

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 640

Representatives Grendell, Young, T.

Cosponsors: Representatives Merrin, Johnson, Miller, K., Jordan, Hall

A BILL

To amend section 2929.18 of the Revised Code to 1
require a felony offender of an OVI-caused 2
aggravated vehicular homicide to pay child 3
maintenance when the victim is a parent, legal 4
guardian, or custodian of a minor child. 5

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

Section 1. That section 2929.18 of the Revised Code be 6
amended to read as follows: 7

Sec. 2929.18. (A) Except as otherwise provided in this 8
division and in addition to imposing court costs pursuant to 9
section 2947.23 of the Revised Code, the court imposing a 10
sentence upon an offender for a felony may sentence the offender 11
to any financial sanction or combination of financial sanctions 12
authorized under this section or, in the circumstances specified 13
in section 2929.32 of the Revised Code, may impose upon the 14
offender a fine in accordance with that section. ~~Financial-~~ 15
However, the court shall order the financial sanction specified 16
in division (A) (2) of this section, if applicable, in addition 17
to any other financial sanction or combination of financial 18

sanctions imposed under this section. Subject to division (A)(2) 19
of this section, financial sanctions that may be imposed 20
pursuant to this section include, but are not limited to, the 21
following: 22

(1) Restitution by the offender to the victim of the 23
offender's crime or any survivor of the victim, in an amount 24
based on the victim's economic loss. If the court imposes 25
restitution, the court shall order that the restitution be made 26
to the victim in open court, to the adult probation department 27
that serves the county on behalf of the victim, to the clerk of 28
courts, or to another agency designated by the court. If the 29
court imposes restitution, at sentencing, the court shall 30
determine the amount of restitution to be made by the offender. 31
If the court imposes restitution, the court may base the amount 32
of restitution it orders on an amount recommended by the victim, 33
the offender, a presentence investigation report, estimates or 34
receipts indicating the cost of repairing or replacing property, 35
and other information, provided that the amount the court orders 36
as restitution shall not exceed the amount of the economic loss 37
suffered by the victim as a direct and proximate result of the 38
commission of the offense. If the court imposes restitution for 39
the cost of accounting or auditing done to determine the extent 40
of economic loss, the court may order restitution for any amount 41
of the victim's costs of accounting or auditing provided that 42
the amount of restitution is reasonable and does not exceed the 43
value of property or services stolen or damaged as a result of 44
the offense. If the court decides to impose restitution, the 45
court shall hold a hearing on restitution if the offender, 46
victim, or survivor disputes the amount. All restitution 47
payments shall be credited against any recovery of economic loss 48
in a civil action brought by the victim or any survivor of the 49

victim against the offender. 50

If the court imposes restitution, the court may order that 51
the offender pay a surcharge of not more than five per cent of 52
the amount of the restitution otherwise ordered to the entity 53
responsible for collecting and processing restitution payments. 54

The victim or survivor may request that the prosecutor in 55
the case file a motion, or the offender may file a motion, for 56
modification of the payment terms of any restitution ordered. If 57
the court grants the motion, it may modify the payment terms as 58
it determines appropriate. 59

~~(2) Except~~ (2) (a) For any felony violation of division (A) 60
(1) (a) of section 2903.06 of the Revised Code, the court shall 61
order restitution in the form of child maintenance if the 62
offender was convicted of or pleaded guilty to that violation 63
and at the time of the offense the deceased victim was the 64
parent, legal custodian, or guardian of at least one surviving 65
minor child. For each minor child of the victim, the offender 66
shall pay child maintenance until the child reaches eighteen 67
years of age. 68

(b) The court shall determine the amount of child 69
maintenance that is reasonable and necessary for the maintenance 70
of each child after considering all relevant factors, including 71
all of the following: 72

(i) The financial needs and resources of the child; 73

(ii) The financial resources and needs of the surviving 74
parent, legal custodian, or guardian of the child, including the 75
state if the child is in the custody of a public children 76
services agency; 77

(iii) The standard of living to which the child is 78

<u>accustomed;</u>	79
<u>(iv) The physical and emotional condition of the child and the child's educational needs;</u>	80 81
<u>(v) The child's physical and legal custody arrangements;</u>	82
<u>(vi) The reasonable work-related child care expenses of the surviving parent, legal custodian, or guardian.</u>	83 84
<u>(c) The court shall order that child maintenance payments be made to the clerk of courts as trustee for remittance to the child's surviving parent, legal custodian, or guardian. The clerk shall remit the payments to the surviving parent, legal custodian, or guardian within three business days of receipt by the clerk. The clerk shall deposit all payments not later than the next business day after receipt.</u>	85 86 87 88 89 90 91
<u>(d) If the offender is ordered to pay child maintenance under this section and is incarcerated and unable to pay the required child maintenance, the offender shall have not more than one year after the release from incarceration to begin payment and may enter a payment plan with the court to address any arrearage. If the child maintenance payments are set to terminate but the offender's obligation is not paid in full, the child maintenance payments shall continue until the entire arrearage is paid.</u>	92 93 94 95 96 97 98 99 100
<u>(e) If a parent, legal guardian, or custodian brings a civil action against the offender prior to the ordering of child maintenance under this section and obtains a judgment covering the costs of child maintenance in the civil action, no child maintenance shall be ordered under this section.</u>	101 102 103 104 105
<u>(f) If an offender is ordered to pay child maintenance under this section and a parent, legal guardian, or custodian</u>	106 107

subsequently brings a civil action against the offender and 108
obtains a judgment covering the costs of child maintenance, the 109
child maintenance amount shall be offset by the amount of the 110
judgment awarded in the civil action. 111

(3) Except as provided in division (B)(1), (3), or (4) of 112
this section, a fine payable by the offender to the state, to a 113
political subdivision, or as described in division (B)(2) of 114
this section to one or more law enforcement agencies, with the 115
amount of the fine based on a standard percentage of the 116
offender's daily income over a period of time determined by the 117
court and based upon the seriousness of the offense. A fine 118
ordered under this division shall not exceed the maximum 119
conventional fine amount authorized for the level of the offense 120
under division ~~(A)(3)~~ (A)(4) of this section. 121

~~(3)~~ (4) Except as provided in division (B)(1), (3), or (4) 122
of this section, a fine payable by the offender to the state, to 123
a political subdivision when appropriate for a felony, or as 124
described in division (B)(2) of this section to one or more law 125
enforcement agencies, in the following amount: 126

(a) For a felony of the first degree, not more than twenty 127
thousand dollars; 128

(b) For a felony of the second degree, not more than 129
fifteen thousand dollars; 130

(c) For a felony of the third degree, not more than ten 131
thousand dollars; 132

(d) For a felony of the fourth degree, not more than five 133
thousand dollars; 134

(e) For a felony of the fifth degree, not more than two 135
thousand five hundred dollars. 136

(4) (5) A state fine or costs as defined in section	137
2949.111 of the Revised Code.	138
(5)(a) (6)(a) Reimbursement by the offender of any or all	139
of the costs of sanctions incurred by the government, including	140
the following:	141
(i) All or part of the costs of implementing any community	142
control sanction, including a supervision fee under section	143
2951.021 of the Revised Code;	144
(ii) All or part of the costs of confinement under a	145
sanction imposed pursuant to section 2929.14, 2929.142, or	146
2929.16 of the Revised Code, provided that the amount of	147
reimbursement ordered under this division shall not exceed the	148
total amount of reimbursement the offender is able to pay as	149
determined at a hearing and shall not exceed the actual cost of	150
the confinement;	151
(iii) All or part of the cost of purchasing and using an	152
immobilizing or disabling device, including a certified ignition	153
interlock device, or a remote alcohol monitoring device that a	154
court orders an offender to use under section 4510.13 of the	155
Revised Code.	156
(b) If the offender is sentenced to a sanction of	157
confinement pursuant to section 2929.14 or 2929.16 of the	158
Revised Code that is to be served in a facility operated by a	159
board of county commissioners, a legislative authority of a	160
municipal corporation, or another local governmental entity, if,	161
pursuant to section 307.93, 341.14, 341.19, 341.23, 753.02,	162
753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and	163
section 2929.37 of the Revised Code, the board, legislative	164
authority, or other local governmental entity requires prisoners	165

to reimburse the county, municipal corporation, or other entity 166
for its expenses incurred by reason of the prisoner's 167
confinement, and if the court does not impose a financial 168
sanction under division ~~(A) (5) (a) (ii)~~ (A) (6) (a) (ii) of this 169
section, confinement costs may be assessed pursuant to section 170
2929.37 of the Revised Code. In addition, the offender may be 171
required to pay the fees specified in section 2929.38 of the 172
Revised Code in accordance with that section. 173

(c) Reimbursement by the offender for costs pursuant to 174
section 2929.71 of the Revised Code. 175

(B) (1) For a first, second, or third degree felony 176
violation of any provision of Chapter 2925., 3719., or 4729. of 177
the Revised Code, the sentencing court shall impose upon the 178
offender a mandatory fine of at least one-half of, but not more 179
than, the maximum statutory fine amount authorized for the level 180
of the offense pursuant to division ~~(A) (3)~~ (A) (4) of this 181
section. If an offender alleges in an affidavit filed with the 182
court prior to sentencing that the offender is indigent and 183
unable to pay the mandatory fine and if the court determines the 184
offender is an indigent person and is unable to pay the 185
mandatory fine described in this division, the court shall not 186
impose the mandatory fine upon the offender. 187

(2) Any mandatory fine imposed upon an offender under 188
division (B) (1) of this section and any fine imposed upon an 189
offender under division ~~(A) (2)~~ (A) (3) or ~~(3)~~ (4) of this section 190
for any fourth or fifth degree felony violation of any provision 191
of Chapter 2925., 3719., or 4729. of the Revised Code shall be 192
paid to law enforcement agencies pursuant to division (F) of 193
section 2925.03 of the Revised Code. 194

(3) For a fourth degree felony OVI offense and for a third 195

degree felony OVI offense, the sentencing court shall impose 196
upon the offender a mandatory fine in the amount specified in 197
division (G) (1) (d) or (e) of section 4511.19 of the Revised 198
Code, whichever is applicable. The mandatory fine so imposed 199
shall be disbursed as provided in the division pursuant to which 200
it is imposed. 201

(4) Notwithstanding any fine otherwise authorized or 202
required to be imposed under division ~~(A) (2)~~ (A) (3) or ~~(3)~~ (4) 203
or (B) (1) of this section or section 2929.31 of the Revised Code 204
for a violation of section 2925.03 of the Revised Code, in 205
addition to any penalty or sanction imposed for that offense 206
under section 2925.03 or sections 2929.11 to 2929.18 of the 207
Revised Code and in addition to the forfeiture of property in 208
connection with the offense as prescribed in Chapter 2981. of 209
the Revised Code, the court that sentences an offender for a 210
violation of section 2925.03 of the Revised Code may impose upon 211
the offender a fine in addition to any fine imposed under 212
division ~~(A) (2)~~ (A) (3) or ~~(3)~~ (4) of this section and in 213
addition to any mandatory fine imposed under division (B) (1) of 214
this section. The fine imposed under division (B) (4) of this 215
section shall be used as provided in division (H) of section 216
2925.03 of the Revised Code. A fine imposed under division (B) 217
(4) of this section shall not exceed whichever of the following 218
is applicable: 219

(a) The total value of any personal or real property in 220
which the offender has an interest and that was used in the 221
course of, intended for use in the course of, derived from, or 222
realized through conduct in violation of section 2925.03 of the 223
Revised Code, including any property that constitutes proceeds 224
derived from that offense; 225

(b) If the offender has no interest in any property of the type described in division (B) (4) (a) of this section or if it is not possible to ascertain whether the offender has an interest in any property of that type in which the offender may have an interest, the amount of the mandatory fine for the offense imposed under division (B) (1) of this section or, if no mandatory fine is imposed under division (B) (1) of this section, the amount of the fine authorized for the level of the offense imposed under division ~~(A) (3)~~ (A) (4) of this section.

(5) Prior to imposing a fine under division (B) (4) of this section, the court shall determine whether the offender has an interest in any property of the type described in division (B) (4) (a) of this section. Except as provided in division (B) (6) or (7) of this section, a fine that is authorized and imposed under division (B) (4) of this section does not limit or affect the imposition of the penalties and sanctions for a violation of section 2925.03 of the Revised Code prescribed under those sections or sections 2929.11 to 2929.18 of the Revised Code and does not limit or affect a forfeiture of property in connection with the offense as prescribed in Chapter 2981. of the Revised Code.

(6) If the sum total of a mandatory fine amount imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code under division (B) (1) of this section plus the amount of any fine imposed under division (B) (4) of this section does not exceed the maximum statutory fine amount authorized for the level of the offense under division ~~(A) (3)~~ (A) (4) of this section or section 2929.31 of the Revised Code, the court may impose a fine for the offense in addition to the mandatory fine and the fine imposed under division (B) (4) of this section. The sum total of the amounts of the mandatory

fine, the fine imposed under division (B) (4) of this section, 257
and the additional fine imposed under division (B) (6) of this 258
section shall not exceed the maximum statutory fine amount 259
authorized for the level of the offense under division ~~(A) (3)~~ 260
(A) (4) of this section or section 2929.31 of the Revised Code. 261
The clerk of the court shall pay any fine that is imposed under 262
division (B) (6) of this section to the county, township, 263
municipal corporation, park district as created pursuant to 264
section 511.18 or 1545.04 of the Revised Code, or state law 265
enforcement agencies in this state that primarily were 266
responsible for or involved in making the arrest of, and in 267
prosecuting, the offender pursuant to division (F) of section 268
2925.03 of the Revised Code. 269

(7) If the sum total of the amount of a mandatory fine 270
imposed for a first, second, or third degree felony violation of 271
section 2925.03 of the Revised Code plus the amount of any fine 272
imposed under division (B) (4) of this section exceeds the 273
maximum statutory fine amount authorized for the level of the 274
offense under division ~~(A) (3)~~ (A) (4) of this section or section 275
2929.31 of the Revised Code, the court shall not impose a fine 276
under division (B) (6) of this section. 277

(8) (a) If an offender who is convicted of or pleads guilty 278
to a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 279
2923.32, division (A) (1) or (2) of section 2907.323 involving a 280
minor, or division (B) (1), (2), (3), (4), or (5) of section 281
2919.22 of the Revised Code also is convicted of or pleads 282
guilty to a specification of the type described in section 283
2941.1422 of the Revised Code that charges that the offender 284
knowingly committed the offense in furtherance of human 285
trafficking, the sentencing court shall sentence the offender to 286
a financial sanction of restitution by the offender to the 287

victim or any survivor of the victim, with the restitution 288
including the costs of housing, counseling, and medical and 289
legal assistance incurred by the victim as a direct result of 290
the offense and the greater of the following: 291

(i) The gross income or value to the offender of the 292
victim's labor or services; 293

(ii) The value of the victim's labor as guaranteed under 294
the minimum wage and overtime provisions of the "Federal Fair 295
Labor Standards Act of 1938," 52 Stat. 1060, 20 U.S.C. 207, and 296
state labor laws. 297

(b) If a court imposing sentence upon an offender for a 298
felony is required to impose upon the offender a financial 299
sanction of restitution under division (B) (8) (a) of this 300
section, in addition to that financial sanction of restitution, 301
the court may sentence the offender to any other financial 302
sanction or combination of financial sanctions authorized under 303
this section, including a restitution sanction under division 304
(A) (1) of this section. 305

(9) In addition to any other fine that is or may be 306
imposed under this section, the court imposing sentence upon an 307
offender for a felony that is a sexually oriented offense or a 308
child-victim oriented offense, as those terms are defined in 309
section 2950.01 of the Revised Code, may impose a fine of not 310
less than fifty nor more than five hundred dollars. 311

(10) For a felony violation of division (A) of section 312
2921.321 of the Revised Code that results in the death of the 313
police dog or horse that is the subject of the violation, the 314
sentencing court shall impose upon the offender a mandatory fine 315
from the range of fines provided under division ~~(A) (3)~~ (A) (4) of 316

this section for a felony of the third degree. A mandatory fine 317
imposed upon an offender under division (B) (10) of this section 318
shall be paid to the law enforcement agency that was served by 319
the police dog or horse that was killed in the felony violation 320
of division (A) of section 2921.321 of the Revised Code to be 321
used as provided in division (E) (1) (b) of that section. 322

(11) In addition to any other fine that is or may be 323
imposed under this section, the court imposing sentence upon an 324
offender for any of the following offenses that is a felony may 325
impose a fine of not less than seventy nor more than five 326
hundred dollars, which shall be transmitted to the treasurer of 327
state to be credited to the address confidentiality program fund 328
created by section 111.48 of the Revised Code: 329

(a) Domestic violence; 330

(b) Menacing by stalking; 331

(c) Rape; 332

(d) Sexual battery; 333

(e) Trafficking in persons; 334

(f) A violation of section 2905.01, 2905.02, 2907.21, 335
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323 336
involving a minor, or division (B) (1), (2), (3), (4), or (5) of 337
section 2919.22 of the Revised Code, if the offender also is 338
convicted of a specification of the type described in section 339
2941.1422 of the Revised Code that charges that the offender 340
knowingly committed the offense in furtherance of human 341
trafficking. 342

(C) (1) Except as provided in section 2951.021 of the 343
Revised Code, the offender shall pay reimbursements imposed upon 344

the offender pursuant to division ~~(A) (5) (a)~~ (A) (6) (a) of this 345
section to pay the costs incurred by a county pursuant to any 346
sanction imposed under this section or section 2929.16 or 347
2929.17 of the Revised Code or in operating a facility used to 348
confine offenders pursuant to a sanction imposed under section 349
2929.16 of the Revised Code to the county treasurer. The county 350
treasurer shall deposit the reimbursements in the sanction cost 351
reimbursement fund that each board of county commissioners shall 352
create in its county treasury. The county shall use the amounts 353
deposited in the fund to pay the costs incurred by the county 354
pursuant to any sanction imposed under this section or section 355
2929.16 or 2929.17 of the Revised Code or in operating a 356
facility used to confine offenders pursuant to a sanction 357
imposed under section 2929.16 of the Revised Code. 358

(2) Except as provided in section 2951.021 of the Revised 359
Code, the offender shall pay reimbursements imposed upon the 360
offender pursuant to division ~~(A) (5) (a)~~ (A) (6) (a) of this 361
section to pay the costs incurred by a municipal corporation 362
pursuant to any sanction imposed under this section or section 363
2929.16 or 2929.17 of the Revised Code or in operating a 364
facility used to confine offenders pursuant to a sanction 365
imposed under section 2929.16 of the Revised Code to the 366
treasurer of the municipal corporation. The treasurer shall 367
deposit the reimbursements in a special fund that shall be 368
established in the treasury of each municipal corporation. The 369
municipal corporation shall use the amounts deposited in the 370
fund to pay the costs incurred by the municipal corporation 371
pursuant to any sanction imposed under this section or section 372
2929.16 or 2929.17 of the Revised Code or in operating a 373
facility used to confine offenders pursuant to a sanction 374
imposed under section 2929.16 of the Revised Code. 375

(3) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed pursuant to division ~~(A) (5) (a)~~ (A) (6) (a) of this section for the costs incurred by a private provider pursuant to a sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code to the provider.

(D) Except as otherwise provided in this division, a financial sanction imposed pursuant to division (A) or (B) of this section is a judgment in favor of the state or a political subdivision in which the court that imposed the financial sanction is located, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division ~~(A) (5) (a) (ii)~~ (A) (6) (a) (ii) of this section upon an offender who is incarcerated in a state facility or a municipal jail is a judgment in favor of the state or the municipal corporation, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed upon an offender pursuant to this section for costs incurred by a private provider of sanctions is a judgment in favor of the private provider, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of a mandatory fine imposed under division (B) (10) of this section that is required under that division to be paid to a law enforcement agency is a judgment in favor of the specified law enforcement agency, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (A) (1), (A) (2), or (B) (8) of this section is an order in favor of the victim of the offender's criminal act or, with respect to division (A) (2) of this section, in favor of the parent, legal custodian, or guardian of a surviving minor child of the victim

of the offender's criminal act that can be collected through a 407
certificate of judgment as described in division (D)(1) of this 408
section, through execution as described in division (D)(2) of 409
this section, or through an order as described in division (D) 410
(3) of this section, and the offender shall be considered for 411
purposes of the collection as the judgment debtor. Imposition of 412
a financial sanction and execution on the judgment does not 413
preclude any other power of the court to impose or enforce 414
sanctions on the offender. Once the financial sanction is 415
imposed as a judgment or order under this division, the victim, 416
private provider, state, or political subdivision may do any of 417
the following: 418

(1) Obtain from the clerk of the court in which the 419
judgment was entered a certificate of judgment that shall be in 420
the same manner and form as a certificate of judgment issued in 421
a civil action; 422

(2) Obtain execution of the judgment or order through any 423
available procedure, including: 424

(a) An execution against the property of the judgment 425
debtor under Chapter 2329. of the Revised Code; 426

(b) An execution against the person of the judgment debtor 427
under Chapter 2331. of the Revised Code; 428

(c) A proceeding in aid of execution under Chapter 2333. 429
of the Revised Code, including: 430

(i) A proceeding for the examination of the judgment 431
debtor under sections 2333.09 to 2333.12 and sections 2333.15 to 432
2333.27 of the Revised Code; 433

(ii) A proceeding for attachment of the person of the 434
judgment debtor under section 2333.28 of the Revised Code; 435

(iii) A creditor's suit under section 2333.01 of the Revised Code.	436 437
(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;	438 439
(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.	440 441
(3) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.	442 443
(E) A court that imposes a financial sanction upon an offender may hold a hearing if necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it.	444 445 446 447
(F) Each <u>Except as otherwise provided in division (A) (2) of this section, each</u> court imposing a financial sanction upon an offender under this section or under section 2929.32 of the Revised Code may designate the clerk of the court or another person to collect the financial sanction. The clerk or other person authorized by law or the court to collect the financial sanction may enter into contracts with one or more public agencies or private vendors for the collection of, amounts due under the financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code, a court shall comply with sections 307.86 to 307.92 of the Revised Code.	448 449 450 451 452 453 454 455 456 457 458 459 460 461
(G) If a court that imposes a financial sanction under division (A) or (B) of this section finds that an offender satisfactorily has completed all other sanctions imposed upon	462 463 464

the offender and that all restitution that has been ordered has 465
been paid as ordered, the court may suspend any financial 466
sanctions imposed pursuant to this section or section 2929.32 of 467
the Revised Code that have not been paid. 468

(H) No financial sanction imposed under this section or 469
section 2929.32 of the Revised Code shall preclude a victim from 470
bringing a civil action against the offender. 471

Section 2. That existing section 2929.18 of the Revised 472
Code is hereby repealed. 473