223
household member at the time of the commission of the violation, 224

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| or any offense of violence if the victim of the offense was a | 225 |
| family or household member at the time of the offense; | 226 |
| (2) The arresting officer indicates in a police report or | 227 |
| other document accompanying the complaint any of the following: | 228 |
| (a) That the arresting officer observed on the alleged | 229 |
| victim objective manifestations of physical harm that the | 230 |
| arresting officer reasonably believes are a result of the | 231 |
| alleged offense; | 232 |
| (b) That the arresting officer reasonably believes that | 233 |
| the person had on the person's person at the time of the alleged | 234 |
| offense a deadly weapon or dangerous ordnance; | 235 |
| (c) That the arresting officer reasonably believes that | 236 |
| the person presents a credible threat of serious physical harm | 237 |
| to the alleged victim or to any other person if released on bail | 238 |
| before trial. | 239 |
| (B) To the extent that information about any of the | 240 |
| following is available to the court, the court shall consider | 241 |
| all of the following, in addition to any other circumstances | 242 |
| considered by the court <u>including the results of a validated</u> | 243 |
| <u>risk assessment tool</u> and notwithstanding any provisions to the | 244 |
| contrary contained in Criminal Rule 46, before setting bail for | 245 |
| a person who appears before the court pursuant to division (A) | 246 |
| of this section: | 247 |
| (1) Whether the person has a history of domestic violence | 248 |
| or a history of other violent acts; | 249 |
| (2) The mental health of the person; | 250 |
| (3) Whether the person has a history of violating the | 251 |
| orders of any court or governmental entity; | 252 |

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| (4) Whether the person is potentially a threat to any other person; | 253 254 |
| (5) Whether the person has access to deadly weapons or a history of using deadly weapons; | 255 256 |
| (6) Whether the person has a history of abusing alcohol or any controlled substance; | 257 258 |
| (7) The severity of the alleged violence that is the basis of the offense, including but not limited to, the duration of the alleged violent incident, and whether the alleged violent incident involved serious physical injury, sexual assault, strangulation, abuse during the alleged victim's pregnancy, abuse of pets, or forcible entry to gain access to the alleged victim; | 259 260 261 262 263 264 265 |
| (8) Whether a separation of the person from the alleged victim or a termination of the relationship between the person and the alleged victim has recently occurred or is pending; | 266 267 268 |
| (9) Whether the person has exhibited obsessive or controlling behaviors toward the alleged victim, including but not limited to, stalking, surveillance, or isolation of the alleged victim; | 269 270 271 272 |
| (10) Whether the person has expressed suicidal or homicidal ideations; | 273 274 |
| (11) Any information contained in the complaint and any police reports, affidavits, or other documents accompanying the complaint. | 275 276 277 |
| (C) Any <u>(1) (a) Subject to division (C) (1) (b) of this section, any</u> court that has jurisdiction over charges alleging the commission of an offense of violence in circumstances in | 278 279 280 |

which the alleged victim of the offense was a family or 281
household member at the time of the offense may set a schedule 282
for bail to be used in cases involving those offenses, provided 283
that the schedule shall be used only when a judicial officer is 284
not available to make a bail determination. ~~The~~ 285

(b) In any county that is served by more than one 286
municipal court, more than one county court, or a combination of 287
municipal courts and county courts, the courts shall set a 288
uniform bond schedule to be used by all of those courts in cases 289
involving the violations and offenses specified in division (C) 290
(1)(a) of this section that are misdemeanors, provided that the 291
schedule shall be used only when a judicial officer is not 292
available to make a bail determination. 293

(2) A schedule set under division (C)(1)(a) or (b) of this 294
section shall require that a ~~judge~~ person using the schedule 295
consider all of the factors listed in division (B) of this 296
section and may require ~~judges to set that~~ bail be set at a 297
certain level if the history of the alleged offender or the 298
circumstances of the alleged offense meet certain criteria in 299
the schedule. 300

(3) In all cases, a person who sets bail as described in 301
division (C)(1) or (2) of this section, shall first consider 302
setting conditions for bail, as described in division (A)(1) of 303
section 2937.22 of the Revised Code. In no case may the decision 304
on bail and the release of an alleged offender be predicated on 305
the alleged offender's ability to pay for pretrial services. 306

(D) (1) Upon the court's own motion or the motion of a 307
party and upon any terms that the court may direct, a court may 308
permit a person who is required to appear before it by division 309
(A) of this section to appear by video conferencing equipment. 310

(2) If in the opinion of the court the appearance in 311
person or by video conferencing equipment of a person who is 312
charged with a misdemeanor and who is required to appear before 313
the court by division (A) of this section is not practicable, 314
the court may waive the appearance and release the person on 315
bail in accordance with the ~~court's~~ schedule for bail ~~set under~~ 316
applicable to the court as described in division (C) of this 317
section or, if there is no schedule for bail applicable to the 318
~~court has not set a schedule for bail under that division, on~~ 319
~~one or both of the following types of bail in an amount set by~~ 320
~~the court:~~ 321

~~(a) A bail bond secured by a deposit of ten per cent of~~ 322
~~the amount of the bond in cash;~~ 323

~~(b) A surety bond, a bond secured by real estate or~~ 324
~~securities as allowed by law, or the deposit of cash, at the~~ 325
~~option of the person, on bail set after considering all of the~~ 326
factors listed in division (B) of this section. Division (C) (3) 327
of this section applies with respect to bail set under this 328
division. 329

(3) Division (A) of this section does not create a right 330
in a person to appear before the court for the setting of bail 331
or prohibit a court from requiring any person charged with an 332
offense of violence who is not described in that division from 333
appearing before the court for the setting of bail. 334

(E) As used in this section: 335

(1) "Controlled substance" has the same meaning as in 336
section 3719.01 of the Revised Code. 337

(2) "Dangerous ordnance" and "deadly weapon" have the same 338
meanings as in section 2923.11 of the Revised Code. 339

(3) "Validated risk assessment tool" has the same meaning 340
as in section 2937.01 of the Revised Code. 341

Sec. 2935.15. Amount of ~~bail,~~ and nature of security 342
~~therefor~~ in misdemeanor cases may be ~~set by a schedule fixed by~~ 343
~~the court or magistrate, or it may be endorsed on the warrant by~~ 344
the magistrate or clerk of the issuing court. ~~If the amount be~~ 345
~~not endorsed on the warrant, the schedule set by the court or~~ 346
~~magistrate before whom bail is taken shall prevail.~~ All 347
recognizances taken, or cash received shall be promptly 348
transmitted to the court issuing the warrant, and further 349
proceedings ~~thereon~~ on that warrant shall be the same as if 350
taken by the issuing court. 351

Sec. 2937.01. ~~The definition of "magistrate" set forth~~ As 352
used in this Chapter: 353

(A) "Magistrate" has the same meaning as in section 354
2931.01 of the Revised Code, ~~and the definitions of "peace.~~ 355

(B) "Peace officer," "prosecutor," and "offense" set forth 356
have the same meanings as in section 2935.01 of the Revised Code 357
apply to Chapter 2937. of the Revised Code. 358

(C) "Validated risk assessment tool" means a risk 359
assessment tool that has been included in a list of recommended 360
qualifying risk assessment tools published by the supreme court 361
on its internet web site pursuant to section 2937.47 of the 362
Revised Code. 363

Sec. 2937.22. (A) Bail is the security or conditions 364
required for the appearance of an accused to appear and answer 365
to a specific criminal or quasi-criminal charge in any court or 366
before any magistrate at a specific time or at any time to which 367
a case may be continued, and not depart without leave. It may 368

take any of the following forms: 369

(1) Any condition that the judge or magistrate setting 370
bail determines is appropriate to reasonably ensure public 371
safety and to ensure that the accused appears in court as 372
required and does not depart without leave, based on the 373
accused's risk level and needs, including without limitation: 374

(a) Personal recognizance; 375

(b) Pretrial supervision through a method of supervision 376
included in the continuum of pretrial supervision options 377
adopted under division (D) of this section by the court served 378
by the judge or magistrate making the decision; 379

(c) Reminders sent by the court of upcoming court 380
appearances, deadlines, or other activities, duties, or 381
procedures related to the charge, which reminders may be sent 382
through appropriate available technology, including email or 383
text messaging; 384

(d) Any other release option specified in Criminal Rule 385
46, other than an option of a type described in divisions (A) (2) 386
to (4) of this section. 387

(2) The deposit of cash by the accused or by some other 388
person for the accused; 389

~~(2)~~ (3) The deposit by the accused or by some other person 390
for the accused in form of bonds of the United States, this 391
state, or any political subdivision thereof in a face amount 392
equal to the sum set by the court or magistrate. In case of 393
bonds not negotiable by delivery such bonds shall be properly 394
endorsed for transfer. 395

~~(3)~~ (4) The written undertaking by one or more persons to 396

forfeit the sum of money set by the court or magistrate, if the 397
accused is in default for appearance, which shall be known as a 398
recognizance. 399

(B) Whenever a person is charged with any offense other 400
than a traffic offense that is not a moving violation and posts 401
bail, other than bail described in division (A)(1) of this 402
section, the person shall pay a surcharge of twenty-five 403
dollars. The clerk of the court shall retain the twenty-five 404
dollars until the person is convicted, pleads guilty, forfeits 405
bail, is found not guilty, or has the charges dismissed. If the 406
person is convicted, pleads guilty, or forfeits bail, the clerk 407
shall transmit the twenty-five dollars on or before the 408
twentieth day of the month following the month in which the 409
person was convicted, pleaded guilty, or forfeited bail to the 410
treasurer of state, and the treasurer of state shall deposit it 411
into the indigent defense support fund created under section 412
120.08 of the Revised Code. If the person is found not guilty or 413
the charges are dismissed, the clerk shall return the twenty- 414
five dollars to the person. 415

(C) All bail shall be received by the clerk of the court, 416
deputy clerk of court, or by the magistrate, or by a special 417
referee appointed by the supreme court pursuant to section 418
2937.46 of the Revised Code, and, except in cases of 419
recognizances and conditions, receipt shall be given therefor. 420

(D) Each municipal court, county court, and court of 421
common pleas shall adopt a continuum of pretrial supervision 422
options that a judge or magistrate serving the court, when 423
setting bail, shall consider as a condition of bail under 424
division (A)(1) of this section. The continuum of options shall 425
include day reporting, electronic monitoring, drug and alcohol 426

monitoring, mental or behavioral health treatment, and any other 427
method of supervision the court determines to be appropriate and 428
available. The court may divide the continuum into tiers based 429
on the risk status of alleged offenders, with the options 430
included within a particular tier being available for use only 431
with respect to alleged offenders who are within the risk 432
category to which the tier applies. 433

(E) Notwithstanding any other provision of law to the 434
contrary, on and after the effective date of this amendment: 435

(1) Each law enforcement agency shall adopt a policy that 436
encourages officers of the agency to use cite-and-release of a 437
person who commits a misdemeanor or a felony of the fifth 438
degree, if the offense is not an offense of violence, instead of 439
arresting the person. 440

(2) When a person is arrested, or issued a summons or 441
citation, for committing a violation of a law or municipal 442
ordinance, the prosecutor with jurisdiction over the violation 443
shall screen the case before the person's initial appearance for 444
the purpose of determining the appropriate charge, the 445
suitability of the person for diversion, and whether any other 446
alternative disposition is appropriate and available. 447

(3) Prosecutors shall determine the feasibility of 448
expanding or increasing the availability of diversion programs 449
for offenders, through the use of validated risk assessment 450
tools. 451

(4) Courts shall consider the use, or expansion of current 452
use, of video conferencing and other technological means in 453
making bail decisions. 454

(5) The Ohio judicial college shall do both of the 455

following: 456

(a) Expand training for judges and magistrates on proven best practices, including the use of validated risk assessment tools, and innovative ideas for alternatives to pretrial detention of persons alleged to have committed a criminal offense, through webinars, in-person training, and written materials; 457
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(b) Make the training described in division (E)(5)(a) of this section available to clerks of court, prosecutors, criminal defense counsel, and other stakeholders in the criminal justice system, through webinars, in-person training, and written materials. 463
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(F) Each municipal court, county court, and court of common pleas shall utilize existing justice system partners for pretrial supervision services, including services of a type described in division (A)(1) of section 2937.22 of the Revised Code, to the extent possible. 468
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(G) As used in this section, ~~"moving:~~ 473

(1) "Moving violation" has the same meaning as in section 2743.70 of the Revised Code. 474
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(2) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code. 476
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Sec. 2937.222. (A) On the motion of the prosecuting attorney or on the judge's own motion, the judge shall hold a hearing to determine whether an accused person charged with aggravated murder when it is not a capital offense, murder, a felony of the first or second degree, a violation of section 2903.06 of the Revised Code, a violation of section 2903.211 of the Revised Code that is a felony, or a felony OVI offense shall 478
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be denied bail. The judge shall order that the accused be 485
detained until the conclusion of the hearing. Except for good 486
cause, a continuance on the motion of the state shall not exceed 487
three court days. Except for good cause, a continuance on the 488
motion of the accused shall not exceed five court days unless 489
the motion of the accused waives in writing the five-day limit 490
and states in writing a specific period for which the accused 491
requests a continuance. A continuance granted upon a motion of 492
the accused that waives in writing the five-day limit shall not 493
exceed five court days after the period of continuance requested 494
in the motion. 495

At the hearing, the accused has the right to be 496
represented by counsel and, if the accused is indigent, to have 497
counsel appointed. The judge shall afford the accused an 498
opportunity to testify, to present witnesses and other 499
information, and to cross-examine witnesses who appear at the 500
hearing. The rules concerning admissibility of evidence in 501
criminal trials do not apply to the presentation and 502
consideration of information at the hearing. Regardless of 503
whether the hearing is being held on the motion of the 504
prosecuting attorney or on the court's own motion, the state has 505
the burden of proving that the proof is evident or the 506
presumption great that the accused committed the offense with 507
which the accused is charged, of proving that the accused poses 508
a substantial risk of serious physical harm to any person or to 509
the community, and of proving that no release conditions will 510
reasonably assure the safety of that person and the community. 511

The judge may reopen the hearing at any time before trial 512
if the judge finds that information exists that was not known to 513
the movant at the time of the hearing and that that information 514
has a material bearing on whether bail should be denied. If a 515

municipal court or county court enters an order denying bail, a 516
judge of the court of common pleas having jurisdiction over the 517
case may continue that order or may hold a hearing pursuant to 518
this section to determine whether to continue that order. 519

(B) No accused person shall be denied bail pursuant to 520
this section unless the judge finds by clear and convincing 521
evidence that the proof is evident or the presumption great that 522
the accused committed the offense described in division (A) of 523
this section with which the accused is charged, finds by clear 524
and convincing evidence that the accused poses a substantial 525
risk of serious physical harm to any person or to the community, 526
and finds by clear and convincing evidence that no release 527
conditions will reasonably assure the safety of that person and 528
the community. 529

(C) The judge, in determining whether the accused person 530
described in division (A) of this section poses a substantial 531
risk of serious physical harm to any person or to the community 532
and whether there are conditions of release that will reasonably 533
assure the safety of that person and the community, shall 534
consider all available information regarding all of the 535
following: 536

(1) The nature and circumstances of the offense charged, 537
including whether the offense is an offense of violence or 538
involves alcohol or a drug of abuse; 539

(2) The weight of the evidence against the accused; 540

(3) The history and characteristics of the accused, 541
including, but not limited to, both of the following: 542

(a) The character, physical and mental condition, family 543
ties, employment, financial resources, length of residence in 544

the community, community ties, past conduct, history relating to 545
drug or alcohol abuse, and criminal history of the accused; 546

(b) Whether, at the time of the current alleged offense or 547
at the time of the arrest of the accused, the accused was on 548
probation, parole, post-release control, or other release 549
pending trial, sentencing, appeal, or completion of sentence for 550
the commission of an offense under the laws of this state, 551
another state, or the United States or under a municipal 552
ordinance. 553

(4) The nature and seriousness of the danger to any person 554
or the community that would be posed by the person's release. 555

(5) The results of a validated risk assessment tool. 556

(D) (1) An order of the court of common pleas denying bail 557
pursuant to this section is a final appealable order. In an 558
appeal pursuant to division (D) of this section, the court of 559
appeals shall do all of the following: 560

(a) Give the appeal priority on its calendar; 561

(b) Liberally modify or dispense with formal requirements 562
in the interest of a speedy and just resolution of the appeal; 563

(c) Decide the appeal expeditiously; 564

(d) Promptly enter its judgment affirming or reversing the 565
order denying bail. 566

(2) The pendency of an appeal under this section does not 567
deprive the court of common pleas of jurisdiction to conduct 568
further proceedings in the case or to further consider the order 569
denying bail in accordance with this section. If, during the 570
pendency of an appeal under division (D) of this section, the 571
court of common pleas sets aside or terminates the order denying 572

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| bail, the court of appeals shall dismiss the appeal. | 573 |
| (E) As used in this section: | 574 |
| (1) "Court day" has the same meaning as in section 5122.01 of the Revised Code. | 575 576 |
| (2) "Felony OVI offense" means a third degree felony OVI offense and a fourth degree felony OVI offense. | 577 578 |
| (3) "Fourth degree felony OVI offense" and "third degree felony OVI offense" have the same meanings as in section 2929.01 of the Revised Code. | 579 580 581 |
| Sec. 2937.23. (A) (1) In a case involving a felony or a violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code when the victim of the offense is a peace officer, the judge or magistrate shall fix the amount of <u>set</u> bail. | 582 583 584 585 |
| (2) In a case involving <u>(a) Subject to division (A) (2) (b) of this section, any court that has jurisdiction over charges alleging the commission of a misdemeanor or a violation of a municipal ordinance and not involving a felony or a violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code when the victim of the offense is a peace officer, the judge, magistrate, or clerk of the court may fix the amount of bail and may do so in accordance with a schedule previously fixed by the judge or magistrate may set a schedule for bail to be used in cases involving those offenses. If the judge, magistrate, or clerk is available, the judge, magistrate, or clerk shall set bail upon consideration of all relevant factors, including the results of a validated risk assessment tool. If The schedule shall be used only if the judge, magistrate, or clerk of the court is not readily available to make a bail determination. In such a case,</u> the sheriff, deputy sheriff, marshal, deputy | 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 |

marshal, police officer, or jailer having custody of the person 602
charged may ~~fix the amount of set~~ bail in accordance with ~~a the~~ 603
schedule ~~previously fixed by the judge or magistrate~~ and shall 604
take the bail only in the county courthouse, the municipal or 605
township building, or the county or municipal jail. 606

(b) In any county that is served by more than one 607
municipal court, more than one county court, or a combination of 608
municipal courts and county courts, the courts shall set a 609
uniform schedule for bail to be used by all of those courts in 610
cases involving the violations and offenses specified in 611
division (A) (2) (a) of this section, provided that the schedule 612
shall be used only when the judge, magistrate, or clerk of the 613
court is not available to make a bail determination. 614

(3) A schedule set under division (A) (2) (a) or (b) of this 615
section shall require that the person using the schedule set the 616
bail for the accused upon consideration of all relevant factors, 617
including the results of a validated risk assessment tool, and 618
may require that bail be set at a certain level if the history 619
of the alleged offender or the circumstances of the alleged 620
offense meet certain criteria in the schedule. Every court shall 621
consider the results of a validated risk assessment tool before 622
setting bail. 623

(4) In all cases, the bail shall be ~~fixed set~~ with 624
consideration of the seriousness of the offense charged, the 625
previous criminal record of the defendant, and the probability 626
of the defendant appearing at the trial of the case. In all 627
cases, a judge, magistrate, or clerk who sets bail, or another 628
person who sets bail as described in division (A) (2) or (3) of 629
this section, shall first consider setting conditions for bail, 630
as described in division (A) (1) of section 2937.22 of the 631

Revised Code. In no case may the decision on bail and the 632
release of an alleged offender be predicated on the alleged 633
offender's ability to pay for pretrial services. 634

(B) In any case involving an alleged violation of section 635
2903.211 of the Revised Code or of a municipal ordinance that is 636
substantially similar to that section, the court shall determine 637
whether it will order an evaluation of the mental condition of 638
the defendant pursuant to section 2919.271 of the Revised Code 639
and, if it decides to so order, shall issue the order requiring 640
the evaluation before it sets bail for the person charged with 641
the violation. In any case involving an alleged violation of 642
section 2919.27 of the Revised Code or of a municipal ordinance 643
that is substantially similar to that section and in which the 644
court finds that either of the following criteria applies, the 645
court shall determine whether it will order an evaluation of the 646
mental condition of the defendant pursuant to section 2919.271 647
of the Revised Code and, if it decides to so order, shall issue 648
the order requiring that evaluation before it sets bail for the 649
person charged with the violation: 650

(1) Regarding an alleged violation of a protection order 651
issued or consent agreement approved pursuant to section 2919.26 652
or 3113.31 of the Revised Code, that the violation allegedly 653
involves conduct by the defendant that caused physical harm to 654
the person or property of a family or household member covered 655
by the order or agreement or conduct by that defendant that 656
caused a family or household member to believe that the 657
defendant would cause physical harm to that member or that 658
member's property; 659

(2) Regarding an alleged violation of a protection order 660
issued pursuant to section 2903.213 or 2903.214 of the Revised 661

Code, or a protection order issued by a court of another state, 662
as defined in section 2919.27 of the Revised Code, that the 663
violation allegedly involves conduct by the defendant that 664
caused physical harm to the person or property of the person 665
covered by the order or conduct by that defendant that caused 666
the person covered by the order to believe that the defendant 667
would cause physical harm to that person or that person's 668
property. 669

(C) As used in this section, "peace officer" has the same 670
meaning as in section 2935.01 of the Revised Code. 671

Sec. 2937.231. (A) Every municipal court, county court, 672
and court of common pleas shall collect all of the following 673
information about each criminal case handled by the court: 674

(1) Whether the defendant in the case caused physical harm 675
to persons or property while released on bail or under pretrial 676
supervision; 677

(2) Whether the defendant in the case failed to appear 678
before the court as required after being released on bail or 679
under pretrial supervision; 680

(3) Whether the court accepted the recommendation of a 681
pretrial service agency in setting bail for the defendant in the 682
case. 683

(B) Every municipal court, county court, and court of 684
common pleas shall collect the following information about each 685
criminal case handled by the court: 686

(1) The date of the arrest of the defendant in the case; 687

(2) The date of the final release of the defendant in the 688
case if the defendant was found not guilty in the case, if the 689

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| <u>complaint, indictment, or information in the case was dismissed,</u> | 690 |
| <u>or if the sentence was suspended at the time of sentencing;</u> | 691 |
| <u>(3) The case number;</u> | 692 |
| <u>(4) The name of the court;</u> | 693 |
| <u>(5) The name of the judge handling the case;</u> | 694 |
| <u>(6) The name of the defendant in the case;</u> | 695 |
| <u>(7) All of the following for any offense that the</u> | 696 |
| <u>defendant in the case is charged with committing:</u> | 697 |
| <u>(a) The name of the offense;</u> | 698 |
| <u>(b) The section of the Revised Code that specifies the</u> | 699 |
| <u>offense;</u> | 700 |
| <u>(c) The degree of the offense;</u> | 701 |
| <u>(d) The validated risk assessment tool used to set bail;</u> | 702 |
| <u>(e) The risk score assigned to the offender;</u> | 703 |
| <u>(f) Release recommendations;</u> | 704 |
| <u>(g) Monetary bail amount set, if any;</u> | 705 |
| <u>(h) Whether a bail schedule was used.</u> | 706 |
| <u>(8) Any other information the supreme court requests for</u> | 707 |
| <u>the purposes described in section 2937.47 of the Revised Code.</u> | 708 |
| <u>(C) The information described in divisions (A) and (B) of</u> | 709 |
| <u>this section shall be made available to the supreme court for</u> | 710 |
| <u>use by the committee the court forms under section 2937.47 of</u> | 711 |
| <u>the Revised Code for the purposes described in that section.</u> | 712 |
| <u>Sec. 2937.47. (A) As used in this section:</u> | 713 |

(1) "Risk assessment tool" means a tool that may be used 714
to evaluate the likelihood of a criminal defendant's appearance 715
at trial and the defendant's risk to public safety. 716

(2) "Qualifying risk assessment tool" means a risk 717
assessment tool that is validated using Ohio data, indicators, 718
and predictive weights. 719

(B) (1) Not later than thirty days after the effective date 720
of this section, the supreme court shall form a committee to 721
review and evaluate available qualifying risk assessment tools. 722
The court shall determine the number of members on the committee 723
and the composition of the committee, provided that all members 724
shall be qualified in criminal justice matters by experience or 725
education. The committee shall complete its initial review and 726
evaluation not later than ninety days after the effective date 727
of this section and, upon completion of the review and 728
evaluation, shall prepare a list of recommended qualifying risk 729
assessment tools for use in the setting of bail under sections 730
2903.212, 2907.41, 2919.251, 2937.22, 2937.222, and 2937.23 of 731
the Revised Code. In performing its duties under this division, 732
the committee shall review and evaluate both interview-based and 733
noninterview-based qualifying risk assessment tools, and shall 734
use all relevant and available information, including the 735
information provided under section 2937.231 of the Revised Code. 736
The committee shall be a permanent committee, continuing in 737
existence for the purposes described in division (B) (3) of this 738
section. The court, in its discretion, may replace members of, 739
or change the number of members of, the committee. 740

(2) Upon the committee's preparation of the list of 741
recommended qualifying risk assessment tools under division (B) 742
(1) of this section, the supreme court shall publish the list on 743

its internet web site. 744

(3) The committee shall periodically review the list of 745
recommended qualifying risk assessment tools it prepares under 746
division (B)(1) of this section to ensure that the tools are 747
revalidated periodically. The committee may remove a qualifying 748
risk assessment tool that it previously had recommended from the 749
list of recommended tools if the tool is not revalidated 750
periodically or for any other reason. The committee shall 751
periodically review qualifying risk assessment tools that are 752
not on the list, to determine if any such tool should be added 753
to the list. If the committee removes a qualifying risk 754
assessment tool from the list, or adds a new qualifying risk 755
assessment tool to the list, the supreme court shall update its 756
list accordingly. 757

(4) The general assembly and the supreme court shall 758
provide assistance and resources to courts, upon request, to 759
assist the requesting court in its use of qualifying risk 760
assessment tools included in the list prepared by the supreme 761
court under division (B)(1) of this section in the setting of 762
bail under sections 2903.212, 2907.41, 2919.251, 2937.22, 763
2937.222, and 2937.23 of the Revised Code. 764

(C) The supreme court shall collect the information 765
described in section 2937.231 of the Revised Code from every 766
court and maintain a centralized database of that information. 767

(D) The committee formed by the supreme court under 768
division (B) of this section is hereby designated a criminal 769
justice agency as defined in section 109.571 of the Revised 770
Code. As such, it is authorized by this state to access 771
computerized and other databases administered by state and local 772
agencies or jurisdictions for the administration of criminal 773

justice and the maintenance of a centralized database of the 774
information described in section 2937.231 of the Revised Code. 775
The supreme court also may apply for access to such databases 776
for the limited purposes described in this section. 777

Sec. 2941.58. When a motion to quash or a plea in 778
abatement is adjudged in favor of the accused, the trial court 779
may order the case to be resubmitted to the grand jury, if then 780
pending, or to the next succeeding grand jury. The accused then 781
may be committed to jail or ~~held to bail~~ set in such sum as the 782
manner the trial court requires for ~~his~~ the accused's appearance 783
to answer at a time to be fixed by the court. 784

Section 2. That existing sections 2903.212, 2907.41, 785
2919.251, 2935.15, 2937.01, 2937.22, 2937.222, 2937.23, and 786
2941.58 of the Revised Code are hereby repealed. 787

Section 3. (A) The General Assembly, in enacting this act, 788
respectfully requests that the Supreme Court of Ohio do all of 789
the following within one year of the effective date of this 790
section: 791

(1) Amend Rule 5 of the Rules of Superintendence for the 792
Courts of Ohio to require that, in any county that is served by 793
more than one municipal court, more than one county court, or a 794
combination of municipal courts and county courts, the courts 795
must adopt a uniform bond schedule to be used by all of those 796
courts for misdemeanors in those courts, with the schedule to be 797
used only when a judicial officer is not available to make a 798
bail determination. 799

(2) Modify Criminal Rule 46 in the manner recommended in 800
Appendix A of the "Report and Recommendations of The Supreme 801
Court of Ohio Task Force to Examine the Ohio Bail System," 802

issued in July, 2019. 803

(3) Amend Criminal Rule 44 to require the presence of 804
counsel for the defendant at the initial appearance for any 805
offense carrying the potential penalty of confinement, unless 806
the defendant is being released on personal recognizance or an 807
unsecured financial condition, and to specify and ensure that 808
the Rule as modified does not impede or delay a judge's ability 809
to release a defendant on the defendant's own recognizance or on 810
an unsecured financial condition. 811

(4) Modify the Rules of Criminal Procedure to conform the 812
rules to sections 2903.212, 2907.41, 2919.251, 2935.15, 2937.01, 813
2937.22, 2937.222, 2937.23, 2937.231, 2937.47, and 2941.58 of 814
the Revised Code, as amended or enacted by this act. 815

(B) The state's municipal courts, county courts, and 816
courts of common pleas shall be compliant with the provisions 817
amended or enacted by this act and any changes to the Rules of 818
Superintendence and Rules of Criminal Procedure resulting from 819
this act, not later than six months after the effective date of 820
this section. 821

Section 4. Section 2937.23 of the Revised Code is 822
presented in this act as a composite of the section as amended 823
by both H.B. 202 and S.B. 142 of the 123rd General Assembly. The 824
General Assembly, applying the principle stated in division (B) 825
of section 1.52 of the Revised Code that amendments are to be 826
harmonized if reasonably capable of simultaneous operation, 827
finds that the composite is the resulting version of the section 828
in effect prior to the effective date of the section as 829
presented in this act. 830