

As Introduced

135th General Assembly

Regular Session

2023-2024

S. B. No. 101

Senators Antonio, Huffman, S.

Cosponsors: Senators Craig, DeMora, Hicks-Hudson, Ingram, Smith, Sykes

A BILL

To amend sections 9.07, 120.03, 120.041, 120.06, 1
120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 2
120.33, 120.34, 149.43, 149.436, 1901.183, 3
2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 4
2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 5
2929.13, 2929.14, 2929.61, 2930.19, 2937.222, 6
2941.021, 2941.14, 2941.148, 2941.401, 2941.43, 7
2941.51, 2945.06, 2945.10, 2945.13, 2945.21, 8
2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 9
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 10
2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 11
2953.81, 2967.05, 2967.12, 2967.13, 2967.193, 12
2967.194, 2971.03, 2971.07, 5120.113, 5120.53, 13
5120.61, 5139.04, and 5919.16 and to repeal 14
sections 109.97, 120.35, 2725.19, 2929.021, 15
2929.022, 2929.023, 2929.024, 2929.025, 2929.03, 16
2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 17
2949.21, 2949.22, 2949.221, 2949.222, 2949.24, 18
2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 19
2949.31, and 2967.08 of the Revised Code to 20
abolish the death penalty and to modify the 21
number of jurors that may be challenged in cases 22

where a defendant may be sentenced to life 23
imprisonment. 24

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

Section 1. That sections 9.07, 120.03, 120.041, 120.06, 25
120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 26
149.43, 149.436, 1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 27
2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 28
2929.14, 2929.61, 2930.19, 2937.222, 2941.021, 2941.14, 29
2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 2945.13, 30
2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 31
2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 32
2953.72, 2953.73, 2953.81, 2967.05, 2967.12, 2967.13, 2967.193, 33
2967.194, 2971.03, 2971.07, 5120.113, 5120.53, 5120.61, 5139.04, 34
and 5919.16 of the Revised Code be amended to read as follows: 35

Sec. 9.07. (A) As used in this section: 36

(1) "Deadly weapon" has the same meaning as in section 37
2923.11 of the Revised Code. 38

(2) "Governing authority of a local public entity" means 39
whichever of the following is applicable: 40

(a) For a county, the board of county commissioners of the 41
county; 42

(b) For a municipal corporation, the legislative authority 43
of the municipal corporation; 44

(c) For a combination of counties, a combination of 45
municipal corporations, or a combination of one or more counties 46
and one or more municipal corporations, all boards of county 47

commissioners and legislative authorities of all of the counties 48
and municipal corporations that combined to form a local public 49
entity for purposes of this section. 50

(3) "Local public entity" means a county, a municipal 51
corporation, a combination of counties, a combination of 52
municipal corporations, or a combination of one or more counties 53
and one or more municipal corporations. 54

(4) "Non-contracting political subdivision" means any 55
political subdivision to which all of the following apply: 56

(a) A correctional facility for the housing of out-of- 57
state prisoners in this state is or will be located in the 58
political subdivision. 59

(b) The correctional facility described in division (A) (4) 60
(a) of this section is being operated and managed, or will be 61
operated and managed, by a local public entity or a private 62
contractor pursuant to a contract entered into prior to March 63
17, 1998, or a contract entered into on or after March 17, 1998, 64
under this section. 65

(c) The political subdivision is not a party to the 66
contract described in division (A) (4) (b) of this section for the 67
management and operation of the correctional facility. 68

(5) "Out-of-state jurisdiction" means the United States, 69
any state other than this state, and any political subdivision 70
or other jurisdiction located in a state other than this state. 71

(6) "Out-of-state prisoner" means a person who is 72
convicted of a crime in another state or under the laws of the 73
United States or who is found under the laws of another state or 74
of the United States to be a delinquent child or the 75
substantially equivalent designation. 76

(7) <u>"Private contractor"</u> means either of the following:	77
(a) A person who, on or after March 17, 1998, enters into a contract under this section with a local public entity to operate and manage a correctional facility in this state for out-of-state prisoners.	78 79 80 81
(b) A person who, pursuant to a contract with a local public entity entered into prior to March 17, 1998, operates and manages on March 17, 1998, a correctional facility in this state for housing out-of-state prisoners.	82 83 84 85
(B) Subject to division (I) of this section, the only entities other than this state that are authorized to operate a correctional facility to house out-of-state prisoners in this state are a local public entity that operates a correctional facility pursuant to this section or a private contractor that operates a correctional facility pursuant to this section under a contract with a local public entity.	86 87 88 89 90 91 92
Subject to division (I) of this section, a private entity may operate a correctional facility in this state for the housing of out-of-state prisoners only if the private entity is a private contractor that enters into a contract that comports with division (D) of this section with a local public entity for the management and operation of the correctional facility.	93 94 95 96 97 98
(C) (1) Except as provided in this division, on and after March 17, 1998, a local public entity shall not enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state. On and after March 17, 1998, a local public entity may enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state only if the	99 100 101 102 103 104 105

local public entity and the out-of-state jurisdiction with which 106
the local public entity intends to contract jointly submit to 107
the department of rehabilitation and correction a statement that 108
certifies the correctional facility's intended use, intended 109
prisoner population, and custody level, and the department 110
reviews and comments upon the plans for the design or renovation 111
of the correctional facility regarding their suitability for the 112
intended prisoner population specified in the submitted 113
statement. 114

(2) If a local public entity and an out-of-state 115
jurisdiction enter into a contract to house out-of-state 116
prisoners in a correctional facility in this state as authorized 117
under division (C)(1) of this section, in addition to any other 118
provisions it contains, the contract shall include whichever of 119
the following provisions is applicable: 120

(a) If a private contractor will operate the facility in 121
question pursuant to a contract entered into in accordance with 122
division (D) of this section, a requirement that, if the 123
facility is closed or ceases to operate for any reason and if 124
the conversion plan described in division (D)(16) of this 125
section is not complied with, the out-of-state jurisdiction will 126
be responsible for housing and transporting the prisoners who 127
are in the facility at the time it is closed or ceases to 128
operate and for the cost of so housing and transporting those 129
prisoners; 130

(b) If a private contractor will not operate the facility 131
in question pursuant to a contract entered into in accordance 132
with division (D) of this section, a conversion plan that will 133
be followed if, for any reason, the facility is closed or ceases 134
to operate. The conversion plan shall include, but is not 135

limited to, provisions that specify whether the local public 136
entity or the out-of-state jurisdiction will be responsible for 137
housing and transporting the prisoners who are in the facility 138
at the time it is closed or ceases to operate and for the cost 139
of so housing and transporting those prisoners. 140

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

contractor that, pursuant to the requirement set forth in 167
division (I) of this section, is required to enter into a 168
contract under division (D) of this section. 169

(D) Subject to division (I) of this section, on and after 170
March 17, 1998, if a local public entity enters into a contract 171
with a private contractor for the management and operation of a 172
correctional facility in this state to house out-of-state 173
prisoners, the contract, at a minimum, shall include all of the 174
following provisions: 175

(1) A requirement that the private contractor seek and 176
obtain accreditation from the American correctional association 177
for the correctional facility within two years after accepting 178
the first out-of-state prisoner at the correctional facility 179
under the contract and that it maintain that accreditation for 180
the term of the contract; 181

(2) A requirement that the private contractor comply with 182
all applicable laws, rules, or regulations of the government of 183
this state, political subdivisions of this state, and the United 184
States, including, but not limited to, all sanitation, food 185
service, safety, and health regulations; 186

(3) A requirement that the private contractor send copies 187
of reports of inspections completed by appropriate authorities 188
regarding compliance with laws, rules, and regulations of the 189
type described in division (D) (2) of this section to the 190
director of rehabilitation and correction or the director's 191
designee and to the governing authority of the local public 192
entity in which the correctional facility is located; 193

(4) A requirement that the private contractor report to 194
the local law enforcement agencies with jurisdiction over the 195

place at which the correctional facility is located, for 196
investigation, all criminal offenses or delinquent acts that are 197
committed in or on the grounds of, or otherwise in connection 198
with, the correctional facility and report to the department of 199
rehabilitation and correction all disturbances at the facility; 200

(5) A requirement that the private contractor immediately 201
report all escapes from the facility, and the apprehension of 202
all escapees, by telephone and in writing to the department of 203
rehabilitation and correction, to all local law enforcement 204
agencies with jurisdiction over the place at which the facility 205
is located, to the state highway patrol, to the prosecuting 206
attorney of the county in which the facility is located, and to 207
a daily newspaper having general circulation in the county in 208
which the facility is located. The written notice may be by 209
either facsimile transmission or mail. A failure to comply with 210
this requirement is a violation of section 2921.22 of the 211
Revised Code. 212

(6) A requirement that the private contractor provide a 213
written report to the director of rehabilitation and correction 214
or the director's designee and to the governing authority of the 215
local public entity in which the correctional facility is 216
located of all unusual incidents occurring at the correctional 217
facility. The private contractor shall report the incidents in 218
accordance with the incident reporting rules that, at the time 219
of the incident, are applicable to state correctional facilities 220
for similar incidents occurring at state correctional 221
facilities. 222

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

correctional facility;	226
(8) A requirement that the correctional facility be	227
staffed at all times with a staffing pattern that is adequate to	228
ensure supervision of inmates and maintenance of security within	229
the correctional facility and to provide for appropriate	230
programs, transportation, security, and other operational needs.	231
In determining security needs for the correctional facility, the	232
private contractor and the contract requirements shall fully	233
take into account all relevant factors, including, but not	234
limited to, the proximity of the facility to neighborhoods and	235
schools.	236
(9) A requirement that the private contractor provide an	237
adequate policy of insurance that satisfies the requirements set	238
forth in division (D) of section 9.06 of the Revised Code	239
regarding contractors who operate and manage a facility under	240
that section, and that the private contractor indemnify and hold	241
harmless the state, its officers, agents, and employees, and any	242
local public entity in the state with jurisdiction over the	243
place at which the correctional facility is located or that owns	244
the correctional facility, reimburse the state for its costs in	245
defending the state or any of its officers, agents, or	246
employees, and reimburse any local government entity of that	247
nature for its costs in defending the local government entity,	248
in the manner described in division (D) of that section	249
regarding contractors who operate and manage a facility under	250
that section;	251
(10) A requirement that the private contractor adopt for	252
prisoners housed in the correctional facility the security	253
classification system and schedule adopted by the department of	254
rehabilitation and correction under section 5145.03 of the	255

Revised Code, classify in accordance with the system and 256
schedule each prisoner housed in the facility, and house all 257
prisoners in the facility in accordance with their 258
classification under this division; 259

(11) A requirement that the private contractor will not 260
accept for housing, and will not house, in the correctional 261
facility any out-of-state prisoner in relation to whom any of 262
the following applies: 263

(a) The private entity has not obtained from the out-of- 264
state jurisdiction that imposed the sentence or sanction under 265
which the prisoner will be confined in this state a copy of the 266
institutional record of the prisoner while previously confined 267
in that out-of-state jurisdiction or a statement that the 268
prisoner previously has not been confined in that out-of-state 269
jurisdiction and a copy of all medical records pertaining to 270
that prisoner that are in the possession of the out-of-state 271
jurisdiction. 272

(b) The prisoner, while confined in any out-of-state 273
jurisdiction, has a record of institutional violence involving 274
the use of a deadly weapon or a pattern of committing acts of an 275
assaultive nature against employees of, or visitors to, the 276
place of confinement or has a record of escape or attempted 277
escape from secure custody. 278

(c) Under the security classification system and schedule 279
adopted by the department of rehabilitation and correction under 280
section 5145.03 of the Revised Code and adopted by the private 281
contractor under division (B)(10) of this section, the out-of- 282
state prisoner would be classified as being at a security level 283
higher than medium security. 284

(12) A requirement that the private contractor, prior to 285
housing any out-of-state prisoner in the correctional facility 286
under the contract, enter into a written agreement with the 287
department of rehabilitation and correction that sets forth a 288
plan and procedure that will be used to coordinate law 289
enforcement activities of state law enforcement agencies and of 290
local law enforcement agencies with jurisdiction over the place 291
at which the facility is located in response to any riot, 292
rebellion, escape, insurrection, or other emergency occurring 293
inside or outside the facility; 294

(13) A requirement that the private contractor cooperate 295
with the correctional institution inspection committee in the 296
committee's performance of its duties under section 103.73 of 297
the Revised Code and provide the committee, its subcommittees, 298
and its staff members, in performing those duties, with access 299
to the correctional facility as described in that section; 300

(14) A requirement that the private contractor permit any 301
peace officer who serves a law enforcement agency with 302
jurisdiction over the place at which the correctional facility 303
is located to enter into the facility to investigate any 304
criminal offense or delinquent act that allegedly has been 305
committed in or on the grounds of, or otherwise in connection 306
with, the facility; 307

(15) A requirement that the private contractor will not 308
employ any person at the correctional facility until after the 309
private contractor has submitted to the bureau of criminal 310
identification and investigation, on a form prescribed by the 311
superintendent of the bureau, a request that the bureau conduct 312
a criminal records check of the person and a requirement that 313
the private contractor will not employ any person at the 314

facility if the records check or other information possessed by 315
the contractor indicates that the person previously has engaged 316
in malfeasance; 317

(16) A requirement that the private contractor will not 318
accept for housing, and will not house, in the correctional 319
facility any out-of-state prisoner unless the private contractor 320
and the out-of-state jurisdiction that imposed the sentence for 321
which the prisoner is to be confined agree that, if the out-of- 322
state prisoner is confined in the facility in this state, 323
commits a criminal offense while confined in the facility, is 324
convicted of or pleads guilty to that offense, and is sentenced 325
to a term of confinement for that offense ~~but is not sentenced~~ 326
~~to death for that offense~~, the private contractor and the out- 327
of-state jurisdiction will do all of the following: 328

(a) Unless section 5120.50 of the Revised Code does not 329
apply in relation to the offense the prisoner committed while 330
confined in this state and the term of confinement imposed for 331
that offense, the out-of-state jurisdiction will accept the 332
prisoner pursuant to that section for service of that term of 333
confinement and for any period of time remaining under the 334
sentence for which the prisoner was confined in the facility in 335
this state, the out-of-state jurisdiction will confine the 336
prisoner pursuant to that section for that term and that 337
remaining period of time, and the private contractor will 338
transport the prisoner to the out-of-state jurisdiction for 339
service of that term and that remaining period of time. 340

(b) If section 5120.50 of the Revised Code does not apply 341
in relation to the offense the prisoner committed while confined 342
in this state and the term of confinement imposed for that 343
offense, the prisoner shall be returned to the out-of-state 344

jurisdiction or its private contractor for completion of the 345
period of time remaining under the out-of-state sentence for 346
which the prisoner was confined in the facility in this state 347
before starting service of the term of confinement imposed for 348
the offense committed while confined in this state, the out-of- 349
state jurisdiction or its private contractor will confine the 350
prisoner for that remaining period of time and will transport 351
the prisoner outside of this state for service of that remaining 352
period of time, and, if the prisoner is confined in this state 353
in a facility operated by the department of rehabilitation and 354
correction, the private contractor will be financially 355
responsible for reimbursing the department at the per diem cost 356
of confinement for the duration of that incarceration, with the 357
amount of the reimbursement so paid to be deposited in the 358
department's prisoner programs fund. 359

(17) A requirement that the private contractor, prior to 360
housing any out-of-state prisoner in the correctional facility 361
under the contract, enter into an agreement with the local 362
public entity that sets forth a conversion plan that will be 363
followed if, for any reason, the facility is closed or ceases to 364
operate. The conversion plan shall include, but is not limited 365
to, provisions that specify whether the private contractor, the 366
local public entity, or the out-of-state jurisdictions that 367
imposed the sentences for which the out-of-state prisoners are 368
confined in the facility will be responsible for housing and 369
transporting the prisoners who are in the facility at the time 370
it is closed or ceases to operate and for the cost of so housing 371
and transporting those prisoners. 372

(18) A schedule of fines that the local public entity 373
shall impose upon the private contractor if the private 374
contractor fails to perform its contractual duties, and a 375

requirement that, if the private contractor fails to perform its 376
contractual duties, the local public entity shall impose a fine 377
on the private contractor from the schedule of fines and, in 378
addition to the fine, may exercise any other rights it has under 379
the contract. Division (F)(2) of this section applies regarding 380
a fine described in this division. 381

(19) A requirement that the private contractor adopt and 382
use in the correctional facility the drug testing and treatment 383
program that the department of rehabilitation and correction 384
uses for inmates in state correctional institutions; 385

(20) A requirement that the private contractor provide 386
clothing for all out-of-state prisoners housed in the 387
correctional facility that is conspicuous in its color, style, 388
or color and style, that conspicuously identifies its wearer as 389
a prisoner, and that is readily distinguishable from clothing of 390
a nature that normally is worn outside the facility by non- 391
prisoners, that the private contractor require all out-of-state 392
prisoners housed in the facility to wear the clothing so 393
provided, and that the private contractor not permit any out-of- 394
state prisoner, while inside or on the premises of the facility 395
or while being transported to or from the facility, to wear any 396
clothing of a nature that does not conspicuously identify its 397
wearer as a prisoner and that normally is worn outside the 398
facility by non-prisoners; 399

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

adequate proof that it continues to be in compliance with the 406
requirement described in division (D) (9) of this section. 407

(E) A private correctional officer or other designated 408
employee of a private contractor that operates a correctional 409
facility that houses out-of-state prisoners in this state under 410
a contract entered into prior to, on, or after March 17, 1998, 411
may carry and use firearms in the course of the officer's or 412
employee's employment only if the officer or employee is 413
certified as having satisfactorily completed an approved 414
training program designed to qualify persons for positions as 415
special police officers, security guards, or persons otherwise 416
privately employed in a police capacity, as described in 417
division (A) of section 109.78 of the Revised Code. 418

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

any offense relating to the escape or disturbance shall be 437
chargeable to and borne by the private contractor. The 438
contractor also shall reimburse the state or its political 439
subdivisions for all reasonable costs incurred relating to the 440
temporary detention of a person who escaped from the facility, 441
following the person's recapture. 442

(2) If a private contractor that, on or after March 17, 443
1998, enters into a contract under this section with a local 444
public entity for the operation of a correctional facility that 445
houses out-of-state prisoners fails to perform its contractual 446
duties, the local public entity shall impose upon the private 447
contractor a fine from the schedule of fines included in the 448
contract and may exercise any other rights it has under the 449
contract. A fine imposed under this division shall be paid to 450
the local public entity that enters into the contract, and the 451
local public entity shall deposit the money so paid into its 452
treasury to the credit of the fund used to pay for community 453
policing. If a fine is imposed under this division, the local 454
public entity may reduce the payment owed to the private 455
contractor pursuant to any invoice in the amount of the fine. 456

(3) If a private contractor, on or after March 17, 1998, 457
enters into a contract under this section with a local public 458
entity for the operation of a correctional facility that houses 459
out-of-state prisoners in this state, the private contractor 460
shall comply with the insurance, indemnification, hold harmless, 461
and cost reimbursement provisions described in division (D) (9) 462
of this section. 463

(G) (1) Any act or omission that would be a criminal 464
offense or a delinquent act if committed at a state correctional 465
institution or at a jail, workhouse, prison, or other 466

correctional facility operated by this state or by any political 467
subdivision or group of political subdivisions of this state 468
shall be a criminal offense or delinquent act if committed by or 469
with regard to any out-of-state prisoner who is housed at any 470
correctional facility operated by a private contractor in this 471
state pursuant to a contract entered into prior to, on, or after 472
March 17, 1998. 473

(2) If any political subdivision of this state experiences 474
any cost in the investigation or prosecution of an offense 475
committed by an out-of-state prisoner housed in a correctional 476
facility operated by a private contractor in this state pursuant 477
to a contract entered into prior to, on, or after March 17, 478
1998, the private contractor shall reimburse the political 479
subdivision for the costs so experienced. 480

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

or of an officer or employee, as so defined, of the state that 498
is undertaken with malicious purpose, in bad faith, or in a 499
wanton or reckless manner. 500

(b) Except as otherwise provided in this division, a non- 501
contracting political subdivision, and any employee, as defined 502
in section 2744.01 of the Revised Code, of a non-contracting 503
political subdivision is not liable in damages in a civil action 504
for any injury, death, or loss to person or property that 505
allegedly arises from, or is related to, the establishment, 506
management, or operation of a correctional facility to house 507
out-of-state prisoners in this state pursuant to a contract 508
between a local public entity other than the non-contracting 509
political subdivision and an out-of-state jurisdiction, a local 510
public entity other than the non-contracting political 511
subdivision and a private contractor, or a private contractor 512
and an out-of-state jurisdiction that was entered into prior to 513
March 17, 1998, or that is entered into on or after March 17, 514
1998, in accordance with its provisions. The immunity provided 515
in this division does not apply regarding an act or omission of 516
an employee, as defined in section 2744.01 of the Revised Code, 517
of a non-contracting political subdivision that is manifestly 518
outside the scope of the employee's employment or official 519
responsibilities or regarding an act or omission of a non- 520
contracting political subdivision or an employee, as so defined, 521
of a non-contracting political subdivision that is undertaken 522
with malicious purpose, in bad faith, or in a wanton or reckless 523
manner. 524

(c) Divisions (G) (3) (a) and (b) of this section do not 525
affect any immunity or defense that the state and its officers 526
and employees or a non-contracting political subdivision and its 527
employees may be entitled to under another section of the 528

Revised Code or the common law of this state, including, but not 529
limited to, section 9.86 or Chapter 2744. of the Revised Code. 530

(H) (1) Upon the completion of an out-of-state prisoner's 531
term of detention at a correctional facility operated by a 532
private contractor in this state pursuant to a contract entered 533
into prior to, on, or after March 17, 1998, the operator of the 534
correctional facility shall transport the prisoner to the out- 535
of-state jurisdiction that imposed the sentence for which the 536
prisoner was confined before it releases the prisoner from its 537
custody. 538

(2) No private contractor that operates and manages a 539
correctional facility housing out-of-state prisoners in this 540
state pursuant to a contract entered into prior to, on, or after 541
March 17, 1998, shall fail to comply with division (H) (1) of 542
this section. 543

(3) Whoever violates division (H) (2) of this section is 544
guilty of a misdemeanor of the first degree. 545

(I) Except as otherwise provided in this division, the 546
provisions of divisions (A) to (H) of this section apply in 547
relation to any correctional facility operated by a private 548
contractor in this state to house out-of-state prisoners, 549
regardless of whether the facility is operated pursuant to a 550
contract entered into prior to, on, or after March 17, 1998. 551
Division (C) (1) of this section shall not apply in relation to 552
any correctional facility for housing out-of-state prisoners in 553
this state that is operated by a private contractor under a 554
contract entered into with a local public entity prior to March 555
17, 1998. If a private contractor operates a correctional 556
facility in this state for the housing of out-of-state prisoners 557
under a contract entered into with a local public entity prior 558

to March 17, 1998, no later than thirty days after the effective 559
date of this amendment, the private contractor shall enter into 560
a contract with the local public entity that comports to the 561
requirements and criteria of division (D) of this section. 562

Sec. 120.03. (A) The Ohio public defender commission shall 563
appoint the state public defender, who shall serve at the 564
pleasure of the commission. 565

(B) The Ohio public defender commission shall establish 566
rules for the conduct of the offices of the county and joint 567
county public defenders and for the conduct of county appointed 568
counsel systems in the state. These rules shall include, but are 569
not limited to, the following: 570

(1) Standards of indigency and minimum qualifications for 571
legal representation by a public defender or appointed counsel. 572
In establishing standards of indigency and determining who is 573
eligible for legal representation by a public defender or 574
appointed counsel, the commission shall consider an indigent 575
person to be an individual who at the time ~~his~~ the person's need 576
is determined is unable to provide for the payment of an 577
attorney and all other necessary expenses of representation. 578
Release on bail shall not prevent a person from being determined 579
to be indigent. 580

(2) Standards for the hiring of outside counsel; 581

(3) Standards for contracts by a public defender with law 582
schools, legal aid societies, and nonprofit organizations for 583
providing counsel; 584

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

operate an office of a public defender;	588
(5) Minimum caseload standards;	589
(6) Procedures for the assessment and collection of the costs of legal representation that is provided by public defenders or appointed counsel;	590 591 592
(7) Standards and guidelines for determining whether a client is able to make an up-front contribution toward the cost of his <u>the client's</u> legal representation;	593 594 595
(8) Procedures for the collection of up-front contributions from clients who are able to contribute toward the cost of their legal representation, as determined pursuant to the standards and guidelines developed under division (B) (7) of this section. All of such up-front contributions shall be paid into the appropriate county fund.	596 597 598 599 600 601
(9) Standards for contracts between a board of county commissioners, a county public defender commission, or a joint county public defender commission and a municipal corporation for the legal representation of indigent persons charged with violations of the ordinances of the municipal corporation.	602 603 604 605 606
(C) The Ohio public defender commission shall adopt rules prescribing minimum qualifications of counsel appointed pursuant to this chapter or appointed by the courts. Without limiting its general authority to prescribe different qualifications for different categories of appointed counsel, the commission shall prescribe, by rule, special qualifications for counsel and co-counsel appointed in capital cases <u>in which the defendant was sentenced to death before the effective date of this amendment.</u>	607 608 609 610 611 612 613 614
(D) In administering the office of the Ohio public defender commission:	615 616

(1) The commission shall do the following:	617
(a) Approve an annual operating budget;	618
(b) Make an annual report to the governor, the general assembly, and the supreme court of Ohio on the operation of the state public defender's office, the county appointed counsel systems, and the county and joint county public defenders' offices.	619 620 621 622 623
(2) The commission may do the following:	624
(a) Accept the services of volunteer workers and consultants at no compensation other than reimbursement of actual and necessary expenses;	625 626 627
(b) Prepare and publish statistical and case studies and other data pertinent to the legal representation of indigent persons;	628 629 630
(c) Conduct programs having a general objective of training and educating attorneys and others in the legal representation of indigent persons.	631 632 633
(E) There is hereby established in the state treasury the public defender training fund for the deposit of fees received by the Ohio public defender commission from educational seminars, and the sale of publications, on topics concerning criminal law and procedure. Expenditures from this fund shall be made only for the operation of activities authorized by division (D) (2) (c) of this section.	634 635 636 637 638 639 640
(F) (1) In accordance with sections 109.02, 109.07, and 109.361 to 109.366 of the Revised Code, but subject to division (E) of section 120.06 of the Revised Code, the attorney general shall represent or provide for the representation of the Ohio	641 642 643 644

public defender commission, the state public defender, assistant 645
state public defenders, and other employees of the commission or 646
the state public defender. 647

(2) Subject to division (E) of section 120.06 of the 648
Revised Code, the attorney general shall represent or provide 649
for the representation of attorneys described in division (C) of 650
section 120.41 of the Revised Code in malpractice or other civil 651
actions or proceedings that arise from alleged actions or 652
omissions related to responsibilities derived pursuant to this 653
chapter, or in civil actions that are based upon alleged 654
violations of the constitution or statutes of the United States, 655
including section 1983 of Title 42 of the United States Code, 93 656
Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise 657
from alleged actions or omissions related to responsibilities 658
derived pursuant to this chapter. For purposes of the 659
representation, sections 109.361 to 109.366 of the Revised Code 660
shall apply to an attorney described in division (C) of section 661
120.41 of the Revised Code as if ~~he~~ the attorney were an officer 662
or employee, as defined in section 109.36 of the Revised Code, 663
and the Ohio public defender commission or the state public 664
defender, whichever contracted with the attorney, shall be 665
considered ~~his~~ the attorney's employer. 666

Sec. 120.041. (A) In addition to the state public 667
defender's other duties under this chapter and other Revised 668
Code provisions, the state public defender shall do all of the 669
following for each state fiscal year: 670

(1) Determine the total dollar amount of all requests for 671
reimbursements that were submitted for that fiscal year by 672
counties under sections 120.18, 120.28, 120.33, ~~120.35~~, and 673
2941.51 of the Revised Code; 674

(2) Determine the total dollar amount paid to all counties	675
as reimbursements under the requests described in division (A)	676
(1) of this section that were submitted for that fiscal year;	677
(3) Determine the percentage of total costs submitted by	678
counties under the requests described in division (A) (1) of this	679
section that was paid to all counties as reimbursements for that	680
fiscal year;	681
(4) Commencing in state fiscal year 2021, determine the	682
increase or decrease in the total dollar amount found under	683
division (A) (2) of this section for that fiscal year from the	684
total dollar amount found under that division for the previous	685
fiscal year;	686
(5) Determine, out of the total dollar amount found under	687
division (A) (2) of this section that was paid to all counties as	688
a reimbursement, the total amount of that money used by all of	689
the counties for each of the following categories of costs in	690
that fiscal year:	691
(a) Costs for appointed counsel;	692
(b) Costs for personnel;	693
(c) Costs for expert witnesses;	694
(d) Costs for investigations;	695
(e) Costs for transcripts;	696
(f) Costs for rent or lease, utilities, furnishings,	697
maintenance, and equipment;	698
(g) Costs for travel;	699
(h) Any other category of costs set by the state public	700
defender.	701

(6) Commencing in state fiscal year 2021, determine the increase or decrease in the amount of money found under division (A) (5) of this section to have been used for each category of costs described in divisions (A) (5) (a) to (h) of this section for that fiscal year from the amount of money found under that division to have been used for each such category of costs for the previous fiscal year;

(7) Analyze the cost per each felony, misdemeanor, traffic, or juvenile delinquency case assigned to a public defender or counsel pursuant to section 120.06, 120.16, 120.26, or 120.33 of the Revised Code.

(B) For each state fiscal year, the state public defender shall prepare a report that includes all of its findings and determinations for that fiscal year and, not later than the first day of October in the state fiscal year following the fiscal year covered by the report, shall submit copies of the report to the president of the senate, the speaker of the house of representatives, the minority leader of the senate, the minority leader of the house of representatives, and the governor.

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

(2) The state public defender may provide legal representation to any indigent person who, while incarcerated in any state correctional institution, is charged with a felony

offense, for which the penalty or any possible adjudication that 732
may be imposed by a court upon conviction includes the potential 733
loss of liberty. 734

(3) The state public defender may provide legal 735
representation to any person incarcerated in any correctional 736
institution of the state, in any matter in which the person 737
asserts the person is unlawfully imprisoned or detained. 738

(4) The state public defender, in any case in which the 739
state public defender has provided legal representation or is 740
requested to do so by a county public defender or joint county 741
public defender, may provide legal representation on appeal. 742

(5) The state public defender, when designated by the 743
court or requested by a county public defender, joint county 744
public defender, or the director of rehabilitation and 745
correction, shall provide legal representation in parole and 746
probation revocation matters or matters relating to the 747
revocation of community control or post-release control under a 748
community control sanction or post-release control sanction, 749
unless the state public defender finds that the alleged parole 750
or probation violator or alleged violator of a community control 751
sanction or post-release control sanction has the financial 752
capacity to retain the alleged violator's own counsel. 753

(6) If the state public defender contracts with a county 754
public defender commission, a joint county public defender 755
commission, or a board of county commissioners for the provision 756
of services, under authority of division (C)(7) of section 757
120.04 of the Revised Code, the state public defender shall 758
provide legal representation in accordance with the contract. 759

(B) The state public defender shall not be required to 760

prosecute any appeal, postconviction remedy, or other proceeding 761
pursuant to division (A) (3), (4), or (5) of this section, unless 762
the state public defender first is satisfied that there is 763
arguable merit to the proceeding. 764

(C) A court may appoint counsel or allow an indigent 765
person to select the indigent's own personal counsel to assist 766
the state public defender as co-counsel when the interests of 767
justice so require. When co-counsel is appointed to assist the 768
state public defender, the co-counsel shall receive any 769
compensation that the court may approve, not to exceed the 770
amounts provided for in section 2941.51 of the Revised Code. 771

(D) (1) When the state public defender is designated by the 772
court or requested by a county public defender or joint county 773
public defender to provide legal representation for an indigent 774
person in any case, other than pursuant to a contract entered 775
into under authority of division (C) (7) of section 120.04 of the 776
Revised Code, the state public defender shall send to the county 777
in which the case is filed a bill detailing the actual cost of 778
the representation that separately itemizes legal fees and 779
expenses. The county, upon receipt of an itemized bill from the 780
state public defender pursuant to this division, shall pay the 781
state public defender one hundred per cent of the amount 782
identified as legal fees and expenses in the itemized bill. 783

(2) Upon payment of the itemized bill under division (D) 784
(1) of this section, the county may submit the cost of the legal 785
fees and expenses to the state public defender for reimbursement 786
pursuant to section 120.33 of the Revised Code. 787

(3) When the state public defender provides investigation 788
or mitigation services to private appointed counsel or to a 789
county or joint county public defender as approved by the 790

appointing court, other than pursuant to a contract entered into 791
under authority of division (C) (7) of section 120.04 of the 792
Revised Code, the state public defender shall send to the county 793
in which the case is filed a bill itemizing the actual cost of 794
the services provided. The county, upon receipt of an itemized 795
bill from the state public defender pursuant to this division, 796
shall pay one hundred per cent of the amount as set forth in the 797
itemized bill. Upon payment of the itemized bill received 798
pursuant to this division, the county may submit the cost of the 799
investigation and mitigation services to the state public 800
defender for reimbursement pursuant to section 120.33 of the 801
Revised Code. 802

(4) There is hereby created in the state treasury the 803
county representation fund for the deposit of moneys received 804
from counties under this division. All moneys credited to the 805
fund shall be used by the state public defender to provide legal 806
representation for indigent persons when designated by the court 807
or requested by a county or joint county public defender or to 808
provide investigation or mitigation services, including 809
investigation or mitigation services to private appointed 810
counsel or a county or joint county public defender, as approved 811
by the court. 812

(E) (1) Notwithstanding any contrary provision of sections 813
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised 814
Code that pertains to representation by the attorney general, an 815
assistant attorney general, or special counsel of an officer or 816
employee, as defined in section 109.36 of the Revised Code, or 817
of an entity of state government, the state public defender may 818
elect to contract with, and to have the state pay pursuant to 819
division (E) (2) of this section for the services of, private 820
legal counsel to represent the Ohio public defender commission, 821

the state public defender, assistant state public defenders, 822
other employees of the commission or the state public defender, 823
and attorneys described in division (C) of section 120.41 of the 824
Revised Code in a malpractice or other civil action or 825
proceeding that arises from alleged actions or omissions related 826
to responsibilities derived pursuant to this chapter, or in a 827
civil action that is based upon alleged violations of the 828
constitution or statutes of the United States, including section 829
1983 of Title 42 of the United States Code, 93 Stat. 1284 830
(1979), 42 U.S.C.A. 1983, as amended, and that arises from 831
alleged actions or omissions related to responsibilities derived 832
pursuant to this chapter, if the state public defender 833
determines, in good faith, that the defendant in the civil 834
action or proceeding did not act manifestly outside the scope of 835
the defendant's employment or official responsibilities, with 836
malicious purpose, in bad faith, or in a wanton or reckless 837
manner. If the state public defender elects not to contract 838
pursuant to this division for private legal counsel in a civil 839
action or proceeding, then, in accordance with sections 109.02, 840
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 841
attorney general shall represent or provide for the 842
representation of the Ohio public defender commission, the state 843
public defender, assistant state public defenders, other 844
employees of the commission or the state public defender, or 845
attorneys described in division (C) of section 120.41 of the 846
Revised Code in the civil action or proceeding. 847

(2) (a) Subject to division (E) (2) (b) of this section, 848
payment from the state treasury for the services of private 849
legal counsel with whom the state public defender has contracted 850
pursuant to division (E) (1) of this section shall be 851
accomplished only through the following procedure: 852

(i) The private legal counsel shall file with the attorney 853
general a copy of the contract; a request for an award of legal 854
fees, court costs, and expenses earned or incurred in connection 855
with the defense of the Ohio public defender commission, the 856
state public defender, an assistant state public defender, an 857
employee, or an attorney in a specified civil action or 858
proceeding; a written itemization of those fees, costs, and 859
expenses, including the signature of the state public defender 860
and the state public defender's attestation that the fees, 861
costs, and expenses were earned or incurred pursuant to division 862
(E) (1) of this section to the best of the state public 863
defender's knowledge and information; a written statement 864
whether the fees, costs, and expenses are for all legal services 865
to be rendered in connection with that defense, are only for 866
legal services rendered to the date of the request and 867
additional legal services likely will have to be provided in 868
connection with that defense, or are for the final legal 869
services rendered in connection with that defense; a written 870
statement indicating whether the private legal counsel 871
previously submitted a request for an award under division (E) 872
(2) of this section in connection with that defense and, if so, 873
the date and the amount of each award granted; and, if the fees, 874
costs, and expenses are for all legal services to be rendered in 875
connection with that defense or are for the final legal services 876
rendered in connection with that defense, a certified copy of 877
any judgment entry in the civil action or proceeding or a signed 878
copy of any settlement agreement entered into between the 879
parties to the civil action or proceeding. 880

(ii) Upon receipt of a request for an award of legal fees, 881
court costs, and expenses and the requisite supportive 882
documentation described in division (E) (2) (a) (i) of this 883

section, the attorney general shall review the request and 884
documentation; determine whether any of the limitations 885
specified in division (E) (2) (b) of this section apply to the 886
request; and, if an award of legal fees, court costs, or 887
expenses is permissible after applying the limitations, prepare 888
a document awarding legal fees, court costs, or expenses to the 889
private legal counsel. The document shall name the private legal 890
counsel as the recipient of the award; specify the total amount 891
of the award as determined by the attorney general; itemize the 892
portions of the award that represent legal fees, court costs, 893
and expenses; specify any limitation applied pursuant to 894
division (E) (2) (b) of this section to reduce the amount of the 895
award sought by the private legal counsel; state that the award 896
is payable from the state treasury pursuant to division (E) (2) 897
(a) (iii) of this section; and be approved by the inclusion of 898
the signatures of the attorney general, the state public 899
defender, and the private legal counsel. 900

(iii) The attorney general shall forward a copy of the 901
document prepared pursuant to division (E) (2) (a) (ii) of this 902
section to the director of budget and management. The award of 903
legal fees, court costs, or expenses shall be paid out of the 904
state public defender's appropriations, to the extent there is a 905
sufficient available balance in those appropriations. If the 906
state public defender does not have a sufficient available 907
balance in the state public defender's appropriations to pay the 908
entire award of legal fees, court costs, or expenses, the 909
director shall make application for a transfer of appropriations 910
out of the emergency purposes account or any other appropriation 911
for emergencies or contingencies in an amount equal to the 912
portion of the award that exceeds the sufficient available 913
balance in the state public defender's appropriations. A 914

transfer of appropriations out of the emergency purposes account 915
or any other appropriation for emergencies or contingencies 916
shall be authorized if there are sufficient moneys greater than 917
the sum total of then pending emergency purposes account 918
requests, or requests for releases from the other appropriation. 919
If a transfer of appropriations out of the emergency purposes 920
account or other appropriation for emergencies or contingencies 921
is made to pay an amount equal to the portion of the award that 922
exceeds the sufficient available balance in the state public 923
defender's appropriations, the director shall cause the payment 924
to be made to the private legal counsel. If sufficient moneys do 925
not exist in the emergency purposes account or other 926
appropriation for emergencies or contingencies to pay an amount 927
equal to the portion of the award that exceeds the sufficient 928
available balance in the state public defender's appropriations, 929
the private legal counsel shall request the general assembly to 930
make an appropriation sufficient to pay an amount equal to the 931
portion of the award that exceeds the sufficient available 932
balance in the state public defender's appropriations, and no 933
payment in that amount shall be made until the appropriation has 934
been made. The private legal counsel shall make the request 935
during the current biennium and during each succeeding biennium 936
until a sufficient appropriation is made. 937

(b) An award of legal fees, court costs, and expenses 938
pursuant to division (E) of this section is subject to the 939
following limitations: 940

(i) The maximum award or maximum aggregate of a series of 941
awards of legal fees, court costs, and expenses to the private 942
legal counsel in connection with the defense of the Ohio public 943
defender commission, the state public defender, an assistant 944
state public defender, an employee, or an attorney in a 945

specified civil action or proceeding shall not exceed fifty 946
thousand dollars. 947

(ii) The private legal counsel shall not be awarded legal 948
fees, court costs, or expenses to the extent the fees, costs, or 949
expenses are covered by a policy of malpractice or other 950
insurance. 951

(iii) The private legal counsel shall be awarded legal 952
fees and expenses only to the extent that the fees and expenses 953
are reasonable in light of the legal services rendered by the 954
private legal counsel in connection with the defense of the Ohio 955
public defender commission, the state public defender, an 956
assistant state public defender, an employee, or an attorney in 957
a specified civil action or proceeding. 958

(c) If, pursuant to division (E) (2) (a) of this section, 959
the attorney general denies a request for an award of legal 960
fees, court costs, or expenses to private legal counsel because 961
of the application of a limitation specified in division (E) (2) 962
(b) of this section, the attorney general shall notify the 963
private legal counsel in writing of the denial and of the 964
limitation applied. 965

(d) If, pursuant to division (E) (2) (c) of this section, a 966
private legal counsel receives a denial of an award notification 967
or if a private legal counsel refuses to approve a document 968
under division (E) (2) (a) (ii) of this section because of the 969
proposed application of a limitation specified in division (E) 970
(2) (b) of this section, the private legal counsel may commence a 971
civil action against the attorney general in the court of claims 972
to prove the private legal counsel's entitlement to the award 973
sought, to prove that division (E) (2) (b) of this section does 974
not prohibit or otherwise limit the award sought, and to recover 975

a judgment for the amount of the award sought. A civil action 976
under division (E) (2) (d) of this section shall be commenced no 977
later than two years after receipt of a denial of award 978
notification or, if the private legal counsel refused to approve 979
a document under division (E) (2) (a) (ii) of this section because 980
of the proposed application of a limitation specified in 981
division (E) (2) (b) of this section, no later than two years 982
after the refusal. Any judgment of the court of claims in favor 983
of the private legal counsel shall be paid from the state 984
treasury in accordance with division (E) (2) (a) of this section. 985

~~(F) If a court appoints the office of the state public 986
defender to represent a petitioner in a postconviction relief 987
proceeding under section 2953.21 of the Revised Code, the 988
petitioner has received a sentence of death, and the proceeding 989
relates to that sentence, all of the attorneys who represent the 990
petitioner in the proceeding pursuant to the appointment, 991
whether an assistant state public defender, the state public 992
defender, or another attorney, shall be certified under Rule 20 993
of the Rules of Superintendence for the Courts of Ohio to 994
represent indigent defendants charged with or convicted of an 995
offense for which the death penalty can be or has been imposed. 996~~

~~(G)~~ (1) The state public defender may conduct a legal 997
assistance referral service for children committed to the 998
department of youth services relative to conditions of 999
confinement claims. If the legal assistance referral service 1000
receives a request for assistance from a child confined in a 1001
facility operated, or contracted for, by the department of youth 1002
services and the state public defender determines that the child 1003
has a conditions of confinement claim that has merit, the state 1004
public defender may refer the child to a private attorney. If no 1005
private attorney who the child has been referred to by the state 1006

public defender accepts the case within a reasonable time, the 1007
state public defender may prepare, as appropriate, pro se 1008
pleadings in the form of a complaint regarding the conditions of 1009
confinement at the facility where the child is confined with a 1010
motion for appointment of counsel and other applicable pleadings 1011
necessary for sufficient pro se representation. 1012

(2) Division ~~(G)(1)~~ (F)(1) of this section does not 1013
authorize the state public defender to represent a child 1014
committed to the department of youth services in general civil 1015
matters arising solely out of state law. 1016

(3) The state public defender shall not undertake the 1017
representation of a child in court based on a conditions of 1018
confinement claim arising under this division. 1019

~~(H)~~ (G) A child's right to representation or services 1020
under this section is not affected by the child, or another 1021
person on behalf of the child, previously having paid for 1022
similar representation or services or having waived legal 1023
representation. 1024

~~(I)~~ (H) The state public defender shall have reasonable 1025
access to any child committed to the department of youth 1026
services, department of youth services institution, and 1027
department of youth services record as needed to implement this 1028
section. 1029

~~(J)~~ (I) As used in this section: 1030

(1) "Community control sanction" has the same meaning as 1031
in section 2929.01 of the Revised Code. 1032

(2) "Conditions of confinement" means any issue involving 1033
a constitutional right or other civil right related to a child's 1034
incarceration, including, but not limited to, actions cognizable 1035

under 42 U.S.C. 1983. 1036

(3) "Post-release control sanction" has the same meaning 1037
as in section 2967.01 of the Revised Code. 1038

Sec. 120.14. (A) (1) Except as provided in division (A) (2) 1039
of this section, the county public defender commission shall 1040
appoint the county public defender and may remove ~~him~~ the county 1041
public defender from office only for good cause. 1042

(2) If a county public defender commission contracts with 1043
the state public defender or with one or more nonprofit 1044
organizations for the state public defender or the organizations 1045
to provide all of the services that the county public defender 1046
is required or permitted to provide by this chapter, the 1047
commission shall not appoint a county public defender. 1048

(B) The commission shall determine the qualifications and 1049
size of the supporting staff and facilities and other 1050
requirements needed to maintain and operate the office of the 1051
county public defender. 1052

(C) In administering the office of county public defender, 1053
the commission shall: 1054

(1) Recommend to the county commissioners an annual 1055
operating budget which is subject to the review, amendment, and 1056
approval of the board of county commissioners; 1057

(2) (a) Make an annual report to the county commissioners 1058
and the Ohio public defender commission on the operation of the 1059
county public defender's office, ~~including complete and detailed~~ 1060
~~information on finances and costs that separately states costs~~ 1061
~~and expenses that are reimbursable under section 120.35 of the~~ 1062
~~Revised Code,~~ and any other data and information requested by 1063
the state public defender; 1064

(b) Make monthly reports relating to reimbursement and 1065
associated case data pursuant to the rules of the Ohio public 1066
defender commission to the board of county commissioners and the 1067
Ohio public defender commission on the total costs of the public 1068
defender's office. 1069

(3) Cooperate with the Ohio public defender commission in 1070
maintaining the standards established by rules of the Ohio 1071
public defender commission pursuant to divisions (B) and (C) of 1072
section 120.03 of the Revised Code, and cooperate with the state 1073
public defender in ~~his~~ the state public defender's programs 1074
providing technical aid and assistance to county systems. 1075

(D) The commission may accept the services of volunteer 1076
workers and consultants at no compensation except reimbursement 1077
for actual and necessary expenses. 1078

(E) The commission may contract with any municipal 1079
corporation, within the county served by the county public 1080
defender, for the county public defender to provide legal 1081
representation for indigent persons who are charged with a 1082
violation of the ordinances of the municipal corporation. 1083

(F) A county public defender commission, with the approval 1084
of the board of county commissioners regarding all provisions 1085
that pertain to the financing of defense counsel for indigent 1086
persons, may contract with the state public defender or with any 1087
nonprofit organization, the primary purpose of which is to 1088
provide legal representation to indigent persons, for the state 1089
public defender or the organization to provide all or any part 1090
of the services that a county public defender is required or 1091
permitted to provide by this chapter. A contract entered into 1092
pursuant to this division may provide for payment for the 1093
services provided on a per case, hourly, or fixed contract 1094

basis. The state public defender and any nonprofit organization 1095
that contracts with a county public defender commission pursuant 1096
to this division shall do all of the following: 1097

(1) Comply with all standards established by the rules of 1098
the Ohio public defender commission; 1099

(2) Comply with all standards established by the state 1100
public defender; 1101

(3) Comply with all statutory duties and other laws 1102
applicable to county public defenders. 1103

Sec. 120.16. (A) (1) The county public defender shall 1104
provide legal representation to indigent adults and juveniles 1105
who are charged with the commission of an offense or act that is 1106
a violation of a state statute and for which the penalty or any 1107
possible adjudication includes the potential loss of liberty and 1108
in postconviction proceedings as defined in this section. 1109

(2) The county public defender may provide legal 1110
representation to indigent adults and juveniles charged with the 1111
violation of an ordinance of a municipal corporation for which 1112
the penalty or any possible adjudication includes the potential 1113
loss of liberty, if the county public defender commission has 1114
contracted with the municipal corporation to provide legal 1115
representation for indigent persons charged with a violation of 1116
an ordinance of the municipal corporation. 1117

(B) The county public defender shall provide the legal 1118
representation authorized by division (A) of this section at 1119
every stage of the proceedings following arrest, detention, 1120
service of summons, or indictment. 1121

(C) The county public defender may request the state 1122
public defender to prosecute any appeal or other remedy before 1123

or after conviction that the county public defender decides is 1124
in the interests of justice, and may provide legal 1125
representation in parole and probation revocation matters and 1126
matters relating to the revocation of community control or post- 1127
release control under a community control sanction or post- 1128
release control sanction. 1129

(D) The county public defender shall not be required to 1130
prosecute any appeal, postconviction remedy, or other 1131
proceeding, unless the county public defender is first satisfied 1132
there is arguable merit to the proceeding. 1133

(E) Nothing in this section shall prevent a court from 1134
appointing counsel other than the county public defender or from 1135
allowing an indigent person to select the indigent person's own 1136
personal counsel to represent the indigent person. A court may 1137
also appoint counsel or allow an indigent person to select the 1138
indigent person's own personal counsel to assist the county 1139
public defender as co-counsel when the interests of justice so 1140
require. 1141

(F) Information as to the right to legal representation by 1142
the county public defender or assigned counsel shall be afforded 1143
to an accused person immediately upon arrest, when brought 1144
before a magistrate, or when formally charged, whichever occurs 1145
first. 1146

~~(G) If a court appoints the office of the county public~~ 1147
~~defender to represent a petitioner in a postconviction relief~~ 1148
~~proceeding under section 2953.21 of the Revised Code, the~~ 1149
~~petitioner has received a sentence of death, and the proceeding~~ 1150
~~relates to that sentence, all of the attorneys who represent the~~ 1151
~~petitioner in the proceeding pursuant to the appointment,~~ 1152
~~whether an assistant county public defender or the county public~~ 1153

~~defender, shall be certified under Rule 20 of the Rules of~~ 1154
~~Superintendence for the Courts of Ohio to represent indigent~~ 1155
~~defendants charged with or convicted of an offense for which the~~ 1156
~~death penalty can be or has been imposed.~~ 1157

~~(H)~~As used in this section: 1158

(1) "Community control sanction" has the same meaning as 1159
in section 2929.01 of the Revised Code. 1160

(2) "Post-release control sanction" has the same meaning 1161
as in section 2967.01 of the Revised Code. 1162

Sec. 120.18. (A) The county public defender commission's 1163
report to the board of county commissioners shall be audited by 1164
the county auditor. The board of county commissioners, after 1165
review and approval of the audited report, may then certify it 1166
to the state public defender for reimbursement. If a request for 1167
the reimbursement of any operating expenditure incurred by a 1168
county public defender office is not received by the state 1169
public defender within sixty days after the end of the calendar 1170
month in which the expenditure is incurred, the state public 1171
defender shall not pay the requested reimbursement, unless the 1172
county has requested, and the state public defender has granted, 1173
an extension of the sixty-day time limit. Each request for 1174
reimbursement shall include a certification by the county public 1175
defender that the persons provided representation by the county 1176
public defender's office during the period covered by the report 1177
were indigent and, for each person provided representation 1178
during that period, a financial disclosure form completed by the 1179
person on a form prescribed by the state public defender. The 1180
state public defender shall also review the report and, in 1181
accordance with the standards, guidelines, and maximums 1182
established pursuant to divisions (B) (7) and (8) of section 1183

120.04 of the Revised Code and the payment determination 1184
provisions of section 120.34 of the Revised Code, prepare a 1185
voucher for the cost of each county public defender's office for 1186
the period of time covered by the certified report ~~and a voucher~~ 1187
~~for the costs and expenses that are reimbursable under section~~ 1188
~~120.35 of the Revised Code, if any.~~ The amount of payments to be 1189
included in and made under the voucher shall be determined as 1190
specified in section 120.34 of the Revised Code. For the 1191
purposes of this section, "cost" means total expenses minus 1192
~~costs and expenses reimbursable under section 120.35 of the~~ 1193
~~Revised Code and~~ any funds received by the county public 1194
defender commission pursuant to a contract, except a contract 1195
entered into with a municipal corporation pursuant to division 1196
(E) of section 120.14 of the Revised Code, gift, or grant. 1197

(B) If the county public defender fails to maintain the 1198
standards for the conduct of the office established by rules of 1199
the Ohio public defender commission pursuant to divisions (B) 1200
and (C) of section 120.03 or the standards established by the 1201
state public defender pursuant to division (B) (7) of section 1202
120.04 of the Revised Code, the Ohio public defender commission 1203
shall notify the county public defender commission and the board 1204
of county commissioners of the county that the county public 1205
defender has failed to comply with its rules or the standards of 1206
the state public defender. Unless the county public defender 1207
commission or the county public defender corrects the conduct of 1208
the county public defender's office to comply with the rules and 1209
standards within ninety days after the date of the notice, the 1210
state public defender may deny payment of all or part of the 1211
county's reimbursement from the state provided for in division 1212
(A) of this section. 1213

Sec. 120.24. (A) (1) Except as provided in division (A) (2) 1214

of this section, the joint county public defender commission 1215
shall appoint the joint county public defender and may remove 1216
~~him the joint county public defender~~ from office only for good 1217
cause. 1218

(2) If a joint county public defender commission contracts 1219
with the state public defender or with one or more nonprofit 1220
organizations for the state public defender or the organizations 1221
to provide all of the services that the joint county public 1222
defender is required or permitted to provide by this chapter, 1223
the commission shall not appoint a joint county public defender. 1224

(B) The commission shall determine the qualifications and 1225
size of the supporting staff and facilities and other 1226
requirements needed to maintain and operate the office. 1227

(C) In administering the office of joint county public 1228
defender, the commission shall: 1229

(1) Recommend to the boards of county commissioners in the 1230
district an annual operating budget which is subject to the 1231
review, amendment, and approval of the boards of county 1232
commissioners in the district; 1233

(2) (a) Make an annual report to the boards of county 1234
commissioners in the district and the Ohio public defender 1235
commission on the operation of the public defender's office, ~~—~~ 1236
~~including complete and detailed information on finances and~~ 1237
~~costs that separately states costs and expenses that are~~ 1238
~~reimbursable under section 120.35 of the Revised Code,~~ and such 1239
other data and information requested by the state public 1240
defender; 1241

(b) Make monthly reports relating to reimbursement and 1242
associated case data pursuant to the rules of the Ohio public 1243

defender commission to the boards of county commissioners in the 1244
district and the Ohio public defender commission on the total 1245
costs of the public defender's office. 1246

(3) Cooperate with the Ohio public defender commission in 1247
maintaining the standards established by rules of the Ohio 1248
public defender commission pursuant to divisions (B) and (C) of 1249
section 120.03 of the Revised Code, and cooperate with the state 1250
public defender in ~~his~~ the state public defender's programs 1251
providing technical aid and assistance to county systems. 1252

(D) The commission may accept the services of volunteer 1253
workers and consultants at no compensation except reimbursement 1254
for actual and necessary expenses. 1255

(E) The commission may contract with any municipal 1256
corporation, within the counties served by the joint county 1257
public defender, for the joint county public defender to provide 1258
legal representation for indigent persons who are charged with a 1259
violation of the ordinances of the municipal corporation. 1260

(F) A joint county public defender commission, with the 1261
approval of each participating board of county commissioners 1262
regarding all provisions that pertain to the financing of 1263
defense counsel for indigent persons, may contract with the 1264
state public defender or with any nonprofit organization, the 1265
primary purpose of which is to provide legal representation to 1266
indigent persons, for the state public defender or the 1267
organization to provide all or any part of the services that a 1268
joint county public defender is required or permitted to provide 1269
by this chapter. A contract entered into pursuant to this 1270
division may provide for payment for the services provided on a 1271
per case, hourly, or fixed contract basis. The state public 1272
defender and any nonprofit organization that contracts with a 1273

joint county public defender commission pursuant to this 1274
division shall do all of the following: 1275

(1) Comply with all standards established by the rules of 1276
the Ohio public defender commission; 1277

(2) Comply with all standards established by the Ohio 1278
public defender; 1279

(3) Comply with all statutory duties and other laws 1280
applicable to joint county public defenders. 1281

Sec. 120.26. (A) (1) The joint county public defender shall 1282
provide legal representation to indigent adults and juveniles 1283
who are charged with the commission of an offense or act that is 1284
a violation of a state statute and for which the penalty or any 1285
possible adjudication includes the potential loss of liberty and 1286
in postconviction proceedings as defined in this section. 1287

(2) The joint county public defender may provide legal 1288
representation to indigent adults and juveniles charged with the 1289
violation of an ordinance of a municipal corporation for which 1290
the penalty or any possible adjudication includes the potential 1291
loss of liberty, if the joint county public defender commission 1292
has contracted with the municipal corporation to provide legal 1293
representation for indigent persons charged with a violation of 1294
an ordinance of the municipal corporation. 1295

(B) The joint county public defender shall provide the 1296
legal representation authorized by division (A) of this section 1297
at every stage of the proceedings following arrest, detention, 1298
service of summons, or indictment. 1299

(C) The joint county public defender may request the Ohio 1300
public defender to prosecute any appeal or other remedy before 1301
or after conviction that the joint county public defender 1302

decides is in the interests of justice and may provide legal 1303
representation in parole and probation revocation matters and 1304
matters relating to the revocation of community control or post- 1305
release control under a community control sanction or post- 1306
release control sanction. 1307

(D) The joint county public defender shall not be required 1308
to prosecute any appeal, postconviction remedy, or other 1309
proceeding, unless the joint county public defender is first 1310
satisfied that there is arguable merit to the proceeding. 1311

(E) Nothing in this section shall prevent a court from 1312
appointing counsel other than the joint county public defender 1313
or from allowing an indigent person to select the indigent 1314
person's own personal counsel to represent the indigent person. 1315
A court may also appoint counsel or allow an indigent person to 1316
select the indigent person's own personal counsel to assist the 1317
joint county public defender as co-counsel when the interests of 1318
justice so require. 1319

(F) Information as to the right to legal representation by 1320
the joint county public defender or assigned counsel shall be 1321
afforded to an accused person immediately upon arrest, when 1322
brought before a magistrate, or when formally charged, whichever 1323
occurs first. 1324

~~(G) If a court appoints the office of the joint county-~~ 1325
~~public defender to represent a petitioner in a postconviction-~~ 1326
~~relief proceeding under section 2953.21 of the Revised Code, the~~ 1327
~~petitioner has received a sentence of death, and the proceeding-~~ 1328
~~relates to that sentence, all of the attorneys who represent the~~ 1329
~~petitioner in the proceeding pursuant to the appointment,~~ 1330
~~whether an assistant joint county defender or the joint county-~~ 1331
~~public defender, shall be certified under Rule 20 of the Rules-~~ 1332

~~of Superintendence for the Courts of Ohio to represent indigent~~ 1333
~~defendants charged with or convicted of an offense for which the~~ 1334
~~death penalty can be or has been imposed.~~ 1335

~~(H)~~As used in this section: 1336

(1) "Community control sanction" has the same meaning as 1337
in section 2929.01 of the Revised Code. 1338

(2) "Post-release control sanction" has the same meaning 1339
as in section 2967.01 of the Revised Code. 1340

Sec. 120.28. (A) The joint county public defender 1341
commission's report to the joint board of county commissioners 1342
shall be audited by the fiscal officer of the district. The 1343
joint board of county commissioners, after review and approval 1344
of the audited report, may then certify it to the state public 1345
defender for reimbursement. If a request for the reimbursement 1346
of any operating expenditure incurred by a joint county public 1347
defender office is not received by the state public defender 1348
within sixty days after the end of the calendar month in which 1349
the expenditure is incurred, the state public defender shall not 1350
pay the requested reimbursement, unless the joint board of 1351
county commissioners has requested, and the state public 1352
defender has granted, an extension of the sixty-day time limit. 1353
Each request for reimbursement shall include a certification by 1354
the joint county public defender that all persons provided 1355
representation by the joint county public defender's office 1356
during the period covered by the request were indigent and, for 1357
each person provided representation during that period, a 1358
financial disclosure form completed by the person on a form 1359
prescribed by the state public defender. The state public 1360
defender shall also review the report and, in accordance with 1361
the standards, guidelines, and maximums established pursuant to 1362

divisions (B) (7) and (8) of section 120.04 of the Revised Code 1363
and the payment determination provisions of section 120.34 of 1364
the Revised Code, prepare a voucher for the cost of each joint 1365
county public defender's office for the period of time covered 1366
by the certified report ~~and a voucher for the costs and expenses~~ 1367
~~that are reimbursable under section 120.35 of the Revised Code,~~ 1368
~~if any.~~ The amount of payments to be included in and made under 1369
the voucher shall be determined as specified in section 120.34 1370
of the Revised Code. For purposes of this section, "cost" means 1371
total expenses minus ~~costs and expenses reimbursable under~~ 1372
~~section 120.35 of the Revised Code and any funds received by the~~ 1373
joint county public defender commission pursuant to a contract, 1374
except a contract entered into with a municipal corporation 1375
pursuant to division (E) of section 120.24 of the Revised Code, 1376
gift, or grant. Each county in the district shall be entitled to 1377
a share of such state reimbursement in proportion to the 1378
percentage of the cost it has agreed to pay. 1379

(B) If the joint county public defender fails to maintain 1380
the standards for the conduct of the office established by the 1381
rules of the Ohio public defender commission pursuant to 1382
divisions (B) and (C) of section 120.03 or the standards 1383
established by the state public defender pursuant to division 1384
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1385
defender commission shall notify the joint county public 1386
defender commission and the board of county commissioners of 1387
each county in the district that the joint county public 1388
defender has failed to comply with its rules or the standards of 1389
the state public defender. Unless the joint public defender 1390
commission or the joint county public defender corrects the 1391
conduct of the joint county public defender's office to comply 1392
with the rules and standards within ninety days after the date 1393

of the notice, the state public defender may deny all or part of 1394
the counties' reimbursement from the state provided for in 1395
division (A) of this section. 1396

Sec. 120.33. (A) In lieu of using a county public defender 1397
or joint county public defender to represent indigent persons in 1398
the proceedings set forth in division (A) of section 120.16 of 1399
the Revised Code, the board of county commissioners of any 1400
county may adopt a resolution to pay counsel who are either 1401
personally selected by the indigent person or appointed by the 1402
court. The resolution shall include those provisions the board 1403
of county commissioners considers necessary to provide effective 1404
representation of indigent persons in any proceeding for which 1405
counsel is provided under this section. The resolution shall 1406
include provisions for contracts with any municipal corporation 1407
under which the municipal corporation shall reimburse the county 1408
for counsel appointed to represent indigent persons charged with 1409
violations of the ordinances of the municipal corporation. 1410

(1) In a county that adopts a resolution to pay counsel, 1411
an indigent person shall have the right to do either of the 1412
following: 1413

(a) To select the person's own personal counsel to 1414
represent the person in any proceeding included within the 1415
provisions of the resolution; 1416

(b) To request the court to appoint counsel to represent 1417
the person in such a proceeding. 1418

(2) The court having jurisdiction over the proceeding in a 1419
county that adopts a resolution to pay counsel shall, after 1420
determining that the person is indigent and entitled to legal 1421
representation under this section, do either of the following: 1422

(a) By signed journal entry recorded on its docket, enter 1423
the name of the lawyer selected by the indigent person as 1424
counsel of record; 1425

(b) Appoint counsel for the indigent person if the person 1426
has requested the court to appoint counsel and, by signed 1427
journal entry recorded on its dockets, enter the name of the 1428
lawyer appointed for the indigent person as counsel of record. 1429

(3) The board of county commissioners shall establish a 1430
schedule of fees by case or on an hourly basis to be paid to 1431
counsel for legal services provided pursuant to a resolution 1432
adopted under this section. Prior to establishing the schedule, 1433
the board of county commissioners shall request the bar 1434
association or associations of the county to submit a proposed 1435
~~schedule for cases other than capital cases.~~ The schedule 1436
submitted shall be subject to the review, amendment, and 1437
approval of the board of county commissioners, ~~except with~~ 1438
~~respect to capital cases. With respect to capital cases, the~~ 1439
~~schedule shall provide for fees by case or on an hourly basis to~~ 1440
~~be paid to counsel in the amount or at the rate set by the~~ 1441
~~capital case attorney fee council pursuant to division (D) of~~ 1442
~~this section, and the board of county commissioners shall~~ 1443
~~approve that amount or rate.~~ 1444

(4) Counsel selected by the indigent person or appointed 1445
by the court at the request of an indigent person in a county 1446
that adopts a resolution to pay counsel, except for counsel 1447
appointed to represent a person charged with any violation of an 1448
ordinance of a municipal corporation that has not contracted 1449
with the county commissioners for the payment of appointed 1450
counsel, shall be paid by the county and shall receive the 1451
compensation and expenses the court approves. ~~With respect to~~ 1452

~~capital cases, the court shall approve compensation and expenses—~~ 1453
~~in accordance with the amount or at the rate set by the capital—~~ 1454
~~case attorney fee council pursuant to division (D) of this—~~ 1455
~~section.~~ Each request for payment shall include a financial 1456
disclosure form completed by the indigent person on a form 1457
prescribed by the state public defender. Compensation and 1458
expenses shall not exceed the amounts fixed by the board of 1459
county commissioners in the schedule adopted pursuant to 1460
division (A) (3) of this section. No court shall approve 1461
compensation and expenses that exceed the amount fixed pursuant 1462
to division (A) (3) of this section. 1463

The fees and expenses approved by the court shall not be 1464
taxed as part of the costs and shall be paid by the county. 1465
However, if the person represented has, or may reasonably be 1466
expected to have, the means to meet some part of the cost of the 1467
services rendered to the person, the person shall pay the county 1468
an amount that the person reasonably can be expected to pay. 1469
Pursuant to section 120.04 of the Revised Code, the county shall 1470
pay to the state public defender a percentage of the payment 1471
received from the person in an amount proportionate to the 1472
percentage of the costs of the person's case that were paid to 1473
the county by the state public defender pursuant to this 1474
section. The money paid to the state public defender shall be 1475
credited to the client payment fund created pursuant to division 1476
(B) (5) of section 120.04 of the Revised Code. 1477

The county auditor shall draw a warrant on the county 1478
treasurer for the payment of counsel in the amount fixed by the 1479
court, plus the expenses the court fixes and certifies to the 1480
auditor. The county auditor shall report periodically, but not 1481
less than annually, to the board of county commissioners and to 1482
the state public defender the amounts paid out pursuant to the 1483

approval of the court. The board of county commissioners, after 1484
review and approval of the auditor's report, or the county 1485
auditor, with permission from and notice to the board of county 1486
commissioners, may then certify it to the state public defender 1487
for reimbursement. The state public defender may pay a requested 1488
reimbursement only if the request for reimbursement includes a 1489
financial disclosure form completed by the indigent person on a 1490
form prescribed by the state public defender or if the court 1491
certifies by electronic signature as prescribed by the state 1492
public defender that a financial disclosure form has been 1493
completed by the indigent person and is available for 1494
inspection. If a request for the reimbursement of the cost of 1495
counsel in any case is not received by the state public defender 1496
within ninety days after the end of the calendar month in which 1497
the case is finally disposed of by the court, unless the county 1498
has requested and the state public defender has granted an 1499
extension of the ninety-day limit, the state public defender 1500
shall not pay the requested reimbursement. The state public 1501
defender shall also review the report and, in accordance with 1502
the standards, guidelines, and maximums established pursuant to 1503
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1504
prepare a voucher for fifty per cent of the total cost of each 1505
county appointed counsel system in the period of time covered by 1506
the certified report ~~and a voucher for fifty per cent of the~~ 1507
~~costs and expenses that are reimbursable under section 120.35 of~~ 1508
~~the Revised Code, if any, or, if the amount of money~~ 1509
appropriated by the general assembly to reimburse counties for 1510
the operation of county public defender offices, joint county 1511
public defender offices, and county appointed counsel systems is 1512
not sufficient to pay fifty per cent of the total cost of all of 1513
the offices and systems ~~other than costs and expenses that are~~ 1514
~~reimbursable under section 120.35 of the Revised Code, for the~~ 1515

lesser amount required by section 120.34 of the Revised Code. 1516

(5) If any county appointed counsel system fails to 1517
maintain the standards for the conduct of the system established 1518
by the rules of the Ohio public defender commission pursuant to 1519
divisions (B) and (C) of section 120.03 or the standards 1520
established by the state public defender pursuant to division 1521
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1522
defender commission shall notify the board of county 1523
commissioners of the county that the county appointed counsel 1524
system has failed to comply with its rules or the standards of 1525
the state public defender. Unless the board of county 1526
commissioners corrects the conduct of its appointed counsel 1527
system to comply with the rules and standards within ninety days 1528
after the date of the notice, the state public defender may deny 1529
all or part of the county's reimbursement from the state 1530
provided for in division (A) (4) of this section. 1531

(B) In lieu of using a county public defender or joint 1532
county public defender to represent indigent persons in the 1533
proceedings set forth in division (A) of section 120.16 of the 1534
Revised Code, and in lieu of adopting the resolution and 1535
following the procedure described in division (A) of this 1536
section, the board of county commissioners of any county may 1537
contract with the state public defender for the state public 1538
defender's legal representation of indigent persons. A contract 1539
entered into pursuant to this division may provide for payment 1540
for the services provided on a per case, hourly, or fixed 1541
contract basis. 1542

~~(C) If a court appoints an attorney pursuant to this 1543
section to represent a petitioner in a postconviction relief 1544
proceeding under section 2953.21 of the Revised Code, the 1545~~

~~petitioner has received a sentence of death, and the proceeding- 1546
relates to that sentence, the attorney who represents the- 1547
petitioner in the proceeding pursuant to the appointment shall- 1548
be certified under Rule 20 of the Rules of Superintendence for- 1549
the Courts of Ohio to represent indigent defendants charged with- 1550
or convicted of an offense for which the death penalty can be or- 1551
has been imposed. 1552~~

~~(D) (1) There is hereby created the capital case attorney- 1553
fee council, appointed as described in division (D) (2) of this- 1554
section. The council shall set an amount by case, or a rate on- 1555
an hourly basis, to be paid under this section to counsel in a- 1556
capital case. 1557~~

~~(2) The capital case attorney fee council shall consist of- 1558
five members, all of whom shall be active judges serving on one- 1559
of the district courts of appeals in this state. Terms for- 1560
council members shall be the lesser of three years or until the- 1561
member ceases to be an active judge of a district court of- 1562
appeals. The initial terms shall commence ninety days after- 1563
September 28, 2016. The chief justice of the supreme court shall- 1564
appoint the members of the council, and shall make all of the- 1565
appointments not later than sixty days after September 28, 2016.- 1566
When any vacancy occurs, the chief justice shall appoint an- 1567
active judge of a district court of appeals in this state to- 1568
fill the vacancy for the unexpired term, in the same manner as- 1569
prescribed in this division. The chief justice shall designate a- 1570
chairperson from the appointed members of the council. Members- 1571
of the council shall receive no additional compensation for- 1572
their service as a member, but may be reimbursed for expenses- 1573
reasonably incurred in service to the council, to be paid by the- 1574
supreme court. The supreme court may provide administrative- 1575
support to the council.- 1576~~

~~(3) The capital case attorney fee council initially shall meet not later than one hundred twenty days after September 28, 2016. Thereafter, the council shall meet not less than annually.~~ 1577
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~~(4) Upon setting the amount or rate described in division (D)(1) of this section, the chairperson of the capital case attorney fee council promptly shall provide written notice to the state public defender of the amount or rate so set. The amount or rate so set shall become effective ninety days after the date on which the chairperson provides that written notice to the state public defender. The council shall specify that effective date in the written notice provided to the state public defender. All amounts or rates set by the council shall be final, subject to modification as described in division (D)(5) of this section, and not subject to appeal.~~ 1580
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~~(5) The capital case attorney fee council may modify an amount or rate set as described in division (D)(4) of this section. The provisions of that division apply with respect to any such modification of an amount or rate.~~ 1591
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Sec. 120.34. The total amount of money paid to all 1595
counties in any fiscal year pursuant to sections 120.18, 120.28, 1596
and 120.33 of the Revised Code for the reimbursement of a 1597
percentage of the counties' cost of operating county public 1598
defender offices, joint county public defender offices, and 1599
county appointed counsel systems shall not exceed the total 1600
amount appropriated for that fiscal year by the general assembly 1601
for the reimbursement of the counties for the operation of the 1602
offices and systems. If the amount appropriated by the general 1603
assembly in any fiscal year is insufficient to pay fifty per 1604
cent of the total cost in the fiscal year of all county public 1605
defender offices, all joint county public defender offices, and 1606

all county appointed counsel systems, the amount of money paid 1607
in that fiscal year pursuant to sections 120.18, 120.28, and 1608
120.33 of the Revised Code to each county for the fiscal year 1609
shall be reduced proportionately so that each county is paid an 1610
equal percentage of its total cost in the fiscal year for 1611
operating its county public defender system, its joint county 1612
public defender system, and its county appointed counsel system. 1613

~~The total amount of money paid to all counties in any 1614
fiscal year pursuant to section 120.35 of the Revised Code for 1615
the reimbursement of a percentage of the counties' costs and 1616
expenses of conducting the defense in capital cases shall not 1617
exceed the total amount appropriated for that fiscal year by the 1618
general assembly for the reimbursement of the counties for 1619
conducting the defense in capital cases. If the amount 1620
appropriated by the general assembly in any fiscal year is 1621
insufficient to pay fifty per cent of the counties' total costs 1622
and expenses of conducting the defense in capital cases in the 1623
fiscal year, the amount of money paid in that fiscal year 1624
pursuant to section 120.35 of the Revised Code to each county 1625
for the fiscal year shall be reduced proportionately so that 1626
each county is paid an equal percentage of its costs and 1627
expenses of conducting the defense in capital cases in the 1628
fiscal year.~~All payments relating to capital cases that were 1629
required to be made under the provisions of this chapter or 1630
section 2941.51 of the Revised Code as those provisions existed 1631
immediately before the effective date of this amendment shall be 1632
made for each calendar or fiscal year, as applicable, in 1633
accordance with those provisions as they existed immediately 1634
before the effective date of this amendment until each case in 1635
which a defendant was sentenced to death before the effective 1636
date of this amendment is finally resolved. 1637

If any county receives an amount of money pursuant to 1638
section 120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code 1639
that is in excess of the amount of reimbursement it is entitled 1640
to receive pursuant to this section, the state public defender 1641
shall request the board of county commissioners to return the 1642
excess payment and the board of county commissioners, upon 1643
receipt of the request, shall direct the appropriate county 1644
officer to return the excess payment to the state. 1645

Within thirty days of the end of each fiscal quarter, the 1646
state public defender shall provide to the office of budget and 1647
management and the ~~legislative budget office of the legislative~~ 1648
service commission an estimate of the amount of money that will 1649
be required for the balance of the fiscal year to make the 1650
payments required by sections 120.18, 120.28, and 120.33, ~~and~~ 1651
~~120.35~~ of the Revised Code. 1652

Sec. 149.43. (A) As used in this section: 1653

(1) "Public record" means records kept by any public 1654
office, including, but not limited to, state, county, city, 1655
village, township, and school district units, and records 1656
pertaining to the delivery of educational services by an 1657
alternative school in this state kept by the nonprofit or for- 1658
profit entity operating the alternative school pursuant to 1659
section 3313.533 of the Revised Code. "Public record" does not 1660
mean any of the following: 1661

(a) Medical records; 1662

(b) Records pertaining to probation and parole 1663
proceedings, to proceedings related to the imposition of 1664
community control sanctions and post-release control sanctions, 1665
or to proceedings related to determinations under section 1666

2967.271 of the Revised Code regarding the release or maintained incarceration of an offender to whom that section applies;	1667 1668
(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;	1669 1670 1671
(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;	1672 1673 1674
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	1675 1676 1677 1678 1679 1680
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	1681 1682
(g) Trial preparation records;	1683
(h) Confidential law enforcement investigatory records;	1684
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	1685 1686
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	1687 1688
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	1689 1690 1691 1692
(l) Records maintained by the department of youth services	1693

pertaining to children in its custody released by the department	1694
of youth services to the department of rehabilitation and	1695
correction pursuant to section 5139.05 of the Revised Code;	1696
(m) Intellectual property records;	1697
(n) Donor profile records;	1698
(o) Records maintained by the department of job and family	1699
services pursuant to section 3121.894 of the Revised Code;	1700
(p) Designated public service worker residential and	1701
familial information;	1702
(q) In the case of a county hospital operated pursuant to	1703
Chapter 339. of the Revised Code or a municipal hospital	1704
operated pursuant to Chapter 749. of the Revised Code,	1705
information that constitutes a trade secret, as defined in	1706
section 1333.61 of the Revised Code;	1707
(r) Information pertaining to the recreational activities	1708
of a person under the age of eighteen;	1709
(s) In the case of a child fatality review board acting	1710
under sections 307.621 to 307.629 of the Revised Code or a	1711
review conducted pursuant to guidelines established by the	1712
director of health under section 3701.70 of the Revised Code,	1713
records provided to the board or director, statements made by	1714
board members during meetings of the board or by persons	1715
participating in the director's review, and all work products of	1716
the board or director, and in the case of a child fatality	1717
review board, child fatality review data submitted by the board	1718
to the department of health or a national child death review	1719
database, other than the report prepared pursuant to division	1720
(A) of section 307.626 of the Revised Code;	1721

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

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.15 of the Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(y) Records listed in section 5101.29 of the Revised Code;

(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B) (2) of that section;

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

(bb) Records described in division (C) of section 187.04 1751
of the Revised Code that are not designated to be made available 1752
to the public as provided in that division; 1753

~~(cc) Information and records that are made confidential,~~ 1754
~~privileged, and not subject to disclosure under divisions (B)~~ 1755
~~and (C) of section 2949.221 of the Revised Code;~~ 1756

~~(dd)~~ Personal information, as defined in section 149.45 of 1757
the Revised Code; 1758

~~(ee)~~ (dd) The confidential name, address, and other 1759
personally identifiable information of a program participant in 1760
the address confidentiality program established under sections 1761
111.41 to 111.47 of the Revised Code, including the contents of 1762
any application for absent voter's ballots, absent voter's 1763
ballot identification envelope statement of voter, or 1764
provisional ballot affirmation completed by a program 1765
participant who has a confidential voter registration record; 1766
records or portions of records pertaining to that program that 1767
identify the number of program participants that reside within a 1768
precinct, ward, township, municipal corporation, county, or any 1769
other geographic area smaller than the state; and any real 1770
property confidentiality notice filed under section 111.431 of 1771
the Revised Code and the information described in division (C) 1772
of that section. As used in this division, "confidential 1773
address" and "program participant" have the meaning defined in 1774
section 111.41 of the Revised Code. 1775

~~(ff)~~ (ee) Orders for active military service of an 1776
individual serving or with previous service in the armed forces 1777
of the United States, including a reserve component, or the Ohio 1778
organized militia, except that, such order becomes a public 1779
record on the day that is fifteen years after the published date 1780

or effective date of the call to order; 1781

~~(gg)~~ (ff) The name, address, contact information, or other 1782
personal information of an individual who is less than eighteen 1783
years of age that is included in any record related to a traffic 1784
accident involving a school vehicle in which the individual was 1785
an occupant at the time of the accident; 1786

~~(hh)~~ (gg) Protected health information, as defined in 45 1787
C.F.R. 160.103, that is in a claim for payment for a health care 1788
product, service, or procedure, as well as any other health 1789
claims data in another document that reveals the identity of an 1790
individual who is the subject of the data or could be used to 1791
reveal that individual's identity; 1792

~~(ii)~~ (hh) Any depiction by photograph, film, videotape, or 1793
printed or digital image under either of the following 1794
circumstances: 1795

(i) The depiction is that of a victim of an offense the 1796
release of which would be, to a reasonable person of ordinary 1797
sensibilities, an offensive and objectionable intrusion into the 1798
victim's expectation of bodily privacy and integrity. 1799

(ii) The depiction captures or depicts the victim of a 1800
sexually oriented offense, as defined in section 2950.01 of the 1801
Revised Code, at the actual occurrence of that offense. 1802

~~(jj)~~ (ii) Restricted portions of a body-worn camera or 1803
dashboard camera recording; 1804

~~(kk)~~ (jj) In the case of a fetal-infant mortality review 1805
board acting under sections 3707.70 to 3707.77 of the Revised 1806
Code, records, documents, reports, or other information 1807
presented to the board or a person abstracting such materials on 1808
the board's behalf, statements made by review board members 1809

during board meetings, all work products of the board, and data 1810
submitted by the board to the department of health or a national 1811
infant death review database, other than the report prepared 1812
pursuant to section 3707.77 of the Revised Code. 1813

~~(ll)~~(kk) Records, documents, reports, or other 1814
information presented to the pregnancy-associated mortality 1815
review board established under section 3738.01 of the Revised 1816
Code, statements made by board members during board meetings, 1817
all work products of the board, and data submitted by the board 1818
to the department of health, other than the biennial reports 1819
prepared under section 3738.08 of the Revised Code; 1820

~~(mm)~~(ll) Except as otherwise provided in division (A) (1) 1821
(oo) of this section, telephone numbers for a victim, as defined 1822
in section 2930.01 of the Revised Code or a witness to a crime 1823
that are listed on any law enforcement record or report. 1824

~~(nn)~~(mm) A preneed funeral contract, as defined in 1825
section 4717.01 of the Revised Code, and contract terms and 1826
personally identifying information of a preneed funeral 1827
contract, that is contained in a report submitted by or for a 1828
funeral home to the board of embalmers and funeral directors 1829
under division (C) of section 4717.13, division (J) of section 1830
4717.31, or section 4717.41 of the Revised Code. 1831

~~(oo)~~(nn) Telephone numbers for a party to a motor vehicle 1832
accident subject to the requirements of section 5502.11 of the 1833
Revised Code that are listed on any law enforcement record or 1834
report, except that the telephone numbers described in this 1835
division are not excluded from the definition of "public record" 1836
under this division on and after the thirtieth day after the 1837
occurrence of the motor vehicle accident. 1838

~~(pp)~~ (oo) Records pertaining to individuals who complete 1839
training under section 5502.703 of the Revised Code to be 1840
permitted by a school district board of education or governing 1841
body of a community school established under Chapter 3314. of 1842
the Revised Code, a STEM school established under Chapter 3326. 1843
of the Revised Code, or a chartered nonpublic school to convey 1844
deadly weapons or dangerous ordnance into a school safety zone; 1845

~~(qq)~~ (pp) Records, documents, reports, or other 1846
information presented to a domestic violence fatality review 1847
board established under section 307.651 of the Revised Code, 1848
statements made by board members during board meetings, all work 1849
products of the board, and data submitted by the board to the 1850
department of health, other than a report prepared pursuant to 1851
section 307.656 of the Revised Code; 1852

~~(rr)~~ (qq) Records, documents, and information the release 1853
of which is prohibited under sections 2930.04 and 2930.07 of the 1854
Revised Code; 1855

~~(ss)~~ (rr) Records of an existing qualified nonprofit 1856
corporation that creates a special improvement district under 1857
Chapter 1710. of the Revised Code that do not pertain to a 1858
purpose for which the district is created. 1859

A record that is not a public record under division (A) (1) 1860
of this section and that, under law, is permanently retained 1861
becomes a public record on the day that is seventy-five years 1862
after the day on which the record was created, except for any 1863
record protected by the attorney-client privilege, a trial 1864
preparation record as defined in this section, a statement 1865
prohibiting the release of identifying information signed under 1866
section 3107.083 of the Revised Code, a denial of release form 1867
filed pursuant to section 3107.46 of the Revised Code, or any 1868

record that is exempt from release or disclosure under section 1869
149.433 of the Revised Code. If the record is a birth 1870
certificate and a biological parent's name redaction request 1871
form has been accepted under section 3107.391 of the Revised 1872
Code, the name of that parent shall be redacted from the birth 1873
certificate before it is released under this paragraph. If any 1874
other section of the Revised Code establishes a time period for 1875
disclosure of a record that conflicts with the time period 1876
specified in this section, the time period in the other section 1877
prevails. 1878

(2) "Confidential law enforcement investigatory record" 1879
means any record that pertains to a law enforcement matter of a 1880
criminal, quasi-criminal, civil, or administrative nature, but 1881
only to the extent that the release of the record would create a 1882
high probability of disclosure of any of the following: 1883

(a) The identity of a suspect who has not been charged 1884
with the offense to which the record pertains, or of an 1885
information source or witness to whom confidentiality has been 1886
reasonably promised; 1887

(b) Information provided by an information source or 1888
witness to whom confidentiality has been reasonably promised, 1889
which information would reasonably tend to disclose the source's 1890
or witness's identity; 1891

(c) Specific confidential investigatory techniques or 1892
procedures or specific investigatory work product; 1893

(d) Information that would endanger the life or physical 1894
safety of law enforcement personnel, a crime victim, a witness, 1895
or a confidential information source. 1896

(3) "Medical record" means any document or combination of 1897

documents, except births, deaths, and the fact of admission to 1898
or discharge from a hospital, that pertains to the medical 1899
history, diagnosis, prognosis, or medical condition of a patient 1900
and that is generated and maintained in the process of medical 1901
treatment. 1902

(4) "Trial preparation record" means any record that 1903
contains information that is specifically compiled in reasonable 1904
anticipation of, or in defense of, a civil or criminal action or 1905
proceeding, including the independent thought processes and 1906
personal trial preparation of an attorney. 1907

(5) "Intellectual property record" means a record, other 1908
than a financial or administrative record, that is produced or 1909
collected by or for faculty or staff of a state institution of 1910
higher learning in the conduct of or as a result of study or 1911
research on an educational, commercial, scientific, artistic, 1912
technical, or scholarly issue, regardless of whether the study 1913
or research was sponsored by the institution alone or in 1914
conjunction with a governmental body or private concern, and 1915
that has not been publicly released, published, or patented. 1916

(6) "Donor profile record" means all records about donors 1917
or potential donors to a public institution of higher education 1918
except the names and reported addresses of the actual donors and 1919
the date, amount, and conditions of the actual donation. 1920

(7) "Designated public service worker" means a peace 1921
officer, parole officer, probation officer, bailiff, prosecuting 1922
attorney, assistant prosecuting attorney, correctional employee, 1923
county or multicounty corrections officer, community-based 1924
correctional facility employee, designated Ohio national guard 1925
member, protective services worker, youth services employee, 1926
firefighter, EMT, medical director or member of a cooperating 1927

physician advisory board of an emergency medical service 1928
organization, state board of pharmacy employee, investigator of 1929
the bureau of criminal identification and investigation, 1930
emergency service telecommunicator, forensic mental health 1931
provider, mental health evaluation provider, regional 1932
psychiatric hospital employee, judge, magistrate, or federal law 1933
enforcement officer. 1934

(8) "Designated public service worker residential and 1935
familial information" means any information that discloses any 1936
of the following about a designated public service worker: 1937

(a) The address of the actual personal residence of a 1938
designated public service worker, except for the following 1939
information: 1940

(i) The address of the actual personal residence of a 1941
prosecuting attorney or judge; and 1942

(ii) The state or political subdivision in which a 1943
designated public service worker resides. 1944

(b) Information compiled from referral to or participation 1945
in an employee assistance program; 1946

(c) The social security number, the residential telephone 1947
number, any bank account, debit card, charge card, or credit 1948
card number, or the emergency telephone number of, or any 1949
medical information pertaining to, a designated public service 1950
worker; 1951

(d) The name of any beneficiary of employment benefits, 1952
including, but not limited to, life insurance benefits, provided 1953
to a designated public service worker by the designated public 1954
service worker's employer; 1955

(e) The identity and amount of any charitable or 1956
employment benefit deduction made by the designated public 1957
service worker's employer from the designated public service 1958
worker's compensation, unless the amount of the deduction is 1959
required by state or federal law; 1960

(f) The name, the residential address, the name of the 1961
employer, the address of the employer, the social security 1962
number, the residential telephone number, any bank account, 1963
debit card, charge card, or credit card number, or the emergency 1964
telephone number of the spouse, a former spouse, or any child of 1965
a designated public service worker; 1966

(g) A photograph of a peace officer who holds a position 1967
or has an assignment that may include undercover or plain 1968
clothes positions or assignments as determined by the peace 1969
officer's appointing authority. 1970

(9) As used in divisions (A) (7) and (15) to (17) of this 1971
section: 1972

"Peace officer" has the meaning defined in section 109.71 1973
of the Revised Code and also includes the superintendent and 1974
troopers of the state highway patrol; it does not include the 1975
sheriff of a county or a supervisory employee who, in the 1976
absence of the sheriff, is authorized to stand in for, exercise 1977
the authority of, and perform the duties of the sheriff. 1978

"Correctional employee" means any employee of the 1979
department of rehabilitation and correction who in the course of 1980
performing the employee's job duties has or has had contact with 1981
inmates and persons under supervision. 1982

"County or multicounty corrections officer" means any 1983
corrections officer employed by any county or multicounty 1984

correctional facility.	1985
"Designated Ohio national guard member" means a member of the Ohio national guard who is participating in duties related to remotely piloted aircraft, including, but not limited to, pilots, sensor operators, and mission intelligence personnel, duties related to special forces operations, or duties related to cybersecurity, and is designated by the adjutant general as a designated public service worker for those purposes.	1986 1987 1988 1989 1990 1991 1992
"Protective services worker" means any employee of a county agency who is responsible for child protective services, child support services, or adult protective services.	1993 1994 1995
"Youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.	1996 1997 1998 1999
"Firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.	2000 2001 2002
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the meanings defined in section 4765.01 of the Revised Code.	2003 2004 2005 2006 2007
"Investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.	2008 2009 2010
"Emergency service telecommunicator" has the meaning defined in section 4742.01 of the Revised Code.	2011 2012

"Forensic mental health provider" means any employee of a community mental health service provider or local alcohol, drug addiction, and mental health services board who, in the course of the employee's duties, has contact with persons committed to a local alcohol, drug addiction, and mental health services board by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

"Mental health evaluation provider" means an individual who, under Chapter 5122. of the Revised Code, examines a respondent who is alleged to be a mentally ill person subject to court order, as defined in section 5122.01 of the Revised Code, and reports to the probate court the respondent's mental condition.

"Regional psychiatric hospital employee" means any employee of the department of mental health and addiction services who, in the course of performing the employee's duties, has contact with patients committed to the department of mental health and addiction services by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

"Federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code.

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

(a) The address or telephone number of a person under the

age of eighteen or the address or telephone number of that 2042
person's parent, guardian, custodian, or emergency contact 2043
person; 2044

(b) The social security number, birth date, or 2045
photographic image of a person under the age of eighteen; 2046

(c) Any medical record, history, or information pertaining 2047
to a person under the age of eighteen; 2048

(d) Any additional information sought or required about a 2049
person under the age of eighteen for the purpose of allowing 2050
that person to participate in any recreational activity 2051
conducted or sponsored by a public office or to use or obtain 2052
admission privileges to any recreational facility owned or 2053
operated by a public office. 2054

(11) "Community control sanction" has the meaning defined 2055
in section 2929.01 of the Revised Code. 2056

(12) "Post-release control sanction" has the meaning 2057
defined in section 2967.01 of the Revised Code. 2058

(13) "Redaction" means obscuring or deleting any 2059
information that is exempt from the duty to permit public 2060
inspection or copying from an item that otherwise meets the 2061
definition of a "record" in section 149.011 of the Revised Code. 2062

(14) "Designee," "elected official," and "future official" 2063
have the meanings defined in section 109.43 of the Revised Code. 2064

(15) "Body-worn camera" means a visual and audio recording 2065
device worn on the person of a correctional employee, youth 2066
services employee, or peace officer while the correctional 2067
employee, youth services employee, or peace officer is engaged 2068
in the performance of official duties. 2069

(16) "Dashboard camera" means a visual and audio recording device mounted on a peace officer's vehicle or vessel that is used while the peace officer is engaged in the performance of the peace officer's duties.

(17) "Restricted portions of a body-worn camera or dashboard camera recording" means any visual or audio portion of a body-worn camera or dashboard camera recording that shows, communicates, or discloses any of the following:

(a) The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when the department of rehabilitation and correction, department of youth services, or the law enforcement agency knows or has reason to know the person is a child based on the department's or law enforcement agency's records or the content of the recording;

(b) The death of a person or a deceased person's body, unless the death was caused by a correctional employee, youth services employee, or peace officer or, subject to division (H) (1) of this section, the consent of the decedent's executor or administrator has been obtained;

(c) The death of a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless, subject to division (H) (1) of this section, the consent of the decedent's executor or administrator has been obtained;

(d) Grievous bodily harm, unless the injury was effected by a correctional employee, youth services employee, or peace officer or, subject to division (H) (1) of this section, the

consent of the injured person or the injured person's guardian 2099
has been obtained; 2100

(e) An act of severe violence against a person that 2101
results in serious physical harm to the person, unless the act 2102
and injury was effected by a correctional employee, youth 2103
services employee, or peace officer or, subject to division (H) 2104
(1) of this section, the consent of the injured person or the 2105
injured person's guardian has been obtained; 2106

(f) Grievous bodily harm to a correctional employee, youth 2107
services employee, peace officer, firefighter, paramedic, or 2108
other first responder, occurring while the injured person was 2109
engaged in the performance of official duties, unless, subject 2110
to division (H) (1) of this section, the consent of the injured 2111
person or the injured person's guardian has been obtained; 2112

(g) An act of severe violence resulting in serious 2113
physical harm against a correctional employee, youth services 2114
employee, peace officer, firefighter, paramedic, or other first 2115
responder, occurring while the injured person was engaged in the 2116
performance of official duties, unless, subject to division (H) 2117
(1) of this section, the consent of the injured person or the 2118
injured person's guardian has been obtained; 2119

(h) A person's nude body, unless, subject to division (H) 2120
(1) of this section, the person's consent has been obtained; 2121

(i) Protected health information, the identity of a person 2122
in a health care facility who is not the subject of a law 2123
enforcement encounter, or any other information in a health care 2124
facility that could identify a person who is not the subject of 2125
a law enforcement encounter; 2126

(j) Information that could identify the alleged victim of 2127

a sex offense, menacing by stalking, or domestic violence;	2128
(k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to the department of rehabilitation and correction, the department of youth services, or a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person;	2129 2130 2131 2132 2133 2134 2135 2136
(l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer;	2137 2138
(m) Proprietary police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;	2139 2140 2141
(n) A personal conversation unrelated to work between peace officers or between a peace officer and an employee of a law enforcement agency;	2142 2143 2144
(o) A conversation between a peace officer and a member of the public that does not concern law enforcement activities;	2145 2146
(p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a peace officer;	2147 2148 2149
(q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a peace officer occurs in that location.	2150 2151 2152
As used in division (A)(17) of this section:	2153
"Grievous bodily harm" has the same meaning as in section 5924.120 of the Revised Code.	2154 2155

"Health care facility" has the same meaning as in section 1337.11 of the Revised Code.	2156 2157
"Protected health information" has the same meaning as in 45 C.F.R. 160.103.	2158 2159
"Law enforcement agency" means a government entity that employs peace officers to perform law enforcement duties.	2160 2161
"Personal information" means any government-issued identification number, date of birth, address, financial information, or criminal justice information from the law enforcement automated data system or similar databases.	2162 2163 2164 2165
"Sex offense" has the same meaning as in section 2907.10 of the Revised Code.	2166 2167
"Firefighter," "paramedic," and "first responder" have the same meanings as in section 4765.01 of the Revised Code.	2168 2169
(B) (1) Upon request by any person and subject to division (B) (8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to the requester at all reasonable times during regular business hours. Subject to division (B) (8) of this section, upon request by any person, a public office or person responsible for public records shall make copies of the requested public record available to the requester at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public	2170 2171 2172 2173 2174 2175 2176 2177 2178 2179 2180 2181 2182 2183 2184

office or the person responsible for the public record shall 2185
notify the requester of any redaction or make the redaction 2186
plainly visible. A redaction shall be deemed a denial of a 2187
request to inspect or copy the redacted information, except if 2188
federal or state law authorizes or requires a public office to 2189
make the redaction. 2190

(2) To facilitate broader access to public records, a 2191
public office or the person responsible for public records shall 2192
organize and maintain public records in a manner that they can 2193
be made available for inspection or copying in accordance with 2194
division (B) of this section. A public office also shall have 2195
available a copy of its current records retention schedule at a 2196
location readily available to the public. If a requester makes 2197
an ambiguous or overly broad request or has difficulty in making 2198
a request for copies or inspection of public records under this 2199
section such that the public office or the person responsible 2200
for the requested public record cannot reasonably identify what 2201
public records are being requested, the public office or the 2202
person responsible for the requested public record may deny the 2203
request but shall provide the requester with an opportunity to 2204
revise the request by informing the requester of the manner in 2205
which records are maintained by the public office and accessed 2206
in the ordinary course of the public office's or person's 2207
duties. 2208

(3) If a request is ultimately denied, in part or in 2209
whole, the public office or the person responsible for the 2210
requested public record shall provide the requester with an 2211
explanation, including legal authority, setting forth why the 2212
request was denied. If the initial request was provided in 2213
writing, the explanation also shall be provided to the requester 2214
in writing. The explanation shall not preclude the public office 2215

or the person responsible for the requested public record from 2216
relying upon additional reasons or legal authority in defending 2217
an action commenced under division (C) of this section. 2218

(4) Unless specifically required or authorized by state or 2219
federal law or in accordance with division (B) of this section, 2220
no public office or person responsible for public records may 2221
limit or condition the availability of public records by 2222
requiring disclosure of the requester's identity or the intended 2223
use of the requested public record. Any requirement that the 2224
requester disclose the requester's identity or the intended use 2225
of the requested public record constitutes a denial of the 2226
request. 2227

(5) A public office or person responsible for public 2228
records may ask a requester to make the request in writing, may 2229
ask for the requester's identity, and may inquire about the 2230
intended use of the information requested, but may do so only 2231
after disclosing to the requester that a written request is not 2232
mandatory, that the requester may decline to reveal the 2233
requester's identity or the intended use, and when a written 2234
request or disclosure of the identity or intended use would 2235
benefit the requester by enhancing the ability of the public 2236
office or person responsible for public records to identify, 2237
locate, or deliver the public records sought by the requester. 2238

(6) If any person requests a copy of a public record in 2239
accordance with division (B) of this section, the public office 2240
or person responsible for the public record may require the 2241
requester to pay in advance the cost involved in providing the 2242
copy of the public record in accordance with the choice made by 2243
the requester under this division. The public office or the 2244
person responsible for the public record shall permit the 2245

requester to choose to have the public record duplicated upon 2246
paper, upon the same medium upon which the public office or 2247
person responsible for the public record keeps it, or upon any 2248
other medium upon which the public office or person responsible 2249
for the public record determines that it reasonably can be 2250
duplicated as an integral part of the normal operations of the 2251
public office or person responsible for the public record. When 2252
the requester makes a choice under this division, the public 2253
office or person responsible for the public record shall provide 2254
a copy of it in accordance with the choice made by the 2255
requester. Nothing in this section requires a public office or 2256
person responsible for the public record to allow the requester 2257
of a copy of the public record to make the copies of the public 2258
record. 2259

(7) (a) Upon a request made in accordance with division (B) 2260
of this section and subject to division (B) (6) of this section, 2261
a public office or person responsible for public records shall 2262
transmit a copy of a public record to any person by United 2263
States mail or by any other means of delivery or transmission 2264
within a reasonable period of time after receiving the request 2265
for the copy. The public office or person responsible for the 2266
public record may require the person making the request to pay 2267
in advance the cost of postage if the copy is transmitted by 2268
United States mail or the cost of delivery if the copy is 2269
transmitted other than by United States mail, and to pay in 2270
advance the costs incurred for other supplies used in the 2271
mailing, delivery, or transmission. 2272

(b) Any public office may adopt a policy and procedures 2273
that it will follow in transmitting, within a reasonable period 2274
of time after receiving a request, copies of public records by 2275
United States mail or by any other means of delivery or 2276

transmission pursuant to division (B)(7) of this section. A 2277
public office that adopts a policy and procedures under division 2278
(B)(7) of this section shall comply with them in performing its 2279
duties under that division. 2280

(c) In any policy and procedures adopted under division 2281
(B)(7) of this section: 2282

(i) A public office may limit the number of records 2283
requested by a person that the office will physically deliver by 2284
United States mail or by another delivery service to ten per 2285
month, unless the person certifies to the office in writing that 2286
the person does not intend to use or forward the requested 2287
records, or the information contained in them, for commercial 2288
purposes; 2289

(ii) A public office that chooses to provide some or all 2290
of its public records on a web site that is fully accessible to 2291
and searchable by members of the public at all times, other than 2292
during acts of God outside the public office's control or 2293
maintenance, and that charges no fee to search, access, 2294
download, or otherwise receive records provided on the web site, 2295
may limit to ten per month the number of records requested by a 2296
person that the office will deliver in a digital format, unless 2297
the requested records are not provided on the web site and 2298
unless the person certifies to the office in writing that the 2299
person does not intend to use or forward the requested records, 2300
or the information contained in them, for commercial purposes. 2301

(iii) For purposes of division (B)(7) of this section, 2302
"commercial" shall be narrowly construed and does not include 2303
reporting or gathering news, reporting or gathering information 2304
to assist citizen oversight or understanding of the operation or 2305
activities of government, or nonprofit educational research. 2306

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(9) (a) Upon written request made and signed by a journalist, a public office, or person responsible for public records, having custody of the records of the agency employing a specified designated public service worker shall disclose to the journalist the address of the actual personal residence of the designated public service worker and, if the designated public service worker's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the designated public service worker's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B) (9) (a) of this section also applies to journalist requests for:

(i) Customer information maintained by a municipally owned

or operated public utility, other than social security numbers 2337
and any private financial information such as credit reports, 2338
payment methods, credit card numbers, and bank account 2339
information; 2340

(ii) Information about minors involved in a school vehicle 2341
accident as provided in division ~~(A) (1) (gg)~~ (A) (1) (ff) of this 2342
section, other than personal information as defined in section 2343
149.45 of the Revised Code. 2344

(c) As used in division (B) (9) of this section, 2345
"journalist" means a person engaged in, connected with, or 2346
employed by any news medium, including a newspaper, magazine, 2347
press association, news agency, or wire service, a radio or 2348
television station, or a similar medium, for the purpose of 2349
gathering, processing, transmitting, compiling, editing, or 2350
disseminating information for the general public. 2351

(10) Upon a request made by a victim, victim's attorney, 2352
or victim's representative, as that term is used in section 2353
2930.02 of the Revised Code, a public office or person 2354
responsible for public records shall transmit a copy of a 2355
depiction of the victim as described in division ~~(A) (1) (ii)~~ (A)
(1) (hh) of this section to the victim, victim's attorney, or 2356
victim's representative. 2357
2358

(C) (1) If a person allegedly is aggrieved by the failure 2359
of a public office or the person responsible for public records 2360
to promptly prepare a public record and to make it available to 2361
the person for inspection in accordance with division (B) of 2362
this section or by any other failure of a public office or the 2363
person responsible for public records to comply with an 2364
obligation in accordance with division (B) of this section, the 2365
person allegedly aggrieved may do only one of the following, and 2366

not both:	2367
(a) File a complaint with the clerk of the court of claims	2368
or the clerk of the court of common pleas under section 2743.75	2369
of the Revised Code;	2370
(b) Commence a mandamus action to obtain a judgment that	2371
orders the public office or the person responsible for the	2372
public record to comply with division (B) of this section, that	2373
awards court costs and reasonable attorney's fees to the person	2374
that instituted the mandamus action, and, if applicable, that	2375
includes an order fixing statutory damages under division (C) (2)	2376
of this section. The mandamus action may be commenced in the	2377
court of common pleas of the county in which division (B) of	2378
this section allegedly was not complied with, in the supreme	2379
court pursuant to its original jurisdiction under Section 2 of	2380
Article IV, Ohio Constitution, or in the court of appeals for	2381
the appellate district in which division (B) of this section	2382
allegedly was not complied with pursuant to its original	2383
jurisdiction under Section 3 of Article IV, Ohio Constitution.	2384
(2) If a requester transmits a written request by hand	2385
delivery, electronic submission, or certified mail to inspect or	2386
receive copies of any public record in a manner that fairly	2387
describes the public record or class of public records to the	2388
public office or person responsible for the requested public	2389
records, except as otherwise provided in this section, the	2390
requester shall be entitled to recover the amount of statutory	2391
damages set forth in this division if a court determines that	2392
the public office or the person responsible for public records	2393
failed to comply with an obligation in accordance with division	2394
(B) of this section.	2395
The amount of statutory damages shall be fixed at one	2396

hundred dollars for each business day during which the public 2397
office or person responsible for the requested public records 2398
failed to comply with an obligation in accordance with division 2399
(B) of this section, beginning with the day on which the 2400
requester files a mandamus action to recover statutory damages, 2401
up to a maximum of one thousand dollars. The award of statutory 2402
damages shall not be construed as a penalty, but as compensation 2403
for injury arising from lost use of the requested information. 2404
The existence of this injury shall be conclusively presumed. The 2405
award of statutory damages shall be in addition to all other 2406
remedies authorized by this section. 2407

The court may reduce an award of statutory damages or not 2408
award statutory damages if the court determines both of the 2409
following: 2410

(a) That, based on the ordinary application of statutory 2411
law and case law as it existed at the time of the conduct or 2412
threatened conduct of the public office or person responsible 2413
for the requested public records that allegedly constitutes a 2414
failure to comply with an obligation in accordance with division 2415
(B) of this section and that was the basis of the mandamus 2416
action, a well-informed public office or person responsible for 2417
the requested public records reasonably would believe that the 2418
conduct or threatened conduct of the public office or person 2419
responsible for the requested public records did not constitute 2420
a failure to comply with an obligation in accordance with 2421
division (B) of this section; 2422

(b) That a well-informed public office or person 2423
responsible for the requested public records reasonably would 2424
believe that the conduct or threatened conduct of the public 2425
office or person responsible for the requested public records 2426

would serve the public policy that underlies the authority that 2427
is asserted as permitting that conduct or threatened conduct. 2428

(3) In a mandamus action filed under division (C) (1) of 2429
this section, the following apply: 2430

(a) (i) If the court orders the public office or the person 2431
responsible for the public record to comply with division (B) of 2432
this section, the court shall determine and award to the relator 2433
all court costs, which shall be construed as remedial and not 2434
punitive. 2435

(ii) If the court makes a determination described in 2436
division (C) (3) (b) (iii) of this section, the court shall 2437
determine and award to the relator all court costs, which shall 2438
be construed as remedial and not punitive. 2439

(b) If the court renders a judgment that orders the public 2440
office or the person responsible for the public record to comply 2441
with division (B) of this section or if the court determines any 2442
of the following, the court may award reasonable attorney's fees 2443
to the relator, subject to division (C) (4) of this section: 2444

(i) The public office or the person responsible for the 2445
public records failed to respond affirmatively or negatively to 2446
the public records request in accordance with the time allowed 2447
under division (B) of this section. 2448

(ii) The public office or the person responsible for the 2449
public records promised to permit the relator to inspect or 2450
receive copies of the public records requested within a 2451
specified period of time but failed to fulfill that promise 2452
within that specified period of time. 2453

(iii) The public office or the person responsible for the 2454
public records acted in bad faith when the office or person 2455

voluntarily made the public records available to the relator for 2456
the first time after the relator commenced the mandamus action, 2457
but before the court issued any order concluding whether or not 2458
the public office or person was required to comply with division 2459
(B) of this section. No discovery may be conducted on the issue 2460
of the alleged bad faith of the public office or person 2461
responsible for the public records. This division shall not be 2462
construed as creating a presumption that the public office or 2463
the person responsible for the public records acted in bad faith 2464
when the office or person voluntarily made the public records 2465
available to the relator for the first time after the relator 2466
commenced the mandamus action, but before the court issued any 2467
order described in this division. 2468

(c) The court shall not award attorney's fees to the 2469
relator if the court determines both of the following: 2470

(i) That, based on the ordinary application of statutory 2471
law and case law as it existed at the time of the conduct or 2472
threatened conduct of the public office or person responsible 2473
for the requested public records that allegedly constitutes a 2474
failure to comply with an obligation in accordance with division 2475
(B) of this section and that was the basis of the mandamus 2476
action, a well-informed public office or person responsible for 2477
the requested public records reasonably would believe that the 2478
conduct or threatened conduct of the public office or person 2479
responsible for the requested public records did not constitute 2480
a failure to comply with an obligation in accordance with 2481
division (B) of this section; 2482

(ii) That a well-informed public office or person 2483
responsible for the requested public records reasonably would 2484
believe that the conduct or threatened conduct of the public 2485

office or person responsible for the requested public records 2486
would serve the public policy that underlies the authority that 2487
is asserted as permitting that conduct or threatened conduct. 2488

(4) All of the following apply to any award of reasonable 2489
attorney's fees awarded under division (C) (3) (b) of this 2490
section: 2491

(a) The fees shall be construed as remedial and not 2492
punitive. 2493

(b) The fees awarded shall not exceed the total of the 2494
reasonable attorney's fees incurred before the public record was 2495
made available to the relator and the fees described in division 2496
(C) (4) (c) of this section. 2497

(c) Reasonable attorney's fees shall include reasonable 2498
fees incurred to produce proof of the reasonableness and amount 2499
of the fees and to otherwise litigate entitlement to the fees. 2500

(d) The court may reduce the amount of fees awarded if the 2501
court determines that, given the factual circumstances involved 2502
with the specific public records request, an alternative means 2503
should have been pursued to more effectively and efficiently 2504
resolve the dispute that was subject to the mandamus action 2505
filed under division (C) (1) of this section. 2506

(5) If the court does not issue a writ of mandamus under 2507
division (C) of this section and the court determines at that 2508
time that the bringing of the mandamus action was frivolous 2509
conduct as defined in division (A) of section 2323.51 of the 2510
Revised Code, the court may award to the public office all court 2511
costs, expenses, and reasonable attorney's fees, as determined 2512
by the court. 2513

(D) Chapter 1347. of the Revised Code does not limit the 2514

provisions of this section. 2515

(E) (1) To ensure that all employees of public offices are 2516
appropriately educated about a public office's obligations under 2517
division (B) of this section, all elected officials or their 2518
appropriate designees shall attend training approved by the 2519
attorney general as provided in section 109.43 of the Revised 2520
Code. A future official may satisfy the requirements of this 2521
division by attending the training before taking office, 2522
provided that the future official may not send a designee in the 2523
future official's place. 2524

(2) All public offices shall adopt a public records policy 2525
in compliance with this section for responding to public records 2526
requests. In adopting a public records policy under this 2527
division, a public office may obtain guidance from the model 2528
public records policy developed and provided to the public 2529
office by the attorney general under section 109.43 of the 2530
Revised Code. Except as otherwise provided in this section, the 2531
policy may not limit the number of public records that the 2532
public office will make available to a single person, may not 2533
limit the number of public records that it will make available 2534
during a fixed period of time, and may not establish a fixed 2535
period of time before it will respond to a request for 2536
inspection or copying of public records, unless that period is 2537
less than eight hours. 2538

The public office shall distribute the public records 2539
policy adopted by the public office under this division to the 2540
employee of the public office who is the records custodian or 2541
records manager or otherwise has custody of the records of that 2542
office. The public office shall require that employee to 2543
acknowledge receipt of the copy of the public records policy. 2544

The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

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

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

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

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or database by a person who intends to use or

forward the copies for surveys, marketing, solicitation, or 2575
resale for commercial purposes. "Bulk commercial special 2576
extraction request" does not include a request by a person who 2577
gives assurance to the bureau that the person making the request 2578
does not intend to use or forward the requested copies for 2579
surveys, marketing, solicitation, or resale for commercial 2580
purposes. 2581

(c) "Commercial" means profit-seeking production, buying, 2582
or selling of any good, service, or other product. 2583

(d) "Special extraction costs" means the cost of the time 2584
spent by the lowest paid employee competent to perform the task, 2585
the actual amount paid to outside private contractors employed 2586
by the bureau, or the actual cost incurred to create computer 2587
programs to make the special extraction. "Special extraction 2588
costs" include any charges paid to a public agency for computer 2589
or records services. 2590

(3) For purposes of divisions (F) (1) and (2) of this 2591
section, "surveys, marketing, solicitation, or resale for 2592
commercial purposes" shall be narrowly construed and does not 2593
include reporting or gathering news, reporting or gathering 2594
information to assist citizen oversight or understanding of the 2595
operation or activities of government, or nonprofit educational 2596
research. 2597

(G) A request by a defendant, counsel of a defendant, or 2598
any agent of a defendant in a criminal action that public 2599
records related to that action be made available under this 2600
section shall be considered a demand for discovery pursuant to 2601
the Criminal Rules, except to the extent that the Criminal Rules 2602
plainly indicate a contrary intent. The defendant, counsel of 2603
the defendant, or agent of the defendant making a request under 2604

this division shall serve a copy of the request on the 2605
prosecuting attorney, director of law, or other chief legal 2606
officer responsible for prosecuting the action. 2607

(H) (1) Any portion of a body-worn camera or dashboard 2608
camera recording described in divisions (A) (17) (b) to (h) of 2609
this section may be released by consent of the subject of the 2610
recording or a representative of that person, as specified in 2611
those divisions, only if either of the following applies: 2612

(a) The recording will not be used in connection with any 2613
probable or pending criminal proceedings; 2614

(b) The recording has been used in connection with a 2615
criminal proceeding that was dismissed or for which a judgment 2616
has been entered pursuant to Rule 32 of the Rules of Criminal 2617
Procedure, and will not be used again in connection with any 2618
probable or pending criminal proceedings. 2619

(2) If a public office denies a request to release a 2620
restricted portion of a body-worn camera or dashboard camera 2621
recording, as defined in division (A) (17) of this section, any 2622
person may file a mandamus action pursuant to this section or a 2623
complaint with the clerk of the court of claims pursuant to 2624
section 2743.75 of the Revised Code, requesting the court to 2625
order the release of all or portions of the recording. If the 2626
court considering the request determines that the filing 2627
articulates by clear and convincing evidence that the public 2628
interest in the recording substantially outweighs privacy 2629
interests and other interests asserted to deny release, the 2630
court shall order the public office to release the recording. 2631

Sec. 149.436. Notwithstanding division ~~(A) (1) (gg)~~ (A) (1) 2632
(ff) of section 149.43 of the Revised Code, upon written request 2633

made and signed by the parent or guardian of an individual who 2634
is less than eighteen years of age and was an occupant of a 2635
school vehicle involved in a traffic accident, a public office 2636
or person responsible for public records, having custody of any 2637
record related to the traffic accident containing the personal 2638
information of the individual, shall transmit a copy of that 2639
record to the recipient identified in the request. 2640

The written request shall identify the individual on whose 2641
behalf the record is requested and the person to whom the record 2642
shall be transmitted. The record shall be transmitted only to 2643
the person identified in the written request as the recipient of 2644
the record. 2645

A public office or person responsible for records 2646
responding to a request under this section shall redact any 2647
personal information contained in the record of any individual 2648
less than eighteen years of age who is not the subject of the 2649
request, before providing the record to the recipient. 2650

Sec. 1901.183. In addition to jurisdiction otherwise 2651
granted in this chapter, the environmental division of a 2652
municipal court shall have jurisdiction within its territory in 2653
all of the following actions or proceedings and to perform all 2654
of the following functions: 2655

(A) Notwithstanding any monetary limitations in section 2656
1901.17 of the Revised Code, in all actions and proceedings for 2657
the sale of real or personal property under lien of a judgment 2658
of the environmental division of the municipal court, or a lien 2659
for machinery, material, fuel furnished, or labor performed, 2660
irrespective of amount, and, in those cases, the environmental 2661
division may proceed to foreclose and marshal all liens and all 2662
vested or contingent rights, to appoint a receiver, and to 2663

render personal judgment irrespective of amount in favor of any party;

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

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

(D) In all actions for injunction to prevent or terminate violations of the ordinances and regulations of any municipal corporation within its territory enacted or promulgated under the police power of that municipal corporation pursuant to Section 3 of Article XVIII, Ohio Constitution, over which the court of common pleas has or may have jurisdiction, and, in those cases, the environmental division of the municipal court may proceed to render judgments, and make findings and orders, in the same manner and to the same extent as in similar cases in the court of common pleas;

(E) In all actions for injunction to prevent or terminate violations of the resolutions and regulations of any political subdivision within its territory enacted or promulgated under

the power of that political subdivision pursuant to Article X of 2694
the Ohio Constitution, over which the court of common pleas has 2695
or may have jurisdiction, and, in those cases, the environmental 2696
division of the municipal court may proceed to render judgments, 2697
and make findings and orders, in the same manner and to the same 2698
extent as in similar cases in the court of common pleas; 2699

(F) In any civil action to enforce any provision of 2700
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 2701
Revised Code over which the court of common pleas has or may 2702
have jurisdiction, and, in those actions, the environmental 2703
division of the municipal court may proceed to render judgments, 2704
and make findings and orders, in the same manner and to the same 2705
extent as in similar actions in the court of common pleas; 2706

(G) In all actions and proceedings in the nature of 2707
creditors' bills, and in aid of execution to subject the 2708
interests of a judgment debtor in real or personal property to 2709
the payment of a judgment of the division, and, in those actions 2710
and proceedings, the environmental division may proceed to 2711
marshal and foreclose all liens on the property irrespective of 2712
the amount of the lien, and all vested or contingent rights in 2713
the property; 2714

(H) Concurrent jurisdiction with the court of common pleas 2715
of all criminal actions or proceedings related to the pollution 2716
of the air, ground, or water within the territory of the 2717
environmental division of the municipal court, ~~for which a~~ 2718
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 2719
~~Revised Code;~~ 2720

(I) In any review or appeal of any final order of any 2721
administrative officer, agency, board, department, tribunal, 2722
commission, or other instrumentality that relates to a local 2723

building, housing, air pollution, sanitation, health, fire, 2724
zoning, or safety code, ordinance, or regulation, in the same 2725
manner and to the same extent as in similar appeals in the court 2726
of common pleas; 2727

(J) With respect to the environmental division of the 2728
Franklin county municipal court, to hear appeals from 2729
adjudication hearings conducted under Chapter 956. of the 2730
Revised Code. 2731

Sec. 2152.13. (A) A juvenile court shall impose a serious 2732
youthful dispositional sentence on a child when required under 2733
division (B) (3) of section 2152.121 of the Revised Code. In such 2734
a case, the remaining provisions of this division and divisions 2735
(B) and (C) do not apply to the child, and the court shall 2736
impose the mandatory serious youthful dispositional sentence 2737
under division (D) (1) of this section. 2738

In all other cases, a juvenile court may impose a serious 2739
youthful offender dispositional sentence on a child only if the 2740
prosecuting attorney of the county in which the delinquent act 2741
allegedly occurred initiates the process against the child in 2742
accordance with this division, and the child is an alleged 2743
delinquent child who is eligible for the dispositional sentence. 2744
The prosecuting attorney may initiate the process in any of the 2745
following ways: 2746

(1) Obtaining an indictment of the child as a serious 2747
youthful offender; 2748

(2) The child waives the right to indictment, charging the 2749
child in a bill of information as a serious youthful offender; 2750

(3) Until an indictment or information is obtained, 2751
requesting a serious youthful offender dispositional sentence in 2752

the original complaint alleging that the child is a delinquent 2753
child; 2754

(4) Until an indictment or information is obtained, if the 2755
original complaint does not request a serious youthful offender 2756
dispositional sentence, filing with the juvenile court a written 2757
notice of intent to seek a serious youthful offender 2758
dispositional sentence within twenty days after the later of the 2759
following, unless the time is extended by the juvenile court for 2760
good cause shown: 2761

(a) The date of the child's first juvenile court hearing 2762
regarding the complaint; 2763

(b) The date the juvenile court determines not to transfer 2764
the case under section 2152.12 of the Revised Code. 2765

After a written notice is filed under division (A) (4) of 2766
this section, the juvenile court shall serve a copy of the 2767
notice on the child and advise the child of the prosecuting 2768
attorney's intent to seek a serious youthful offender 2769
dispositional sentence in the case. 2770

(B) If an alleged delinquent child is not indicted or 2771
charged by information as described in division (A) (1) or (2) of 2772
this section and if a notice or complaint as described in 2773
division (A) (3) or (4) of this section indicates that the 2774
prosecuting attorney intends to pursue a serious youthful 2775
offender dispositional sentence in the case, the juvenile court 2776
shall hold a preliminary hearing to determine if there is 2777
probable cause that the child committed the act charged and is 2778
by age eligible for, or required to receive, a serious youthful 2779
offender dispositional sentence. 2780

(C) (1) A child for whom a serious youthful offender 2781

dispositional sentence is sought by a prosecuting attorney has 2782
the right to a grand jury determination of probable cause that 2783
the child committed the act charged and that the child is 2784
eligible by age for a serious youthful offender dispositional 2785
sentence. The grand jury may be impaneled by the court of common 2786
pleas or the juvenile court. 2787

Once a child is indicted, or charged by information or the 2788
juvenile court determines that the child is eligible for a 2789
serious youthful offender dispositional sentence, the child is 2790
entitled to an open and speedy trial by jury in juvenile court 2791
and to be provided with a transcript of the proceedings. The 2792
time within which the trial is to be held under Title XXIX of 2793
the Revised Code commences on whichever of the following dates 2794
is applicable: 2795

(a) If the child is indicted or charged by information, on 2796
the date of the filing of the indictment or information. 2797

(b) If the child is charged by an original complaint that 2798
requests a serious youthful offender dispositional sentence, on 2799
the date of the filing of the complaint. 2800

(c) If the child is not charged by an original complaint 2801
that requests a serious youthful offender dispositional 2802
sentence, on the date that the prosecuting attorney files the 2803
written notice of intent to seek a serious youthful offender 2804
dispositional sentence. 2805

(2) If the child is detained awaiting adjudication, upon 2806
indictment or being charged by information, the child has the 2807
same right to bail as an adult charged with the offense the 2808
alleged delinquent act would be if committed by an adult. Except 2809
as provided in division (D) of section 2152.14 of the Revised 2810

Code, all provisions of Title XXIX of the Revised Code and the 2811
Criminal Rules shall apply in the case and to the child. The 2812
juvenile court shall afford the child all rights afforded a 2813
person who is prosecuted for committing a crime including the 2814
right to counsel and the right to raise the issue of competency. 2815
The child may not waive the right to counsel. 2816

(D) (1) If a child is adjudicated a delinquent child for 2817
committing an act under circumstances that require the juvenile 2818
court to impose upon the child a serious youthful offender 2819
dispositional sentence under section 2152.11 of the Revised 2820
Code, all of the following apply: 2821

(a) The juvenile court shall impose upon the child a 2822
sentence available for the violation, as if the child were an 2823
adult, under Chapter 2929. of the Revised Code, except that the 2824
juvenile court shall not impose on the child a sentence of ~~death~~ 2825
~~or~~-life imprisonment without parole. 2826

(b) The juvenile court also shall impose upon the child 2827
one or more traditional juvenile dispositions under sections 2828
2152.16, 2152.19, and 2152.20, and, if applicable, section 2829
2152.17 of the Revised Code. 2830

(c) The juvenile court shall stay the adult portion of the 2831
serious youthful offender dispositional sentence pending the 2832
successful completion of the traditional juvenile dispositions 2833
imposed. 2834

(2) (a) If a child is adjudicated a delinquent child for 2835
committing an act under circumstances that allow, but do not 2836
require, the juvenile court to impose on the child a serious 2837
youthful offender dispositional sentence under section 2152.11 2838
of the Revised Code, all of the following apply: 2839

(i) If the juvenile court on the record makes a finding 2840
that, given the nature and circumstances of the violation and 2841
the history of the child, the length of time, level of security, 2842
and types of programming and resources available in the juvenile 2843
system alone are not adequate to provide the juvenile court with 2844
a reasonable expectation that the purposes set forth in section 2845
2152.01 of the Revised Code will be met, the juvenile court may 2846
impose upon the child a sentence available for the violation, as 2847
if the child were an adult, under Chapter 2929. of the Revised 2848
Code, except that the juvenile court shall not impose on the 2849
child a sentence of ~~death or~~ life imprisonment without parole. 2850

(ii) If a sentence is imposed under division (D) (2) (a) (i) 2851
of this section, the juvenile court also shall impose upon the 2852
child one or more traditional juvenile dispositions under 2853
sections 2152.16, 2152.19, and 2152.20 and, if applicable, 2854
section 2152.17 of the Revised Code. 2855

(iii) The juvenile court shall stay the adult portion of 2856
the serious youthful offender dispositional sentence pending the 2857
successful completion of the traditional juvenile dispositions 2858
imposed. 2859

(b) If the juvenile court does not find that a sentence 2860
should be imposed under division (D) (2) (a) (i) of this section, 2861
the juvenile court may impose one or more traditional juvenile 2862
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 2863
applicable, section 2152.17 of the Revised Code. 2864

(3) A child upon whom a serious youthful offender 2865
dispositional sentence is imposed under division (D) (1) or (2) 2866
of this section has a right to appeal under division (A) (1), 2867
(3), (4), or (5) of section 2953.08 of the Revised Code the 2868
adult portion of the serious youthful offender dispositional 2869

sentence when any of those divisions apply. The child may appeal 2870
the adult portion, and the court shall consider the appeal as if 2871
the adult portion were not stayed. 2872

Sec. 2152.67. Any adult who is arrested or charged under 2873
any provision in this chapter and who is charged with a crime 2874
may demand a trial by jury, or the juvenile judge upon the 2875
judge's own motion may call a jury. A demand for a jury trial 2876
shall be made in writing in not less than three days before the 2877
date set for trial, or within three days after counsel has been 2878
retained, whichever is later. Sections 2945.17 and 2945.23 to 2879
2945.36 of the Revised Code, relating to the drawing and 2880
impaneling of jurors in criminal cases in the court of common 2881
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 2882
under this section. The compensation of jurors and costs of the 2883
clerk and sheriff shall be taxed and paid in the same manner as 2884
in criminal cases in the court of common pleas. 2885

Sec. 2301.20. All civil and criminal actions in the court 2886
of common pleas shall be recorded. The reporter shall take 2887
accurate notes of or electronically record the oral testimony. 2888
The notes and electronic records shall be filed in the office of 2889
the official reporter and carefully preserved for either of the 2890
following periods of time: 2891

(A) If the action is not a ~~capital case~~ in which a 2892
sentence of life imprisonment has been imposed or a case in 2893
which, prior to the effective date of this amendment, a sentence 2894
of death was imposed, the notes and electronic records shall be 2895
preserved for the period of time specified by the court of 2896
common pleas, which period of time shall not be longer than the 2897
period of time that the other records of the particular action 2898
are required to be kept. 2899

(B) If the action is a ~~capital case~~, in which a sentence 2900
of life imprisonment has been imposed or a case in which, prior 2901
to the effective date of this amendment, a sentence of death has 2902
been imposed the notes and electronic records shall be preserved 2903
for the longer of ten years or until the final disposition of 2904
the action and exhaustion of all appeals. 2905

Sec. 2307.60. (A) (1) Anyone injured in person or property 2906
by a criminal act has, and may recover full damages in, a civil 2907
action unless specifically excepted by law, may recover the 2908
costs of maintaining the civil action and attorney's fees if 2909
authorized by any provision of the Rules of Civil Procedure or 2910
another section of the Revised Code or under the common law of 2911
this state, and may recover punitive or exemplary damages if 2912
authorized by section 2315.21 or another section of the Revised 2913
Code. 2914

(2) A final judgment of a trial court that has not been 2915
reversed on appeal or otherwise set aside, nullified, or 2916
vacated, entered after a trial or upon a plea of guilty, but not 2917
upon a plea of no contest or the equivalent plea from another 2918
jurisdiction, that adjudges an offender guilty of an offense of 2919
violence punishable by ~~death or~~ imprisonment in excess of one 2920
year, when entered as evidence in any subsequent civil 2921
proceeding based on the criminal act, shall preclude the 2922
offender from denying in the subsequent civil proceeding any 2923
fact essential to sustaining that judgment, unless the offender 2924
can demonstrate that extraordinary circumstances prevented the 2925
offender from having a full and fair opportunity to litigate the 2926
issue in the criminal proceeding or other extraordinary 2927
circumstances justify affording the offender an opportunity to 2928
relitigate the issue. The offender may introduce evidence of the 2929
offender's pending appeal of the final judgment of the trial 2930

court, if applicable, and the court may consider that evidence 2931
in determining the liability of the offender. 2932

(B) (1) As used in division (B) of this section: 2933

(a) "Tort action" means a civil action for damages for 2934
injury, death, or loss to person or property other than a civil 2935
action for damages for a breach of contract or another agreement 2936
between persons. "Tort action" includes, but is not limited to, 2937
a product liability claim, as defined in section 2307.71 of the 2938
Revised Code, and an asbestos claim, as defined in section 2939
2307.91 of the Revised Code, an action for wrongful death under 2940
Chapter 2125. of the Revised Code, and an action based on 2941
derivative claims for relief. 2942

(b) "Residence" has the same meaning as in section 2901.05 2943
of the Revised Code. 2944

(2) Recovery on a claim for relief in a tort action is 2945
barred to any person or the person's legal representative if any 2946
of the following apply: 2947

(a) The person has been convicted of or has pleaded guilty 2948
to a felony, or to a misdemeanor that is an offense of violence, 2949
arising out of criminal conduct that was a proximate cause of 2950
the injury or loss for which relief is claimed in the tort 2951
action. 2952

(b) The person engaged in conduct that, if prosecuted, 2953
would constitute a felony, a misdemeanor that is an offense of 2954
violence, an attempt to commit a felony, or an attempt to commit 2955
a misdemeanor that is an offense of violence and that conduct 2956
was a proximate cause of the injury or loss for which relief is 2957
claimed in the tort action, regardless of whether the person has 2958
been convicted of or pleaded guilty to or has been charged with 2959

committing the felony, the misdemeanor, or the attempt to commit 2960
the felony or misdemeanor. 2961

(c) The person suffered the injury or loss for which 2962
relief is claimed in the tort action as a proximate result of 2963
the victim of conduct that, if prosecuted, would constitute a 2964
felony, a misdemeanor that is an offense of violence, an attempt 2965
to commit a felony, or an attempt to commit a misdemeanor that 2966
is an offense of violence acting against the person in self- 2967
defense, defense of another, or defense of the victim's 2968
residence, regardless of whether the person has been convicted 2969
of or pleaded guilty to or has been charged with committing the 2970
felony, the misdemeanor, or the attempt to commit the felony or 2971
misdemeanor. Division (B) (2) (c) of this section does not apply 2972
if the person who suffered the injury or loss, at the time of 2973
the victim's act of self-defense, defense of another, or defense 2974
of residence, was an innocent bystander who had no connection 2975
with the underlying conduct that prompted the victim's exercise 2976
of self-defense, defense of another, or defense of residence. 2977

(3) Recovery against a victim of conduct that, if 2978
prosecuted, would constitute a felony, a misdemeanor that is an 2979
offense of violence, an attempt to commit a felony, or an 2980
attempt to commit a misdemeanor that is an offense of violence, 2981
on a claim for relief in a tort action is barred to any person 2982
or the person's legal representative if conduct the person 2983
engaged in against that victim was a proximate cause of the 2984
injury or loss for which relief is claimed in the tort action 2985
and that conduct, if prosecuted, would constitute a felony, a 2986
misdemeanor that is an offense of violence, an attempt to commit 2987
a felony, or an attempt to commit a misdemeanor that is an 2988
offense of violence, regardless of whether the person has been 2989
convicted of or pleaded guilty to or has been charged with 2990

committing the felony, the misdemeanor, or the attempt to commit 2991
the felony or misdemeanor. 2992

(4) Divisions (B) (1) to (3) of this section do not apply 2993
to civil claims based upon alleged intentionally tortious 2994
conduct, alleged violations of the United States Constitution, 2995
or alleged violations of statutes of the United States 2996
pertaining to civil rights. For purposes of division (B) (4) of 2997
this section, a person's act of self-defense, defense of 2998
another, or defense of the person's residence does not 2999
constitute intentionally tortious conduct. 3000

Sec. 2317.02. The following persons shall not testify in 3001
certain respects: 3002

(A) (1) An attorney, concerning a communication made to the 3003
attorney by a client in that relation or concerning the 3004
attorney's advice to a client, except that the attorney may 3005
testify by express consent of the client or, if the client is 3006
deceased, by the express consent of the surviving spouse or the 3007
executor or administrator of the estate of the deceased client. 3008
However, if the client voluntarily reveals the substance of 3009
attorney-client communications in a nonprivileged context or is 3010
deemed by section 2151.421 of the Revised Code to have waived 3011
any testimonial privilege under this division, the attorney may 3012
be compelled to testify on the same subject. 3013

The testimonial privilege established under this division 3014
does not apply concerning ~~either of the following:~~ 3015

~~(a) A communication between a client in a capital case, as 3016
defined in section 2901.02 of the Revised Code, and the client's 3017
attorney if the communication is relevant to a subsequent 3018
ineffective assistance of counsel claim by the client alleging 3019~~

~~that the attorney did not effectively represent the client in-~~ 3020
~~the case;~~ 3021

~~(b) A~~ a communication between a client who has since died 3022
and the deceased client's attorney if the communication is 3023
relevant to a dispute between parties who claim through that 3024
deceased client, regardless of whether the claims are by testate 3025
or intestate succession or by inter vivos transaction, and the 3026
dispute addresses the competency of the deceased client when the 3027
deceased client executed a document that is the basis of the 3028
dispute or whether the deceased client was a victim of fraud, 3029
undue influence, or duress when the deceased client executed a 3030
document that is the basis of the dispute. 3031

(2) An attorney, concerning a communication made to the 3032
attorney by a client in that relationship or the attorney's 3033
advice to a client, except that if the client is an insurance 3034
company, the attorney may be compelled to testify, subject to an 3035
in camera inspection by a court, about communications made by 3036
the client to the attorney or by the attorney to the client that 3037
are related to the attorney's aiding or furthering an ongoing or 3038
future commission of bad faith by the client, if the party 3039
seeking disclosure of the communications has made a prima-facie 3040
showing of bad faith, fraud, or criminal misconduct by the 3041
client. 3042

(B) (1) A physician, advanced practice registered nurse, or 3043
dentist concerning a communication made to the physician, 3044
advanced practice registered nurse, or dentist by a patient in 3045
that relation or the advice of a physician, advanced practice 3046
registered nurse, or dentist given to a patient, except as 3047
otherwise provided in this division, division (B) (2), and 3048
division (B) (3) of this section, and except that, if the patient 3049

is deemed by section 2151.421 of the Revised Code to have waived 3050
any testimonial privilege under this division, the physician or 3051
advanced practice registered nurse may be compelled to testify 3052
on the same subject. 3053

The testimonial privilege established under this division 3054
does not apply, and a physician, advanced practice registered 3055
nurse, or dentist may testify or may be compelled to testify, in 3056
any of the following circumstances: 3057

(a) In any civil action, in accordance with the discovery 3058
provisions of the Rules of Civil Procedure in connection with a 3059
civil action, or in connection with a claim under Chapter 4123. 3060
of the Revised Code, under any of the following circumstances: 3061

(i) If the patient or the guardian or other legal 3062
representative of the patient gives express consent; 3063

(ii) If the patient is deceased, the spouse of the patient 3064
or the executor or administrator of the patient's estate gives 3065
express consent; 3066

(iii) If a medical claim, dental claim, chiropractic 3067
claim, or optometric claim, as defined in section 2305.113 of 3068
the Revised Code, an action for wrongful death, any other type 3069
of civil action, or a claim under Chapter 4123. of the Revised 3070
Code is filed by the patient, the personal representative of the 3071
estate of the patient if deceased, or the patient's guardian or 3072
other legal representative. 3073

(b) In any civil action concerning court-ordered treatment 3074
or services received by a patient, if the court-ordered 3075
treatment or services were ordered as part of a case plan 3076
journalized under section 2151.412 of the Revised Code or the 3077
court-ordered treatment or services are necessary or relevant to 3078

dependency, neglect, or abuse or temporary or permanent custody 3079
proceedings under Chapter 2151. of the Revised Code. 3080

(c) In any criminal action concerning any test or the 3081
results of any test that determines the presence or 3082
concentration of alcohol, a drug of abuse, a combination of 3083
them, a controlled substance, or a metabolite of a controlled 3084
substance in the patient's whole blood, blood serum or plasma, 3085
breath, urine, or other bodily substance at any time relevant to 3086
the criminal offense in question. 3087

(d) In any criminal action against a physician, advanced 3088
practice registered nurse, or dentist. In such an action, the 3089
testimonial privilege established under this division does not 3090
prohibit the admission into evidence, in accordance with the 3091
Rules of Evidence, of a patient's medical or dental records or 3092
other communications between a patient and the physician, 3093
advanced practice registered nurse, or dentist that are related 3094
to the action and obtained by subpoena, search warrant, or other 3095
lawful means. A court that permits or compels a physician, 3096
advanced practice registered nurse, or dentist to testify in 3097
such an action or permits the introduction into evidence of 3098
patient records or other communications in such an action shall 3099
require that appropriate measures be taken to ensure that the 3100
confidentiality of any patient named or otherwise identified in 3101
the records is maintained. Measures to ensure confidentiality 3102
that may be taken by the court include sealing its records or 3103
deleting specific information from its records. 3104

(e) (i) If the communication was between a patient who has 3105
since died and the deceased patient's physician, advanced 3106
practice registered nurse, or dentist, the communication is 3107
relevant to a dispute between parties who claim through that 3108

deceased patient, regardless of whether the claims are by 3109
testate or intestate succession or by inter vivos transaction, 3110
and the dispute addresses the competency of the deceased patient 3111
when the deceased patient executed a document that is the basis 3112
of the dispute or whether the deceased patient was a victim of 3113
fraud, undue influence, or duress when the deceased patient 3114
executed a document that is the basis of the dispute. 3115

(ii) If neither the spouse of a patient nor the executor 3116
or administrator of that patient's estate gives consent under 3117
division (B) (1) (a) (ii) of this section, testimony or the 3118
disclosure of the patient's medical records by a physician, 3119
advanced practice registered nurse, dentist, or other health 3120
care provider under division (B) (1) (e) (i) of this section is a 3121
permitted use or disclosure of protected health information, as 3122
defined in 45 C.F.R. 160.103, and an authorization or 3123
opportunity to be heard shall not be required. 3124

(iii) Division (B) (1) (e) (i) of this section does not 3125
require a mental health professional to disclose psychotherapy 3126
notes, as defined in 45 C.F.R. 164.501. 3127

(iv) An interested person who objects to testimony or 3128
disclosure under division (B) (1) (e) (i) of this section may seek 3129
a protective order pursuant to Civil Rule 26. 3130

(v) A person to whom protected health information is 3131
disclosed under division (B) (1) (e) (i) of this section shall not 3132
use or disclose the protected health information for any purpose 3133
other than the litigation or proceeding for which the 3134
information was requested and shall return the protected health 3135
information to the covered entity or destroy the protected 3136
health information, including all copies made, at the conclusion 3137
of the litigation or proceeding. 3138

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

(b) If a health care provider possesses any records of the type described in division (B) (2) (a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this

division shall be construed to limit the right of any party to 3170
call as a witness the person who administered the test to which 3171
the records pertain, the person under whose supervision the test 3172
was administered, the custodian of the records, the person who 3173
made the records, or the person under whose supervision the 3174
records were made. 3175

(3) (a) If the testimonial privilege described in division 3176
(B) (1) of this section does not apply as provided in division 3177
(B) (1) (a) (iii) of this section, a physician, advanced practice 3178
registered nurse, or dentist may be compelled to testify or to 3179
submit to discovery under the Rules of Civil Procedure only as 3180
to a communication made to the physician, advanced practice 3181
registered nurse, or dentist by the patient in question in that 3182
relation, or the advice of the physician, advanced practice 3183
registered nurse, or dentist given to the patient in question, 3184
that related causally or historically to physical or mental 3185
injuries that are relevant to issues in the medical claim, 3186
dental claim, chiropractic claim, or optometric claim, action 3187
for wrongful death, other civil action, or claim under Chapter 3188
4123. of the Revised Code. 3189

(b) If the testimonial privilege described in division (B) 3190
(1) of this section does not apply to a physician, advanced 3191
practice registered nurse, or dentist as provided in division 3192
(B) (1) (c) of this section, the physician, advanced practice 3193
registered nurse, or dentist, in lieu of personally testifying 3194
as to the results of the test in question, may submit a 3195
certified copy of those results, and, upon its submission, the 3196
certified copy is qualified as authentic evidence and may be 3197
admitted as evidence in accordance with the Rules of Evidence. 3198
Division (A) of section 2317.422 of the Revised Code does not 3199
apply to any certified copy of results submitted in accordance 3200

with this division. Nothing in this division shall be construed 3201
to limit the right of any party to call as a witness the person 3202
who administered the test in question, the person under whose 3203
supervision the test was administered, the custodian of the 3204
results of the test, the person who compiled the results, or the 3205
person under whose supervision the results were compiled. 3206

(4) The testimonial privilege described in division (B) (1) 3207
of this section is not waived when a communication is made by a 3208
physician or advanced practice registered nurse to a pharmacist 3209
or when there is communication between a patient and a 3210
pharmacist in furtherance of the physician-patient or advanced 3211
practice registered nurse-patient relation. 3212

(5) (a) As used in divisions (B) (1) to (4) of this section, 3213
"communication" means acquiring, recording, or transmitting any 3214
information, in any manner, concerning any facts, opinions, or 3215
statements necessary to enable a physician, advanced practice 3216
registered nurse, or dentist to diagnose, treat, prescribe, or 3217
act for a patient. A "communication" may include, but is not 3218
limited to, any medical or dental, office, or hospital 3219
communication such as a record, chart, letter, memorandum, 3220
laboratory test and results, x-ray, photograph, financial 3221
statement, diagnosis, or prognosis. 3222

(b) As used in division (B) (2) of this section, "health 3223
care provider" means a hospital, ambulatory care facility, long- 3224
term care facility, pharmacy, emergency facility, or health care 3225
practitioner. 3226

(c) As used in division (B) (5) (b) of this section: 3227

(i) "Ambulatory care facility" means a facility that 3228
provides medical, diagnostic, or surgical treatment to patients 3229

who do not require hospitalization, including a dialysis center, 3230
ambulatory surgical facility, cardiac catheterization facility, 3231
diagnostic imaging center, extracorporeal shock wave lithotripsy 3232
center, home health agency, inpatient hospice, birthing center, 3233
radiation therapy center, emergency facility, and an urgent care 3234
center. "Ambulatory health care facility" does not include the 3235
private office of a physician, advanced practice registered 3236
nurse, or dentist, whether the office is for an individual or 3237
group practice. 3238

(ii) "Emergency facility" means a hospital emergency 3239
department or any other facility that provides emergency medical 3240
services. 3241

(iii) "Health care practitioner" has the same meaning as 3242
in section 4769.01 of the Revised Code. 3243

(iv) "Hospital" has the same meaning as in section 3727.01 3244
of the Revised Code. 3245

(v) "Long-term care facility" means a nursing home, 3246
residential care facility, or home for the aging, as those terms 3247
are defined in section 3721.01 of the Revised Code; a 3248
residential facility licensed under section 5119.34 of the 3249
Revised Code that provides accommodations, supervision, and 3250
personal care services for three to sixteen unrelated adults; a 3251
nursing facility, as defined in section 5165.01 of the Revised 3252
Code; a skilled nursing facility, as defined in section 5165.01 3253
of the Revised Code; and an intermediate care facility for 3254
individuals with intellectual disabilities, as defined in 3255
section 5124.01 of the Revised Code. 3256

(vi) "Pharmacy" has the same meaning as in section 4729.01 3257
of the Revised Code. 3258

(d) As used in divisions (B) (1) and (2) of this section, 3259
"drug of abuse" has the same meaning as in section 4506.01 of 3260
the Revised Code. 3261

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 3262
section apply to doctors of medicine, doctors of osteopathic 3263
medicine, doctors of podiatry, advanced practice registered 3264
nurses, and dentists. 3265

(7) Nothing in divisions (B) (1) to (6) of this section 3266
affects, or shall be construed as affecting, the immunity from 3267
civil liability conferred by section 307.628 of the Revised Code 3268
or the immunity from civil liability conferred by section 3269
2305.33 of the Revised Code upon physicians or advanced practice 3270
registered nurses who report an employee's use of a drug of 3271
abuse, or a condition of an employee other than one involving 3272
the use of a drug of abuse, to the employer of the employee in 3273
accordance with division (B) of that section. As used in 3274
division (B) (7) of this section, "employee," "employer," and 3275
"physician" have the same meanings as in section 2305.33 of the 3276
Revised Code and "advanced practice registered nurse" has the 3277
same meaning as in section 4723.01 of the Revised Code. 3278

(C) (1) A cleric, when the cleric remains accountable to 3279
the authority of that cleric's church, denomination, or sect, 3280
concerning a confession made, or any information confidentially 3281
communicated, to the cleric for a religious counseling purpose 3282
in the cleric's professional character. The cleric may testify 3283
by express consent of the person making the communication, 3284
except when the disclosure of the information is in violation of 3285
a sacred trust and except that, if the person voluntarily 3286
testifies or is deemed by division (A) (4) (c) of section 2151.421 3287
of the Revised Code to have waived any testimonial privilege 3288

under this division, the cleric may be compelled to testify on 3289
the same subject except when disclosure of the information is in 3290
violation of a sacred trust. 3291

(2) As used in division (C) of this section: 3292

(a) "Cleric" means a member of the clergy, rabbi, priest, 3293
Christian Science practitioner, or regularly ordained, 3294
accredited, or licensed minister of an established and legally 3295
cognizable church, denomination, or sect. 3296

(b) "Sacred trust" means a confession or confidential 3297
communication made to a cleric in the cleric's ecclesiastical 3298
capacity in the course of discipline enjoined by the church to 3299
which the cleric belongs, including, but not limited to, the 3300
Catholic Church, if both of the following apply: 3301

(i) The confession or confidential communication was made 3302
directly to the cleric. 3303

(ii) The confession or confidential communication was made 3304
in the manner and context that places the cleric specifically 3305
and strictly under a level of confidentiality that is considered 3306
inviolable by canon law or church doctrine. 3307

(D) Husband or wife, concerning any communication made by 3308
one to the other, or an act done by either in the presence of 3309
the other, during coverture, unless the communication was made, 3310
or act done, in the known presence or hearing of a third person 3311
competent to be a witness; and such rule is the same if the 3312
marital relation has ceased to exist; 3313

(E) A person who assigns a claim or interest, concerning 3314
any matter in respect to which the person would not, if a party, 3315
be permitted to testify; 3316

(F) A person who, if a party, would be restricted under 3317
section 2317.03 of the Revised Code, when the property or thing 3318
is sold or transferred by an executor, administrator, guardian, 3319
trustee, heir, devisee, or legatee, shall be restricted in the 3320
same manner in any action or proceeding concerning the property 3321
or thing. 3322

(G) (1) A school guidance counselor who holds a valid 3323
educator license from the state board of education as provided 3324
for in section 3319.22 of the Revised Code, a person licensed 3325
under Chapter 4757. of the Revised Code as a licensed 3326
professional clinical counselor, licensed professional 3327
counselor, social worker, independent social worker, marriage 3328
and family therapist or independent marriage and family 3329
therapist, or registered under Chapter 4757. of the Revised Code 3330
as a social work assistant concerning a confidential 3331
communication received from a client in that relation or the 3332
person's advice to a client unless any of the following applies: 3333

(a) The communication or advice indicates clear and 3334
present danger to the client or other persons. For the purposes 3335
of this division, cases in which there are indications of 3336
present or past child abuse or neglect of the client constitute 3337
a clear and present danger. 3338

(b) The client gives express consent to the testimony. 3339

(c) If the client is deceased, the surviving spouse or the 3340
executor or administrator of the estate of the deceased client 3341
gives express consent. 3342

(d) The client voluntarily testifies, in which case the 3343
school guidance counselor or person licensed or registered under 3344
Chapter 4757. of the Revised Code may be compelled to testify on 3345

the same subject. 3346

(e) The court in camera determines that the information 3347
communicated by the client is not germane to the counselor- 3348
client, marriage and family therapist-client, or social worker- 3349
client relationship. 3350

(f) A court, in an action brought against a school, its 3351
administration, or any of its personnel by the client, rules 3352
after an in-camera inspection that the testimony of the school 3353
guidance counselor is relevant to that action. 3354

(g) The testimony is sought in a civil action and concerns 3355
court-ordered treatment or services received by a patient as 3356
part of a case plan journalized under section 2151.412 of the 3357
Revised Code or the court-ordered treatment or services are 3358
necessary or relevant to dependency, neglect, or abuse or 3359
temporary or permanent custody proceedings under Chapter 2151. 3360
of the Revised Code. 3361

(2) Nothing in division (G) (1) of this section shall 3362
relieve a school guidance counselor or a person licensed or 3363
registered under Chapter 4757. of the Revised Code from the 3364
requirement to report information concerning child abuse or 3365
neglect under section 2151.421 of the Revised Code. 3366

(H) A mediator acting under a mediation order issued under 3367
division (A) of section 3109.052 of the Revised Code or 3368
otherwise issued in any proceeding for divorce, dissolution, 3369
legal separation, annulment, or the allocation of parental 3370
rights and responsibilities for the care of children, in any 3371
action or proceeding, other than a criminal, delinquency, child 3372
abuse, child neglect, or dependent child action or proceeding, 3373
that is brought by or against either parent who takes part in 3374

mediation in accordance with the order and that pertains to the 3375
mediation process, to any information discussed or presented in 3376
the mediation process, to the allocation of parental rights and 3377
responsibilities for the care of the parents' children, or to 3378
the awarding of parenting time rights in relation to their 3379
children; 3380

(I) A communications assistant, acting within the scope of 3381
the communication assistant's authority, when providing 3382
telecommunications relay service pursuant to section 4931.06 of 3383
the Revised Code or Title II of the "Communications Act of 3384
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 3385
communication made through a telecommunications relay service. 3386
Nothing in this section shall limit the obligation of a 3387
communications assistant to divulge information or testify when 3388
mandated by federal law or regulation or pursuant to subpoena in 3389
a criminal proceeding. 3390

Nothing in this section shall limit any immunity or 3391
privilege granted under federal law or regulation. 3392

(J) (1) A chiropractor in a civil proceeding concerning a 3393
communication made to the chiropractor by a patient in that 3394
relation or the chiropractor's advice to a patient, except as 3395
otherwise provided in this division. The testimonial privilege 3396
established under this division does not apply, and a 3397
chiropractor may testify or may be compelled to testify, in any 3398
civil action, in accordance with the discovery provisions of the 3399
Rules of Civil Procedure in connection with a civil action, or 3400
in connection with a claim under Chapter 4123. of the Revised 3401
Code, under any of the following circumstances: 3402

(a) If the patient or the guardian or other legal 3403
representative of the patient gives express consent. 3404

(b) If the patient is deceased, the spouse of the patient 3405
or the executor or administrator of the patient's estate gives 3406
express consent. 3407

(c) If a medical claim, dental claim, chiropractic claim, 3408
or optometric claim, as defined in section 2305.113 of the 3409
Revised Code, an action for wrongful death, any other type of 3410
civil action, or a claim under Chapter 4123. of the Revised Code 3411
is filed by the patient, the personal representative of the 3412
estate of the patient if deceased, or the patient's guardian or 3413
other legal representative. 3414

(2) If the testimonial privilege described in division (J) 3415
(1) of this section does not apply as provided in division (J) 3416
(1)(c) of this section, a chiropractor may be compelled to 3417
testify or to submit to discovery under the Rules of Civil 3418
Procedure only as to a communication made to the chiropractor by 3419
the patient in question in that relation, or the chiropractor's 3420
advice to the patient in question, that related causally or 3421
historically to physical or mental injuries that are relevant to 3422
issues in the medical claim, dental claim, chiropractic claim, 3423
or optometric claim, action for wrongful death, other civil 3424
action, or claim under Chapter 4123. of the Revised Code. 3425

(3) The testimonial privilege established under this 3426
division does not apply, and a chiropractor may testify or be 3427
compelled to testify, in any criminal action or administrative 3428
proceeding. 3429

(4) As used in this division, "communication" means 3430
acquiring, recording, or transmitting any information, in any 3431
manner, concerning any facts, opinions, or statements necessary 3432
to enable a chiropractor to diagnose, treat, or act for a 3433
patient. A communication may include, but is not limited to, any 3434

chiropractic, office, or hospital communication such as a 3435
record, chart, letter, memorandum, laboratory test and results, 3436
x-ray, photograph, financial statement, diagnosis, or prognosis. 3437

(K) (1) Except as provided under division (K) (2) of this 3438
section, a critical incident stress management team member 3439
concerning a communication received from an individual who 3440
receives crisis response services from the team member, or the 3441
team member's advice to the individual, during a debriefing 3442
session. 3443

(2) The testimonial privilege established under division 3444
(K) (1) of this section does not apply if any of the following 3445
are true: 3446

(a) The communication or advice indicates clear and 3447
present danger to the individual who receives crisis response 3448
services or to other persons. For purposes of this division, 3449
cases in which there are indications of present or past child 3450
abuse or neglect of the individual constitute a clear and 3451
present danger. 3452

(b) The individual who received crisis response services 3453
gives express consent to the testimony. 3454

(c) If the individual who received crisis response 3455
services is deceased, the surviving spouse or the executor or 3456
administrator of the estate of the deceased individual gives 3457
express consent. 3458

(d) The individual who received crisis response services 3459
voluntarily testifies, in which case the team member may be 3460
compelled to testify on the same subject. 3461

(e) The court in camera determines that the information 3462
communicated by the individual who received crisis response 3463

services is not germane to the relationship between the 3464
individual and the team member. 3465

(f) The communication or advice pertains or is related to 3466
any criminal act. 3467

(3) As used in division (K) of this section: 3468

(a) "Crisis response services" means consultation, risk 3469
assessment, referral, and on-site crisis intervention services 3470
provided by a critical incident stress management team to 3471
individuals affected by crisis or disaster. 3472

(b) "Critical incident stress management team member" or 3473
"team member" means an individual specially trained to provide 3474
crisis response services as a member of an organized community 3475
or local crisis response team that holds membership in the Ohio 3476
critical incident stress management network. 3477

(c) "Debriefing session" means a session at which crisis 3478
response services are rendered by a critical incident stress 3479
management team member during or after a crisis or disaster. 3480

(L) (1) Subject to division (L) (2) of this section and 3481
except as provided in division (L) (3) of this section, an 3482
employee assistance professional, concerning a communication 3483
made to the employee assistance professional by a client in the 3484
employee assistance professional's official capacity as an 3485
employee assistance professional. 3486

(2) Division (L) (1) of this section applies to an employee 3487
assistance professional who meets either or both of the 3488
following requirements: 3489

(a) Is certified by the employee assistance certification 3490
commission to engage in the employee assistance profession; 3491

(b) Has education, training, and experience in all of the following:	3492 3493
(i) Providing workplace-based services designed to address employer and employee productivity issues;	3494 3495
(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;	3496 3497 3498 3499
(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;	3500 3501 3502 3503
(iv) Selecting and evaluating available community resources;	3504 3505
(v) Making appropriate referrals;	3506
(vi) Local and national employee assistance agreements;	3507
(vii) Client confidentiality.	3508
(3) Division (L) (1) of this section does not apply to any of the following:	3509 3510
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;	3511 3512 3513 3514 3515
(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;	3516 3517 3518

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

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

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

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

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

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

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of the Revised Code:

(A) "Claimant" means both of the following categories of persons:

(1) Any of the following persons who claim an award of 3548
reparations under sections 2743.51 to 2743.72 of the Revised 3549
Code: 3550

(a) A victim who was one of the following at the time of 3551
the criminally injurious conduct: 3552

(i) A resident of the United States; 3553

(ii) A resident of a foreign country the laws of which 3554
permit residents of this state to recover compensation as 3555
victims of offenses committed in that country. 3556

(b) A dependent of a deceased victim who is described in 3557
division (A) (1) (a) of this section; 3558

(c) A third person, other than a collateral source, who 3559
legally assumes or voluntarily pays the obligations of a victim, 3560
or of a dependent of a victim, who is described in division (A) 3561
(1) (a) of this section, which obligations are incurred as a 3562
result of the criminally injurious conduct that is the subject 3563
of the claim and may include, but are not limited to, medical or 3564
burial expenses; 3565

(d) A person who is authorized to act on behalf of any 3566
person who is described in division (A) (1) (a), (b), or (c) of 3567
this section; 3568

(e) The estate of a deceased victim who is described in 3569
division (A) (1) (a) of this section. 3570

(2) Any of the following persons who claim an award of 3571
reparations under sections 2743.51 to 2743.72 of the Revised 3572
Code: 3573

(a) A victim who had a permanent place of residence within 3574
this state at the time of the criminally injurious conduct and 3575

who, at the time of the criminally injurious conduct, complied	3576
with any one of the following:	3577
(i) Had a permanent place of employment in this state;	3578
(ii) Was a member of the regular armed forces of the	3579
United States or of the United States coast guard or was a full-	3580
time member of the Ohio organized militia or of the United	3581
States army reserve, naval reserve, or air force reserve;	3582
(iii) Was retired and receiving social security or any	3583
other retirement income;	3584
(iv) Was sixty years of age or older;	3585
(v) Was temporarily in another state for the purpose of	3586
receiving medical treatment;	3587
(vi) Was temporarily in another state for the purpose of	3588
performing employment-related duties required by an employer	3589
located within this state as an express condition of employment	3590
or employee benefits;	3591
(vii) Was temporarily in another state for the purpose of	3592
receiving occupational, vocational, or other job-related	3593
training or instruction required by an employer located within	3594
this state as an express condition of employment or employee	3595
benefits;	3596
(viii) Was a full-time student at an academic institution,	3597
college, or university located in another state;	3598
(ix) Had not departed the geographical boundaries of this	3599
state for a period exceeding thirty days or with the intention	3600
of becoming a citizen of another state or establishing a	3601
permanent place of residence in another state.	3602

(b) A dependent of a deceased victim who is described in 3603
division (A) (2) (a) of this section; 3604

(c) A third person, other than a collateral source, who 3605
legally assumes or voluntarily pays the obligations of a victim, 3606
or of a dependent of a victim, who is described in division (A) 3607
(2) (a) of this section, which obligations are incurred as a 3608
result of the criminally injurious conduct that is the subject 3609
of the claim and may include, but are not limited to, medical or 3610
burial expenses; 3611

(d) A person who is authorized to act on behalf of any 3612
person who is described in division (A) (2) (a), (b), or (c) of 3613
this section; 3614

(e) The estate of a deceased victim who is described in 3615
division (A) (2) (a) of this section. 3616

(B) "Collateral source" means a source of benefits or 3617
advantages for economic loss otherwise reparable that the victim 3618
or claimant has received, or that is readily available to the 3619
victim or claimant, from any of the following sources: 3620

(1) The offender; 3621

(2) The government of the United States or any of its 3622
agencies, a state or any of its political subdivisions, or an 3623
instrumentality of two or more states, unless the law providing 3624
for the benefits or advantages makes them excess or secondary to 3625
benefits under sections 2743.51 to 2743.72 of the Revised Code; 3626

(3) Social security, medicare, and medicaid; 3627

(4) State-required, temporary, nonoccupational disability 3628
insurance; 3629

(5) Workers' compensation; 3630

(6) Wage continuation programs of any employer;	3631
(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;	3632 3633 3634
(8) A contract providing prepaid hospital and other health care services, or benefits for disability;	3635 3636
(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;	3637 3638 3639
(10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.	3640 3641 3642 3643
"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.	3644 3645 3646 3647 3648
(C) "Criminally injurious conduct" means one of the following:	3649 3650
(1) For the purposes of any person described in division (A) (1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, <u>or imprisonment</u> , or death , or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following	3651 3652 3653 3654 3655 3656 3657 3658 3659

applies: 3660

(a) The person engaging in the conduct intended to cause 3661
personal injury or death; 3662

(b) The person engaging in the conduct was using the 3663
vehicle to flee immediately after committing a felony or an act 3664
that would constitute a felony but for the fact that the person 3665
engaging in the conduct lacked the capacity to commit the felony 3666
under the laws of this state; 3667

(c) The person engaging in the conduct was using the 3668
vehicle in a manner that constitutes an OVI violation; 3669

(d) The conduct occurred on or after July 25, 1990, and 3670
the person engaging in the conduct was using the vehicle in a 3671
manner that constitutes a violation of section 2903.08 of the 3672
Revised Code; 3673

(e) The person engaging in the conduct acted in a manner 3674
that caused serious physical harm to a person and that 3675
constituted a violation of section 4549.02 or 4549.021 of the 3676
Revised Code. 3677

(2) For the purposes of any person described in division 3678
(A) (2) of this section, any conduct that occurs or is attempted 3679
in another state, district, territory, or foreign country; poses 3680
a substantial threat of personal injury or death; and is 3681
punishable by fine, imprisonment, or death, or would be so 3682
punishable but for the fact that the person engaging in the 3683
conduct lacked capacity to commit the crime under the laws of 3684
the state, district, territory, or foreign country in which the 3685
conduct occurred or was attempted. Criminally injurious conduct 3686
does not include conduct arising out of the ownership, 3687
maintenance, or use of a motor vehicle, except when any of the 3688

following applies: 3689

(a) The person engaging in the conduct intended to cause 3690
personal injury or death; 3691

(b) The person engaging in the conduct was using the 3692
vehicle to flee immediately after committing a felony or an act 3693
that would constitute a felony but for the fact that the person 3694
engaging in the conduct lacked the capacity to commit the felony 3695
under the laws of the state, district, territory, or foreign 3696
country in which the conduct occurred or was attempted; 3697

(c) The person engaging in the conduct was using the 3698
vehicle in a manner that constitutes an OVI violation; 3699

(d) The conduct occurred on or after July 25, 1990, the 3700
person engaging in the conduct was using the vehicle in a manner 3701
that constitutes a violation of any law of the state, district, 3702
territory, or foreign country in which the conduct occurred, and 3703
that law is substantially similar to a violation of section 3704
2903.08 of the Revised Code; 3705

(e) The person engaging in the conduct acted in a manner 3706
that caused serious physical harm to a person and that 3707
constituted a violation of any law of the state, district, 3708
territory, or foreign country in which the conduct occurred, and 3709
that law is substantially similar to section 4549.02 or 4549.021 3710
of the Revised Code. 3711

(3) For the purposes of any person described in division 3712
(A) (1) or (2) of this section, terrorism that occurs within or 3713
outside the territorial jurisdiction of the United States. 3714

(D) "Dependent" means an individual wholly or partially 3715
dependent upon the victim for care and support, and includes a 3716
child of the victim born after the victim's death. 3717

(E) "Economic loss" means economic detriment consisting 3718
only of allowable expense, work loss, funeral expense, 3719
unemployment benefits loss, replacement services loss, cost of 3720
crime scene cleanup, and cost of evidence replacement. If 3721
criminally injurious conduct causes death, economic loss 3722
includes a dependent's economic loss and a dependent's 3723
replacement services loss. Noneconomic detriment is not economic 3724
loss; however, economic loss may be caused by pain and suffering 3725
or physical impairment. 3726

(F) (1) "Allowable expense" means reasonable charges 3727
incurred for reasonably needed products, services, and 3728
accommodations, including those for medical care, 3729
rehabilitation, rehabilitative occupational training, and other 3730
remedial treatment and care and including replacement costs for 3731
hearing aids; dentures, retainers, and other dental appliances; 3732
canes, walkers, and other mobility tools; and eyeglasses and 3733
other corrective lenses. It does not include that portion of a 3734
charge for a room in a hospital, clinic, convalescent home, 3735
nursing home, or any other institution engaged in providing 3736
nursing care and related services in excess of a reasonable and 3737
customary charge for semiprivate accommodations, unless 3738
accommodations other than semiprivate accommodations are 3739
medically required. 3740

(2) An immediate family member of a victim of criminally 3741
injurious conduct that consists of a homicide, a sexual assault, 3742
domestic violence, or a severe and permanent incapacitating 3743
injury resulting in paraplegia or a similar life-altering 3744
condition, who requires psychiatric care or counseling as a 3745
result of the criminally injurious conduct, may be reimbursed 3746
for that care or counseling as an allowable expense through the 3747
victim's application. The cumulative allowable expense for care 3748

or counseling of that nature shall not exceed two thousand five 3749
hundred dollars for each immediate family member of a victim of 3750
that type and seven thousand five hundred dollars in the 3751
aggregate for all immediate family members of a victim of that 3752
type. 3753

(3) A family member of a victim who died as a proximate 3754
result of criminally injurious conduct may be reimbursed as an 3755
allowable expense through the victim's application for wages 3756
lost and travel expenses incurred in order to attend criminal 3757
justice proceedings arising from the criminally injurious 3758
conduct. The cumulative allowable expense for wages lost and 3759
travel expenses incurred by a family member to attend criminal 3760
justice proceedings shall not exceed five hundred dollars for 3761
each family member of the victim and two thousand dollars in the 3762
aggregate for all family members of the victim. 3763

(4) (a) "Allowable expense" includes reasonable expenses 3764
and fees necessary to obtain a guardian's bond pursuant to 3765
section 2109.04 of the Revised Code when the bond is required to 3766
pay an award to a fiduciary on behalf of a minor or other 3767
incompetent. 3768

(b) "Allowable expense" includes attorney's fees not 3769
exceeding one thousand dollars, at a rate not exceeding one 3770
hundred dollars per hour, incurred to successfully obtain a 3771
restraining order, custody order, or other order to physically 3772
separate a victim from an offender. Attorney's fees for the 3773
services described in this division may include an amount for 3774
reasonable travel time incurred to attend court hearings, not 3775
exceeding three hours' round-trip for each court hearing, 3776
assessed at a rate not exceeding thirty dollars per hour. 3777

(G) "Work loss" means loss of income from work that the 3778

injured person would have performed if the person had not been 3779
injured and expenses reasonably incurred by the person to obtain 3780
services in lieu of those the person would have performed for 3781
income, reduced by any income from substitute work actually 3782
performed by the person, or by income the person would have 3783
earned in available appropriate substitute work that the person 3784
was capable of performing but unreasonably failed to undertake. 3785

(H) "Replacement services loss" means expenses reasonably 3786
incurred in obtaining ordinary and necessary services in lieu of 3787
those the injured person would have performed, not for income, 3788
but for the benefit of the person's self or family, if the 3789
person had not been injured. 3790

(I) "Dependent's economic loss" means loss after a 3791
victim's death of contributions of things of economic value to 3792
the victim's dependents, not including services they would have 3793
received from the victim if the victim had not suffered the 3794
fatal injury, less expenses of the dependents avoided by reason 3795
of the victim's death. If a minor child of a victim is adopted 3796
after the victim's death, the minor child continues after the 3797
adoption to incur a dependent's economic loss as a result of the 3798
victim's death. If the surviving spouse of a victim remarries, 3799
the surviving spouse continues after the remarriage to incur a 3800
dependent's economic loss as a result of the victim's death. 3801

(J) "Dependent's replacement services loss" means loss 3802
reasonably incurred by dependents after a victim's death in 3803
obtaining ordinary and necessary services in lieu of those the 3804
victim would have performed for their benefit if the victim had 3805
not suffered the fatal injury, less expenses of the dependents 3806
avoided by reason of the victim's death and not subtracted in 3807
calculating the dependent's economic loss. If a minor child of a 3808

victim is adopted after the victim's death, the minor child 3809
continues after the adoption to incur a dependent's replacement 3810
services loss as a result of the victim's death. If the 3811
surviving spouse of a victim remarries, the surviving spouse 3812
continues after the remarriage to incur a dependent's 3813
replacement services loss as a result of the victim's death. 3814

(K) "Noneconomic detriment" means pain, suffering, 3815
inconvenience, physical impairment, or other nonpecuniary 3816
damage. 3817

(L) "Victim" means a person who suffers personal injury or 3818
death as a result of any of the following: 3819

(1) Criminally injurious conduct; 3820

(2) The good faith effort of any person to prevent 3821
criminally injurious conduct; 3822

(3) The good faith effort of any person to apprehend a 3823
person suspected of engaging in criminally injurious conduct. 3824

(M) "Contributory misconduct" means any conduct of the 3825
claimant or of the victim through whom the claimant claims an 3826
award of reparations that is unlawful or intentionally tortious 3827
and that, without regard to the conduct's proximity in time or 3828
space to the criminally injurious conduct, has a causal 3829
relationship to the criminally injurious conduct that is the 3830
basis of the claim. 3831

(N) (1) "Funeral expense" means any reasonable charges that 3832
are not in excess of seven thousand five hundred dollars per 3833
funeral and that are incurred for expenses directly related to a 3834
victim's funeral, cremation, or burial and any wages lost or 3835
travel expenses incurred by a family member of a victim in order 3836
to attend the victim's funeral, cremation, or burial. 3837

(2) An award for funeral expenses shall be applied first 3838
to expenses directly related to the victim's funeral, cremation, 3839
or burial. An award for wages lost or travel expenses incurred 3840
by a family member of the victim shall not exceed five hundred 3841
dollars for each family member and shall not exceed in the 3842
aggregate the difference between seven thousand five hundred 3843
dollars and expenses that are reimbursed by the program and that 3844
are directly related to the victim's funeral, cremation, or 3845
burial. 3846

(O) "Unemployment benefits loss" means a loss of 3847
unemployment benefits pursuant to Chapter 4141. of the Revised 3848
Code when the loss arises solely from the inability of a victim 3849
to meet the able to work, available for suitable work, or the 3850
actively seeking suitable work requirements of division (A) (4) 3851
(a) of section 4141.29 of the Revised Code. 3852

(P) "OVI violation" means any of the following: 3853

(1) A violation of section 4511.19 of the Revised Code, of 3854
any municipal ordinance prohibiting the operation of a vehicle 3855
while under the influence of alcohol, a drug of abuse, or a 3856
combination of them, or of any municipal ordinance prohibiting 3857
the operation of a vehicle with a prohibited concentration of 3858
alcohol, a controlled substance, or a metabolite of a controlled 3859
substance in the whole blood, blood serum or plasma, breath, or 3860
urine; 3861

(2) A violation of division (A) (1) of section 2903.06 of 3862
the Revised Code; 3863

(3) A violation of division (A) (2), (3), or (4) of section 3864
2903.06 of the Revised Code or of a municipal ordinance 3865
substantially similar to any of those divisions, if the offender 3866

was under the influence of alcohol, a drug of abuse, or a 3867
combination of them, at the time of the commission of the 3868
offense; 3869

(4) For purposes of any person described in division (A) 3870
(2) of this section, a violation of any law of the state, 3871
district, territory, or foreign country in which the criminally 3872
injurious conduct occurred, if that law is substantially similar 3873
to a violation described in division (P) (1) or (2) of this 3874
section or if that law is substantially similar to a violation 3875
described in division (P) (3) of this section and the offender 3876
was under the influence of alcohol, a drug of abuse, or a 3877
combination of them, at the time of the commission of the 3878
offense. 3879

(Q) "Pendency of the claim" for an original reparations 3880
application or supplemental reparations application means the 3881
period of time from the date the criminally injurious conduct 3882
upon which the application is based occurred until the date a 3883
final decision, order, or judgment concerning that original 3884
reparations application or supplemental reparations application 3885
is issued. 3886

(R) "Terrorism" means any activity to which all of the 3887
following apply: 3888

(1) The activity involves a violent act or an act that is 3889
dangerous to human life. 3890

(2) The act described in division (R) (1) of this section 3891
is committed within the territorial jurisdiction of the United 3892
States and is a violation of the criminal laws of the United 3893
States, this state, or any other state or the act described in 3894
division (R) (1) of this section is committed outside the 3895

territorial jurisdiction of the United States and would be a 3896
violation of the criminal laws of the United States, this state, 3897
or any other state if committed within the territorial 3898
jurisdiction of the United States. 3899

(3) The activity appears to be intended to do any of the 3900
following: 3901

(a) Intimidate or coerce a civilian population; 3902

(b) Influence the policy of any government by intimidation 3903
or coercion; 3904

(c) Affect the conduct of any government by assassination 3905
or kidnapping. 3906

(4) The activity occurs primarily outside the territorial 3907
jurisdiction of the United States or transcends the national 3908
boundaries of the United States in terms of the means by which 3909
the activity is accomplished, the person or persons that the 3910
activity appears intended to intimidate or coerce, or the area 3911
or locale in which the perpetrator or perpetrators of the 3912
activity operate or seek asylum. 3913

(S) "Transcends the national boundaries of the United 3914
States" means occurring outside the territorial jurisdiction of 3915
the United States in addition to occurring within the 3916
territorial jurisdiction of the United States. 3917

(T) "Cost of crime scene cleanup" means any of the 3918
following: 3919

(1) The replacement cost for items of clothing removed 3920
from a victim in order to make an assessment of possible 3921
physical harm or to treat physical harm; 3922

(2) Reasonable and necessary costs of cleaning the scene 3923

and repairing, for the purpose of personal security, property 3924
damaged at the scene where the criminally injurious conduct 3925
occurred, not to exceed seven hundred fifty dollars in the 3926
aggregate per claim. 3927

(U) "Cost of evidence replacement" means costs for 3928
replacement of property confiscated for evidentiary purposes 3929
related to the criminally injurious conduct, not to exceed seven 3930
hundred fifty dollars in the aggregate per claim. 3931

(V) "Provider" means any person who provides a victim or 3932
claimant with a product, service, or accommodations that are an 3933
allowable expense or a funeral expense. 3934

(W) "Immediate family member" means an individual who 3935
resided in the same permanent household as a victim at the time 3936
of the criminally injurious conduct and who is related to the 3937
victim by affinity or consanguinity. 3938

(X) "Family member" means an individual who is related to 3939
a victim by affinity or consanguinity. 3940

Sec. 2901.02. As used in the Revised Code: 3941

(A) Offenses include aggravated murder, murder, felonies 3942
of the first, second, third, fourth, and fifth degree, 3943
misdemeanors of the first, second, third, and fourth degree, 3944
minor misdemeanors, and offenses not specifically classified. 3945

~~(B) Aggravated murder when the indictment or the count in- 3946
the indictment charging aggravated murder contains one or more 3947
specifications of aggravating circumstances listed in division 3948
(A) of section 2929.04 of Revised Code, and any other offense 3949
for which death may be imposed as a penalty, is a capital 3950
offense. 3951~~

(C) Aggravated murder and murder are felonies.	3952
(D) <u>(C)</u> Regardless of the penalty that may be imposed, any offense specifically classified as a felony is a felony, and any offense specifically classified as a misdemeanor is a misdemeanor.	3953 3954 3955 3956
(E) <u>(D)</u> Any offense not specifically classified is a felony if imprisonment for more than one year may be imposed as a penalty.	3957 3958 3959
(F) <u>(E)</u> Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.	3960 3961 3962
(G) <u>(F)</u> Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following:	3963 3964 3965
(1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars;	3966 3967
(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.	3968 3969 3970 3971 3972
Sec. 2909.24. (A) No person shall commit a specified offense with purpose to do any of the following:	3973 3974
(1) Intimidate or coerce a civilian population;	3975
(2) Influence the policy of any government by intimidation or coercion;	3976 3977
(3) Affect the conduct of any government by the specified	3978

offense. 3979

(B) (1) Whoever violates this section is guilty of 3980
terrorism. 3981

(2) Except as otherwise provided in divisions (B) (3) and 3982
(4) of this section, terrorism is an offense one degree higher 3983
than the most serious underlying specified offense the defendant 3984
committed. 3985

(3) If the most serious underlying specified offense the 3986
defendant committed is a felony of the first degree or murder, 3987
the person shall be sentenced to life imprisonment without 3988
parole. 3989

(4) If the most serious underlying specified offense the 3990
defendant committed is aggravated murder, the offender shall be 3991
sentenced to life imprisonment without parole ~~or death pursuant to~~ 3992
~~to sections 2929.02 to 2929.06 of the Revised Code.~~ 3993

(5) Section 2909.25 of the Revised Code applies regarding 3994
an offender who is convicted of or pleads guilty to a violation 3995
of this section. 3996

Sec. 2929.02. (A) ~~Whoever~~ Except as provided in division 3997
(C) of this section, whoever is convicted of or pleads guilty to 3998
aggravated murder in violation of section 2903.01 of the Revised 3999
Code shall ~~suffer death or be imprisoned for life, as determined~~ 4000
~~pursuant to sections 2929.022, 2929.03, and 2929.04 of the~~ 4001
~~Revised Code, except that no person who raises the matter of age~~ 4002
~~pursuant to section 2929.023 of the Revised Code and who is not~~ 4003
~~found to have been eighteen years of age or older at the time of~~ 4004
~~the commission of the offense shall suffer death. In addition,~~ 4005
~~the offender may be fined an amount fixed by the court, but not~~ 4006
~~more than twenty five thousand dollars~~ sentenced to life 4007

imprisonment with parole eligibility after serving twenty full 4008
years of imprisonment, life imprisonment with parole eligibility 4009
after serving thirty full years of imprisonment, or life 4010
imprisonment without parole. 4011

(B)~~(1)~~—Except as otherwise provided in division ~~(B) (2) or~~ 4012
~~(3)~~—(C) of this section, whoever is convicted of or pleads 4013
guilty to murder in violation of section 2903.02 of the Revised 4014
Code shall be imprisoned for an indefinite term of fifteen years 4015
to life. 4016

~~(2)~~—(C) (1) Except as otherwise provided in division ~~(B) (3)~~ 4017
(C) (2) of this section, if a person is convicted of or pleads 4018
guilty to aggravated murder in violation of section 2903.01 of 4019
the Revised Code or to murder in violation of section 2903.02 of 4020
the Revised Code, the victim of the offense was less than 4021
thirteen years of age, and the offender also is convicted of or 4022
pleads guilty to a sexual motivation specification that was 4023
included in the indictment, count in the indictment, or 4024
information charging the offense, the court shall impose an 4025
indefinite prison term of thirty years to life pursuant to 4026
division (B) (3) of section 2971.03 of the Revised Code. 4027

~~(3)~~—(2) If a person is convicted of or pleads guilty to 4028
aggravated murder in violation of section 2903.01 of the Revised 4029
Code or to murder in violation of section 2903.02 of the Revised 4030
Code and also is convicted of or pleads guilty to a sexual 4031
motivation specification and a sexually violent predator 4032
specification that were included in the indictment, count in the 4033
indictment, or information that charged the murder, the court 4034
shall impose upon the offender a term of life imprisonment 4035
without parole that shall be served pursuant to section 2971.03 4036
of the Revised Code. 4037

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

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

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

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

Sec. 2929.13. (A) Except as provided in division (E), (F), or (G) of this section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided in sections 2929.14 to 2929.18 of the Revised Code.

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

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

(1) For a fourth degree felony OVI offense for which sentence is imposed under division (G) (1) of this section, an additional community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code. If the court imposes upon the offender a community control sanction and the offender violates any condition of the community control sanction, the court may take any action prescribed in division (B) of section 2929.15 of the Revised Code relative to the offender, including imposing a prison term on the offender pursuant to that division.

(2) For a third or fourth degree felony OVI offense for 4099
which sentence is imposed under division (G) (2) of this section, 4100
an additional prison term as described in division (B) (4) of 4101
section 2929.14 of the Revised Code or a community control 4102
sanction as described in division (G) (2) of this section. 4103

(B) (1) (a) Except as provided in division (B) (1) (b) of this 4104
section, if an offender is convicted of or pleads guilty to a 4105
felony of the fourth or fifth degree that is not an offense of 4106
violence or that is a qualifying assault offense, the court 4107
shall sentence the offender to a community control sanction or 4108
combination of community control sanctions if all of the 4109
following apply: 4110

(i) The offender previously has not been convicted of or 4111
pleaded guilty to a felony offense. 4112

(ii) The most serious charge against the offender at the 4113
time of sentencing is a felony of the fourth or fifth degree. 4114

(iii) The offender previously has not been convicted of or 4115
pleaded guilty to a misdemeanor offense of violence that the 4116
offender committed within two years prior to the offense for 4117
which sentence is being imposed. 4118

(b) The court has discretion to impose a prison term upon 4119
an offender who is convicted of or pleads guilty to a felony of 4120
the fourth or fifth degree that is not an offense of violence or 4121
that is a qualifying assault offense if any of the following 4122
apply: 4123

(i) The offender committed the offense while having a 4124
firearm on or about the offender's person or under the 4125
offender's control. 4126

(ii) If the offense is a qualifying assault offense, the 4127

offender caused serious physical harm to another person while 4128
committing the offense, and, if the offense is not a qualifying 4129
assault offense, the offender caused physical harm to another 4130
person while committing the offense. 4131

(iii) The offender violated a term of the conditions of 4132
bond as set by the court. 4133

(iv) The offense is a sex offense that is a fourth or 4134
fifth degree felony violation of any provision of Chapter 2907. 4135
of the Revised Code. 4136

(v) In committing the offense, the offender attempted to 4137
cause or made an actual threat of physical harm to a person with 4138
a deadly weapon. 4139

(vi) In committing the offense, the offender attempted to 4140
cause or made an actual threat of physical harm to a person, and 4141
the offender previously was convicted of an offense that caused 4142
physical harm to a person. 4143

(vii) The offender held a public office or position of 4144
trust, and the offense related to that office or position; the 4145
offender's position obliged the offender to prevent the offense 4146
or to bring those committing it to justice; or the offender's 4147
professional reputation or position facilitated the offense or 4148
was likely to influence the future conduct of others. 4149

(viii) The offender committed the offense for hire or as 4150
part of an organized criminal activity. 4151

(ix) The offender at the time of the offense was serving, 4152
or the offender previously had served, a prison term. 4153

(x) The offender committed the offense while under a 4154
community control sanction, while on probation, or while 4155

released from custody on a bond or personal recognizance. 4156

(c) A sentencing court may impose an additional penalty 4157
under division (B) of section 2929.15 of the Revised Code upon 4158
an offender sentenced to a community control sanction under 4159
division (B)(1)(a) of this section if the offender violates the 4160
conditions of the community control sanction, violates a law, or 4161
leaves the state without the permission of the court or the 4162
offender's probation officer. 4163

(2) If division (B)(1) of this section does not apply, 4164
except as provided in division (E), (F), or (G) of this section, 4165
in determining whether to impose a prison term as a sanction for 4166
a felony of the fourth or fifth degree, the sentencing court 4167
shall comply with the purposes and principles of sentencing 4168
under section 2929.11 of the Revised Code and with section 4169
2929.12 of the Revised Code. 4170

(C) Except as provided in division (D), (E), (F), or (G) 4171
of this section, in determining whether to impose a prison term 4172
as a sanction for a felony of the third degree or a felony drug 4173
offense that is a violation of a provision of Chapter 2925. of 4174
the Revised Code and that is specified as being subject to this 4175
division for purposes of sentencing, the sentencing court shall 4176
comply with the purposes and principles of sentencing under 4177
section 2929.11 of the Revised Code and with section 2929.12 of 4178
the Revised Code. 4179

(D)(1) Except as provided in division (E) or (F) of this 4180
section, for a felony of the first or second degree, for a 4181
felony drug offense that is a violation of any provision of 4182
Chapter 2925., 3719., or 4729. of the Revised Code for which a 4183
presumption in favor of a prison term is specified as being 4184
applicable, and for a violation of division (A)(4) or (B) of 4185

section 2907.05 of the Revised Code for which a presumption in 4186
favor of a prison term is specified as being applicable, it is 4187
presumed that a prison term is necessary in order to comply with 4188
the purposes and principles of sentencing under section 2929.11 4189
of the Revised Code. Division (D) (2) of this section does not 4190
apply to a presumption established under this division for a 4191
violation of division (A) (4) of section 2907.05 of the Revised 4192
Code. 4193

(2) Notwithstanding the presumption established under 4194
division (D) (1) of this section for the offenses listed in that 4195
division other than a violation of division (A) (4) or (B) of 4196
section 2907.05 of the Revised Code, the sentencing court may 4197
impose a community control sanction or a combination of 4198
community control sanctions instead of a prison term on an 4199
offender for a felony of the first or second degree or for a 4200
felony drug offense that is a violation of any provision of 4201
Chapter 2925., 3719., or 4729. of the Revised Code for which a 4202
presumption in favor of a prison term is specified as being 4203
applicable if it makes both of the following findings: 4204

(a) A community control sanction or a combination of 4205
community control sanctions would adequately punish the offender 4206
and protect the public from future crime, because the applicable 4207
factors under section 2929.12 of the Revised Code indicating a 4208
lesser likelihood of recidivism outweigh the applicable factors 4209
under that section indicating a greater likelihood of 4210
recidivism. 4211

(b) A community control sanction or a combination of 4212
community control sanctions would not demean the seriousness of 4213
the offense, because one or more factors under section 2929.12 4214
of the Revised Code that indicate that the offender's conduct 4215

was less serious than conduct normally constituting the offense 4216
are applicable, and they outweigh the applicable factors under 4217
that section that indicate that the offender's conduct was more 4218
serious than conduct normally constituting the offense. 4219

(E) (1) Except as provided in division (F) of this section, 4220
for any drug offense that is a violation of any provision of 4221
Chapter 2925. of the Revised Code and that is a felony of the 4222
third, fourth, or fifth degree, the applicability of a 4223
presumption under division (D) of this section in favor of a 4224
prison term or of division (B) or (C) of this section in 4225
determining whether to impose a prison term for the offense 4226
shall be determined as specified in section 2925.02, 2925.03, 4227
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 4228
2925.36, or 2925.37 of the Revised Code, whichever is applicable 4229
regarding the violation. 4230

(2) If an offender who was convicted of or pleaded guilty 4231
to a felony violates the conditions of a community control 4232
sanction imposed for the offense solely by reason of producing 4233
positive results on a drug test, the court, as punishment for 4234
the violation of the sanction, shall not order that the offender 4235
be imprisoned unless the court determines on the record either 4236
of the following: 4237

(a) The offender had been ordered as a sanction for the 4238
felony to participate in a drug treatment program, in a drug 4239
education program, or in narcotics anonymous or a similar 4240
program, and the offender continued to use illegal drugs after a 4241
reasonable period of participation in the program. 4242

(b) The imprisonment of the offender for the violation is 4243
consistent with the purposes and principles of sentencing set 4244
forth in section 2929.11 of the Revised Code. 4245

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

(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under ~~sections~~ section 2929.02 to 2929.06, section 2929.14, section 2929.142, or ~~section~~ 2971.03 of the Revised Code and except as specifically provided in section 2929.20, or section 2967.191 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code shall not reduce the term or terms pursuant to section 2929.20, division (A) (2) or (3) of section 2967.193 or 2967.194, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses:

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

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted,

the offender would have been guilty of a violation of division 4276
(A) (1) (b) of section 2907.02 of the Revised Code and would be 4277
sentenced under section 2971.03 of the Revised Code; 4278

(3) Gross sexual imposition or sexual battery, if the 4279
victim is less than thirteen years of age and if any of the 4280
following applies: 4281

(a) Regarding gross sexual imposition, the offender 4282
previously was convicted of or pleaded guilty to rape, the 4283
former offense of felonious sexual penetration, gross sexual 4284
imposition, or sexual battery, and the victim of the previous 4285
offense was less than thirteen years of age; 4286

(b) Regarding gross sexual imposition, the offense was 4287
committed on or after August 3, 2006, and evidence other than 4288
the testimony of the victim was admitted in the case 4289
corroborating the violation. 4290

(c) Regarding sexual battery, either of the following 4291
applies: 4292

(i) The offense was committed prior to August 3, 2006, the 4293
offender previously was convicted of or pleaded guilty to rape, 4294
the former offense of felonious sexual penetration, or sexual 4295
battery, and the victim of the previous offense was less than 4296
thirteen years of age. 4297

(ii) The offense was committed on or after August 3, 2006. 4298

(4) A felony violation of section 2903.04, 2903.06, 4299
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 4300
or 2923.132 of the Revised Code if the section requires the 4301
imposition of a prison term; 4302

(5) A first, second, or third degree felony drug offense 4303

for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 4304
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 4305
or 4729.99 of the Revised Code, whichever is applicable 4306
regarding the violation, requires the imposition of a mandatory 4307
prison term; 4308

(6) Any offense that is a first or second degree felony 4309
and that is not set forth in division (F) (1), (2), (3), or (4) 4310
of this section, if the offender previously was convicted of or 4311
pleaded guilty to aggravated murder, murder, any first or second 4312
degree felony, or an offense under an existing or former law of 4313
this state, another state, or the United States that is or was 4314
substantially equivalent to one of those offenses; 4315

(7) Any offense that is a third degree felony and either 4316
is a violation of section 2903.04 of the Revised Code or an 4317
attempt to commit a felony of the second degree that is an 4318
offense of violence and involved an attempt to cause serious 4319
physical harm to a person or that resulted in serious physical 4320
harm to a person if the offender previously was convicted of or 4321
pleaded guilty to any of the following offenses: 4322

(a) Aggravated murder, murder, involuntary manslaughter, 4323
rape, felonious sexual penetration as it existed under section 4324
2907.12 of the Revised Code prior to September 3, 1996, a felony 4325
of the first or second degree that resulted in the death of a 4326
person or in physical harm to a person, or complicity in or an 4327
attempt to commit any of those offenses; 4328

(b) An offense under an existing or former law of this 4329
state, another state, or the United States that is or was 4330
substantially equivalent to an offense listed in division (F) (7) 4331
(a) of this section that resulted in the death of a person or in 4332
physical harm to a person. 4333

(8) Any offense, other than a violation of section 2923.12 4334
of the Revised Code, that is a felony, if the offender had a 4335
firearm on or about the offender's person or under the 4336
offender's control while committing the felony, with respect to 4337
a portion of the sentence imposed pursuant to division (B) (1) (a) 4338
of section 2929.14 of the Revised Code for having the firearm; 4339

(9) Any offense of violence that is a felony, if the 4340
offender wore or carried body armor while committing the felony 4341
offense of violence, with respect to the portion of the sentence 4342
imposed pursuant to division (B) (1) (d) of section 2929.14 of the 4343
Revised Code for wearing or carrying the body armor; 4344

(10) Corrupt activity in violation of section 2923.32 of 4345
the Revised Code when the most serious offense in the pattern of 4346
corrupt activity that is the basis of the offense is a felony of 4347
the first degree; 4348

(11) Any violent sex offense or designated homicide, 4349
assault, or kidnapping offense if, in relation to that offense, 4350
the offender is adjudicated a sexually violent predator; 4351

(12) A violation of division (A) (1) or (2) of section 4352
2921.36 of the Revised Code, or a violation of division (C) of 4353
that section involving an item listed in division (A) (1) or (2) 4354
of that section, if the offender is an officer or employee of 4355
the department of rehabilitation and correction; 4356

(13) A violation of division (A) (1) or (2) of section 4357
2903.06 of the Revised Code if the victim of the offense is a 4358
peace officer, as defined in section 2935.01 of the Revised 4359
Code, or an investigator of the bureau of criminal 4360
identification and investigation, as defined in section 2903.11 4361
of the Revised Code, with respect to the portion of the sentence 4362

imposed pursuant to division (B) (5) of section 2929.14 of the Revised Code; 4363
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(14) A violation of division (A) (1) or (2) of section 2903.06 of the Revised Code if the offender has been convicted of or pleaded guilty to three or more violations of division (A) 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 offenses, with respect to the portion of the sentence imposed pursuant to division (B) (6) of section 2929.14 of the Revised Code; 4365
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(15) Kidnapping, in the circumstances specified in section 2971.03 of the Revised Code and when no other provision of division (F) of this section applies; 4373
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(16) Kidnapping, abduction, compelling prostitution, promoting prostitution, engaging in a pattern of corrupt activity, a violation of division (A) (1) or (2) of section 2907.323 of the Revised Code that involves a minor, or endangering children in violation of division (B) (1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code, if the offender is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense; 4376
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(17) A felony violation of division (A) or (B) of section 2919.25 of the Revised Code if division (D) (3), (4), or (5) of that section, and division (D) (6) of that section, require the imposition of a prison term; 4386
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(18) A felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code, if the victim of the offense was a 4390
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woman that the offender knew was pregnant at the time of the 4392
violation, with respect to a portion of the sentence imposed 4393
pursuant to division (B) (8) of section 2929.14 of the Revised 4394
Code; 4395

(19) (a) Any violent felony offense if the offender is a 4396
violent career criminal and had a firearm on or about the 4397
offender's person or under the offender's control during the 4398
commission of the violent felony offense and displayed or 4399
brandished the firearm, indicated that the offender possessed a 4400
firearm, or used the firearm to facilitate the offense, with 4401
respect to the portion of the sentence imposed under division 4402
(K) of section 2929.14 of the Revised Code. 4403

(b) As used in division (F) (19) (a) of this section, 4404
"violent career criminal" and "violent felony offense" have the 4405
same meanings as in section 2923.132 of the Revised Code. 4406

(20) Any violation of division (A) (1) of section 2903.11 4407
of the Revised Code if the offender used an accelerant in 4408
committing the violation and the serious physical harm to 4409
another or another's unborn caused by the violation resulted in 4410
a permanent, serious disfigurement or permanent, substantial 4411
incapacity or any violation of division (A) (2) of that section 4412
if the offender used an accelerant in committing the violation, 4413
the violation caused physical harm to another or another's 4414
unborn, and the physical harm resulted in a permanent, serious 4415
disfigurement or permanent, substantial incapacity, with respect 4416
to a portion of the sentence imposed pursuant to division (B) (9) 4417
of section 2929.14 of the Revised Code. The provisions of this 4418
division and of division (D) (2) of section 2903.11, divisions 4419
(B) (9) and (C) (6) of section 2929.14, and section 2941.1425 of 4420
the Revised Code shall be known as "Judy's Law." 4421

(21) Any violation of division (A) of section 2903.11 of the Revised Code if the victim of the offense suffered permanent disabling harm as a result of the offense and the victim was under ten years of age at the time of the offense, with respect to a portion of the sentence imposed pursuant to division (B) (10) of section 2929.14 of the Revised Code.

(22) A felony violation of section 2925.03, 2925.05, or 2925.11 of the Revised Code, 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 the offender 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 was included in the indictment, count in the indictment, or information charging the offense, with respect to the portion of the sentence imposed under division (B) (11) of section 2929.14 of the Revised Code.

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

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

section 2929.20, division (A) (2) or (3) of section 2967.193 or 4452
2967.194, or any other provision of the Revised Code. The court 4453
that imposes a mandatory term of local incarceration under this 4454
division shall specify whether the term is to be served in a 4455
jail, a community-based correctional facility, a halfway house, 4456
or an alternative residential facility, and the offender shall 4457
serve the term in the type of facility specified by the court. A 4458
mandatory term of local incarceration imposed under division (G) 4459
(1) of this section is not subject to any other Revised Code 4460
provision that pertains to a prison term except as provided in 4461
division (A) (1) of this section. 4462

(2) If the offender is being sentenced for a third degree 4463
felony OVI offense, or if the offender is being sentenced for a 4464
fourth degree felony OVI offense and the court does not impose a 4465
mandatory term of local incarceration under division (G) (1) of 4466
this section, the court shall impose upon the offender a 4467
mandatory prison term of one, two, three, four, or five years if 4468
the offender also is convicted of or also pleads guilty to a 4469
specification of the type described in section 2941.1413 of the 4470
Revised Code or shall impose upon the offender a mandatory 4471
prison term of sixty days or one hundred twenty days as 4472
specified in division (G) (1) (d) or (e) of section 4511.19 of the 4473
Revised Code if the offender has not been convicted of and has 4474
not pleaded guilty to a specification of that type. The court 4475
shall not reduce the term pursuant to section 2929.20, division 4476
(A) (2) or (3) of section 2967.193 or 2967.194, or any other 4477
provision of the Revised Code. The offender shall serve the 4478
one-, two-, three-, four-, or five-year mandatory prison term 4479
consecutively to and prior to the prison term imposed for the 4480
underlying offense and consecutively to any other mandatory 4481
prison term imposed in relation to the offense. In no case shall 4482

an offender who once has been sentenced to a mandatory term of 4483
local incarceration pursuant to division (G) (1) of this section 4484
for a fourth degree felony OVI offense be sentenced to another 4485
mandatory term of local incarceration under that division for 4486
any violation of division (A) of section 4511.19 of the Revised 4487
Code. In addition to the mandatory prison term described in 4488
division (G) (2) of this section, the court may sentence the 4489
offender to a community control sanction under section 2929.16 4490
or 2929.17 of the Revised Code, but the offender shall serve the 4491
prison term prior to serving the community control sanction. The 4492
department of rehabilitation and correction may place an 4493
offender sentenced to a mandatory prison term under this 4494
division in an intensive program prison established pursuant to 4495
section 5120.033 of the Revised Code if the department gave the 4496
sentencing judge prior notice of its intent to place the 4497
offender in an intensive program prison established under that 4498
section and if the judge did not notify the department that the 4499
judge disapproved the placement. Upon the establishment of the 4500
initial intensive program prison pursuant to section 5120.033 of 4501
the Revised Code that is privately operated and managed by a 4502
contractor pursuant to a contract entered into under section 4503
9.06 of the Revised Code, both of the following apply: 4504

(a) The department of rehabilitation and correction shall 4505
make a reasonable effort to ensure that a sufficient number of 4506
offenders sentenced to a mandatory prison term under this 4507
division are placed in the privately operated and managed prison 4508
so that the privately operated and managed prison has full 4509
occupancy. 4510

(b) Unless the privately operated and managed prison has 4511
full occupancy, the department of rehabilitation and correction 4512
shall not place any offender sentenced to a mandatory prison 4513

term under this division in any intensive program prison 4514
established pursuant to section 5120.033 of the Revised Code 4515
other than the privately operated and managed prison. 4516

(H) If an offender is being sentenced for a sexually 4517
oriented offense or child-victim oriented offense that is a 4518
felony committed on or after January 1, 1997, the judge shall 4519
require the offender to submit to a DNA specimen collection 4520
procedure pursuant to section 2901.07 of the Revised Code. 4521

(I) If an offender is being sentenced for a sexually 4522
oriented offense or a child-victim oriented offense committed on 4523
or after January 1, 1997, the judge shall include in the 4524
sentence a summary of the offender's duties imposed under 4525
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 4526
Code and the duration of the duties. The judge shall inform the 4527
offender, at the time of sentencing, of those duties and of 4528
their duration. If required under division (A) (2) of section 4529
2950.03 of the Revised Code, the judge shall perform the duties 4530
specified in that section, or, if required under division (A) (6) 4531
of section 2950.03 of the Revised Code, the judge shall perform 4532
the duties specified in that division. 4533

(J) (1) Except as provided in division (J) (2) of this 4534
section, when considering sentencing factors under this section 4535
in relation to an offender who is convicted of or pleads guilty 4536
to an attempt to commit an offense in violation of section 4537
2923.02 of the Revised Code, the sentencing court shall consider 4538
the factors applicable to the felony category of the violation 4539
of section 2923.02 of the Revised Code instead of the factors 4540
applicable to the felony category of the offense attempted. 4541

(2) When considering sentencing factors under this section 4542
in relation to an offender who is convicted of or pleads guilty 4543

to an attempt to commit a drug abuse offense for which the 4544
penalty is determined by the amount or number of unit doses of 4545
the controlled substance involved in the drug abuse offense, the 4546
sentencing court shall consider the factors applicable to the 4547
felony category that the drug abuse offense attempted would be 4548
if that drug abuse offense had been committed and had involved 4549
an amount or number of unit doses of the controlled substance 4550
that is within the next lower range of controlled substance 4551
amounts than was involved in the attempt. 4552

(K) As used in this section: 4553

(1) "Community addiction services provider" has the same 4554
meaning as in section 5119.01 of the Revised Code. 4555

(2) "Drug abuse offense" has the same meaning as in 4556
section 2925.01 of the Revised Code. 4557

(3) "Minor drug possession offense" has the same meaning 4558
as in section 2925.11 of the Revised Code. 4559

(4) "Qualifying assault offense" means a violation of 4560
section 2903.13 of the Revised Code for which the penalty 4561
provision in division (C) (8) (b) or (C) (9) (b) of that section 4562
applies. 4563

(L) At the time of sentencing an offender for any sexually 4564
oriented offense, if the offender is a tier III sex 4565
offender/child-victim offender relative to that offense and the 4566
offender does not serve a prison term or jail term, the court 4567
may require that the offender be monitored by means of a global 4568
positioning device. If the court requires such monitoring, the 4569
cost of monitoring shall be borne by the offender. If the 4570
offender is indigent, the cost of compliance shall be paid by 4571
the crime victims reparations fund. 4572

Sec. 2929.14. (A) Except as provided in division (B) (1), 4573
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (B) (9), 4574
(B) (10), (B) (11), (E), (G), (H), (J), or (K) of this section or 4575
in division (D) (6) of section 2919.25 of the Revised Code and 4576
except in relation to an offense for which a sentence of ~~death-~~ 4577
~~or~~-life imprisonment is to be imposed, if the court imposing a 4578
sentence upon an offender for a felony elects or is required to 4579
impose a prison term on the offender pursuant to this chapter, 4580
the court shall impose a prison term that shall be one of the 4581
following: 4582

(1) (a) For a felony of the first degree committed on or 4583
after March 22, 2019, the prison term shall be an indefinite 4584
prison term with a stated minimum term selected by the court of 4585
three, four, five, six, seven, eight, nine, ten, or eleven years 4586
and a maximum term that is determined pursuant to section 4587
2929.144 of the Revised Code, except that if the section that 4588
criminalizes the conduct constituting the felony specifies a 4589
different minimum term or penalty for the offense, the specific 4590
language of that section shall control in determining the 4591
minimum term or otherwise sentencing the offender but the 4592
minimum term or sentence imposed under that specific language 4593
shall be considered for purposes of the Revised Code as if it 4594
had been imposed under this division. 4595

(b) For a felony of the first degree committed prior to 4596
March 22, 2019, the prison term shall be a definite prison term 4597
of three, four, five, six, seven, eight, nine, ten, or eleven 4598
years. 4599

(2) (a) For a felony of the second degree committed on or 4600
after March 22, 2019, the prison term shall be an indefinite 4601
prison term with a stated minimum term selected by the court of 4602

two, three, four, five, six, seven, or eight years and a maximum 4603
term that is determined pursuant to section 2929.144 of the 4604
Revised Code, except that if the section that criminalizes the 4605
conduct constituting the felony specifies a different minimum 4606
term or penalty for the offense, the specific language of that 4607
section shall control in determining the minimum term or 4608
otherwise sentencing the offender but the minimum term or 4609
sentence imposed under that specific language shall be 4610
considered for purposes of the Revised Code as if it had been 4611
imposed under this division. 4612

(b) For a felony of the second degree committed prior to 4613
March 22, 2019, the prison term shall be a definite term of two, 4614
three, four, five, six, seven, or eight years. 4615

(3) (a) For a felony of the third degree that is a 4616
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 4617
2907.05, 2907.321, 2907.322, 2907.323, or 3795.04 of the Revised 4618
Code, that is a violation of division (A) of section 4511.19 of 4619
the Revised Code if the offender previously has been convicted 4620
of or pleaded guilty to a violation of division (A) of that 4621
section that was a felony, or that is a violation of section 4622
2911.02 or 2911.12 of the Revised Code if the offender 4623
previously has been convicted of or pleaded guilty in two or 4624
more separate proceedings to two or more violations of section 4625
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, the 4626
prison term shall be a definite term of twelve, eighteen, 4627
twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty- 4628
four, or sixty months. 4629

(b) For a felony of the third degree that is not an 4630
offense for which division (A) (3) (a) of this section applies, 4631
the prison term shall be a definite term of nine, twelve, 4632

eighteen, twenty-four, thirty, or thirty-six months. 4633

(4) For a felony of the fourth degree, the prison term 4634
shall be a definite term of six, seven, eight, nine, ten, 4635
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, 4636
or eighteen months. 4637

(5) For a felony of the fifth degree, the prison term 4638
shall be a definite term of six, seven, eight, nine, ten, 4639
eleven, or twelve months. 4640

(B) (1) (a) Except as provided in division (B) (1) (e) of this 4641
section, if an offender who is convicted of or pleads guilty to 4642
a felony also is convicted of or pleads guilty to a 4643
specification of the type described in section 2941.141, 4644
2941.144, or 2941.145 of the Revised Code, the court shall 4645
impose on the offender one of the following prison terms: 4646

(i) A prison term of six years if the specification is of 4647
the type described in division (A) of section 2941.144 of the 4648
Revised Code that charges the offender with having a firearm 4649
that is an automatic firearm or that was equipped with a firearm 4650
muffler or suppressor on or about the offender's person or under 4651
the offender's control while committing the offense; 4652

(ii) A prison term of three years if the specification is 4653
of the type described in division (A) of section 2941.145 of the 4654
Revised Code that charges the offender with having a firearm on 4655
or about the offender's person or under the offender's control 4656
while committing the offense and displaying the firearm, 4657
brandishing the firearm, indicating that the offender possessed 4658
the firearm, or using it to facilitate the offense; 4659

(iii) A prison term of one year if the specification is of 4660
the type described in division (A) of section 2941.141 of the 4661

Revised Code that charges the offender with having a firearm on 4662
or about the offender's person or under the offender's control 4663
while committing the offense; 4664

(iv) A prison term of nine years if the specification is 4665
of the type described in division (D) of section 2941.144 of the 4666
Revised Code that charges the offender with having a firearm 4667
that is an automatic firearm or that was equipped with a firearm 4668
muffler or suppressor on or about the offender's person or under 4669
the offender's control while committing the offense and 4670
specifies that the offender previously has been convicted of or 4671
pleaded guilty to a specification of the type described in 4672
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4673
the Revised Code; 4674

(v) A prison term of fifty-four months if the 4675
specification is of the type described in division (D) of 4676
section 2941.145 of the Revised Code that charges the offender 4677
with having a firearm on or about the offender's person or under 4678
the offender's control while committing the offense and 4679
displaying the firearm, brandishing the firearm, indicating that 4680
the offender possessed the firearm, or using the firearm to 4681
facilitate the offense and that the offender previously has been 4682
convicted of or pleaded guilty to a specification of the type 4683
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 4684
2941.1412 of the Revised Code; 4685

(vi) A prison term of eighteen months if the specification 4686
is of the type described in division (D) of section 2941.141 of 4687
the Revised Code that charges the offender with having a firearm 4688
on or about the offender's person or under the offender's 4689
control while committing the offense and that the offender 4690
previously has been convicted of or pleaded guilty to a 4691

specification of the type described in section 2941.141, 4692
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 4693

(b) If a court imposes a prison term on an offender under 4694
division (B)(1)(a) of this section, the prison term shall not be 4695
reduced pursuant to section 2929.20, division (A)(2) or (3) of 4696
section 2967.193 or 2967.194, or any other provision of Chapter 4697
2967. or Chapter 5120. of the Revised Code. Except as provided 4698
in division (B)(1)(g) of this section, a court shall not impose 4699
more than one prison term on an offender under division (B)(1) 4700
(a) of this section for felonies committed as part of the same 4701
act or transaction. 4702

(c)(i) Except as provided in division (B)(1)(e) of this 4703
section, if an offender who is convicted of or pleads guilty to 4704
a violation of section 2923.161 of the Revised Code or to a 4705
felony that includes, as an essential element, purposely or 4706
knowingly causing or attempting to cause the death of or 4707
physical harm to another, also is convicted of or pleads guilty 4708
to a specification of the type described in division (A) of 4709
section 2941.146 of the Revised Code that charges the offender 4710
with committing the offense by discharging a firearm from a 4711
motor vehicle other than a manufactured home, the court, after 4712
imposing a prison term on the offender for the violation of 4713
section 2923.161 of the Revised Code or for the other felony 4714
offense under division (A), (B)(2), or (B)(3) of this section, 4715
shall impose an additional prison term of five years upon the 4716
offender that shall not be reduced pursuant to section 2929.20, 4717
division (A)(2) or (3) of section 2967.193 or 2967.194, or any 4718
other provision of Chapter 2967. or Chapter 5120. of the Revised 4719
Code. 4720

(ii) Except as provided in division (B)(1)(e) of this 4721

section, if an offender who is convicted of or pleads guilty to 4722
a violation of section 2923.161 of the Revised Code or to a 4723
felony that includes, as an essential element, purposely or 4724
knowingly causing or attempting to cause the death of or 4725
physical harm to another, also is convicted of or pleads guilty 4726
to a specification of the type described in division (C) of 4727
section 2941.146 of the Revised Code that charges the offender 4728
with committing the offense by discharging a firearm from a 4729
motor vehicle other than a manufactured home and that the 4730
offender previously has been convicted of or pleaded guilty to a 4731
specification of the type described in section 2941.141, 4732
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 4733
the court, after imposing a prison term on the offender for the 4734
violation of section 2923.161 of the Revised Code or for the 4735
other felony offense under division (A), (B) (2), or (3) of this 4736
section, shall impose an additional prison term of ninety months 4737
upon the offender that shall not be reduced pursuant to section 4738
2929.20, division (A) (2) or (3) of section 2967.193 or 2967.194, 4739
or any other provision of Chapter 2967. or Chapter 5120. of the 4740
Revised Code. 4741

(iii) A court shall not impose more than one additional 4742
prison term on an offender under division (B) (1) (c) of this 4743
section for felonies committed as part of the same act or 4744
transaction. If a court imposes an additional prison term on an 4745
offender under division (B) (1) (c) of this section relative to an 4746
offense, the court also shall impose a prison term under 4747
division (B) (1) (a) of this section relative to the same offense, 4748
provided the criteria specified in that division for imposing an 4749
additional prison term are satisfied relative to the offender 4750
and the offense. 4751

(d) If an offender who is convicted of or pleads guilty to 4752

an offense of violence that is a felony also is convicted of or 4753
pleads guilty to a specification of the type described in 4754
section 2941.1411 of the Revised Code that charges the offender 4755
with wearing or carrying body armor while committing the felony 4756
offense of violence, the court shall impose on the offender an 4757
additional prison term of two years. The prison term so imposed 4758
shall not be reduced pursuant to section 2929.20, division (A) 4759
(2) or (3) of section 2967.193 or 2967.194, or any other 4760
provision of Chapter 2967. or Chapter 5120. of the Revised Code. 4761
A court shall not impose more than one prison term on an 4762
offender under division (B) (1) (d) of this section for felonies 4763
committed as part of the same act or transaction. If a court 4764
imposes an additional prison term under division (B) (1) (a) or 4765
(c) of this section, the court is not precluded from imposing an 4766
additional prison term under division (B) (1) (d) of this section. 4767

(e) The court shall not impose any of the prison terms 4768
described in division (B) (1) (a) of this section or any of the 4769
additional prison terms described in division (B) (1) (c) of this 4770
section upon an offender for a violation of section 2923.12 or 4771
2923.123 of the Revised Code. The court shall not impose any of 4772
the prison terms described in division (B) (1) (a) or (b) of this 4773
section upon an offender for a violation of section 2923.122 4774
that involves a deadly weapon that is a firearm other than a 4775
dangerous ordnance, section 2923.16, or section 2923.121 of the 4776
Revised Code. The court shall not impose any of the prison terms 4777
described in division (B) (1) (a) of this section or any of the 4778
additional prison terms described in division (B) (1) (c) of this 4779
section upon an offender for a violation of section 2923.13 of 4780
the Revised Code unless all of the following apply: 4781

(i) The offender previously has been convicted of 4782
aggravated murder, murder, or any felony of the first or second 4783

degree. 4784

(ii) Less than five years have passed since the offender 4785
was released from prison or post-release control, whichever is 4786
later, for the prior offense. 4787

(f) (i) If an offender is convicted of or pleads guilty to 4788
a felony that includes, as an essential element, causing or 4789
attempting to cause the death of or physical harm to another and 4790
also is convicted of or pleads guilty to a specification of the 4791
type described in division (A) of section 2941.1412 of the 4792
Revised Code that charges the offender with committing the 4793
offense by discharging a firearm at a peace officer as defined 4794
in section 2935.01 of the Revised Code or a corrections officer, 4795
as defined in section 2941.1412 of the Revised Code, the court, 4796
after imposing a prison term on the offender for the felony 4797
offense under division (A), (B) (2), or (B) (3) of this section, 4798
shall impose an additional prison term of seven years upon the 4799
offender that shall not be reduced pursuant to section 2929.20, 4800
division (A) (2) or (3) of section 2967.193 or 2967.194, or any 4801
other provision of Chapter 2967. or Chapter 5120. of the Revised 4802
Code. 4803

(ii) If an offender is convicted of or pleads guilty to a 4804
felony that includes, as an essential element, causing or 4805
attempting to cause the death of or physical harm to another and 4806
also is convicted of or pleads guilty to a specification of the 4807
type described in division (B) of section 2941.1412 of the 4808
Revised Code that charges the offender with committing the 4809
offense by discharging a firearm at a peace officer, as defined 4810
in section 2935.01 of the Revised Code, or a corrections 4811
officer, as defined in section 2941.1412 of the Revised Code, 4812
and that the offender previously has been convicted of or 4813

pleaded guilty to a specification of the type described in 4814
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4815
the Revised Code, the court, after imposing a prison term on the 4816
offender for the felony offense under division (A), (B) (2), or 4817
(3) of this section, shall impose an additional prison term of 4818
one hundred twenty-six months upon the offender that shall not 4819
be reduced pursuant to section 2929.20, division (A) (2) or (3) 4820
of section 2967.193 or 2967.194, or any other provision of 4821
Chapter 2967. or 5120. of the Revised Code. 4822

(iii) If an offender is convicted of or pleads guilty to 4823
two or more felonies that include, as an essential element, 4824
causing or attempting to cause the death or physical harm to 4825
another and also is convicted of or pleads guilty to a 4826
specification of the type described under division (B) (1) (f) of 4827
this section in connection with two or more of the felonies of 4828
which the offender is convicted or to which the offender pleads 4829
guilty, the sentencing court shall impose on the offender the 4830
prison term specified under division (B) (1) (f) of this section 4831
for each of two of the specifications of which the offender is 4832
convicted or to which the offender pleads guilty and, in its 4833
discretion, also may impose on the offender the prison term 4834
specified under that division for any or all of the remaining 4835
specifications. If a court imposes an additional prison term on 4836
an offender under division (B) (1) (f) of this section relative to 4837
an offense, the court shall not impose a prison term under 4838
division (B) (1) (a) or (c) of this section relative to the same 4839
offense. 4840

(g) If an offender is convicted of or pleads guilty to two 4841
or more felonies, if one or more of those felonies are 4842
aggravated murder, murder, attempted aggravated murder, 4843
attempted murder, aggravated robbery, felonious assault, or 4844

rape, and if the offender is convicted of or pleads guilty to a 4845
specification of the type described under division (B)(1)(a) of 4846
this section in connection with two or more of the felonies, the 4847
sentencing court shall impose on the offender the prison term 4848
specified under division (B)(1)(a) of this section for each of 4849
the two most serious specifications of which the offender is 4850
convicted or to which the offender pleads guilty and, in its 4851
discretion, also may impose on the offender the prison term 4852
specified under that division for any or all of the remaining 4853
specifications. 4854

(2)(a) If division (B)(2)(b) of this section does not 4855
apply, the court may impose on an offender, in addition to the 4856
longest prison term authorized or required for the offense or, 4857
for offenses for which division (A)(1)(a) or (2)(a) of this 4858
section applies, in addition to the longest minimum prison term 4859
authorized or required for the offense, an additional definite 4860
prison term of one, two, three, four, five, six, seven, eight, 4861
nine, or ten years if all of the following criteria are met: 4862

(i) The offender is convicted of or pleads guilty to a 4863
specification of the type described in section 2941.149 of the 4864
Revised Code that the offender is a repeat violent offender. 4865

(ii) The offense of which the offender currently is 4866
convicted or to which the offender currently pleads guilty is 4867
aggravated murder and the court does not impose a sentence of 4868
~~death or~~ life imprisonment without parole, murder, terrorism and 4869
the court does not impose a sentence of life imprisonment 4870
without parole, any felony of the first degree that is an 4871
offense of violence and the court does not impose a sentence of 4872
life imprisonment without parole, or any felony of the second 4873
degree that is an offense of violence and the trier of fact 4874

finds that the offense involved an attempt to cause or a threat 4875
to cause serious physical harm to a person or resulted in 4876
serious physical harm to a person. 4877

(iii) The court imposes the longest prison term for the 4878
offense or the longest minimum prison term for the offense, 4879
whichever is applicable, that is not life imprisonment without 4880
parole. 4881

(iv) The court finds that the prison terms imposed 4882
pursuant to division (B) (2) (a) (iii) of this section and, if 4883
applicable, division (B) (1) or (3) of this section are 4884
inadequate to punish the offender and protect the public from 4885
future crime, because the applicable factors under section 4886
2929.12 of the Revised Code indicating a greater likelihood of 4887
recidivism outweigh the applicable factors under that section 4888
indicating a lesser likelihood of recidivism. 4889

(v) The court finds that the prison terms imposed pursuant 4890
to division (B) (2) (a) (iii) of this section and, if applicable, 4891
division (B) (1) or (3) of this section are demeaning to the 4892
seriousness of the offense, because one or more of the factors 4893
under section 2929.12 of the Revised Code indicating that the 4894
offender's conduct is more serious than conduct normally 4895
constituting the offense are present, and they outweigh the 4896
applicable factors under that section indicating that the 4897
offender's conduct is less serious than conduct normally 4898
constituting the offense. 4899

(b) The court shall impose on an offender the longest 4900
prison term authorized or required for the offense or, for 4901
offenses for which division (A) (1) (a) or (2) (a) of this section 4902
applies, the longest minimum prison term authorized or required 4903
for the offense, and shall impose on the offender an additional 4904

definite prison term of one, two, three, four, five, six, seven, 4905
eight, nine, or ten years if all of the following criteria are 4906
met: 4907

(i) The offender is convicted of or pleads guilty to a 4908
specification of the type described in section 2941.149 of the 4909
Revised Code that the offender is a repeat violent offender. 4910

(ii) The offender within the preceding twenty years has 4911
been convicted of or pleaded guilty to three or more offenses 4912
described in division (CC)(1) of section 2929.01 of the Revised 4913
Code, including all offenses described in that division of which 4914
the offender is convicted or to which the offender pleads guilty 4915
in the current prosecution and all offenses described in that 4916
division of which the offender previously has been convicted or 4917
to which the offender previously pleaded guilty, whether 4918
prosecuted together or separately. 4919

(iii) The offense or offenses of which the offender 4920
currently is convicted or to which the offender currently pleads 4921
guilty is aggravated murder and the court does not impose a 4922
sentence of ~~death or~~ life imprisonment without parole, murder, 4923
terrorism and the court does not impose a sentence of life 4924
imprisonment without parole, any felony of the first degree that 4925
is an offense of violence and the court does not impose a 4926
sentence of life imprisonment without parole, or any felony of 4927
the second degree that is an offense of violence and the trier 4928
of fact finds that the offense involved an attempt to cause or a 4929
threat to cause serious physical harm to a person or resulted in 4930
serious physical harm to a person. 4931

(c) For purposes of division (B)(2)(b) of this section, 4932
two or more offenses committed at the same time or as part of 4933
the same act or event shall be considered one offense, and that 4934

one offense shall be the offense with the greatest penalty. 4935

(d) A sentence imposed under division (B)(2)(a) or (b) of 4936
this section shall not be reduced pursuant to section 2929.20, 4937
division (A)(2) or (3) of section 2967.193 or 2967.194, or any 4938
other provision of Chapter 2967. or Chapter 5120. of the Revised 4939
Code. The offender shall serve an additional prison term imposed 4940
under division (B)(2)(a) or (b) of this section consecutively to 4941
and prior to the prison term imposed for the underlying offense. 4942

(e) When imposing a sentence pursuant to division (B)(2) 4943
(a) or (b) of this section, the court shall state its findings 4944
explaining the imposed sentence. 4945

(3) Except when an offender commits a violation of section 4946
2903.01 or 2907.02 of the Revised Code and the penalty imposed 4947
for the violation is life imprisonment or commits a violation of 4948
section 2903.02 of the Revised Code, if the offender commits a 4949
violation of section 2925.03 or 2925.11 of the Revised Code and 4950
that section classifies the offender as a major drug offender, 4951
if the offender commits a violation of section 2925.05 of the 4952
Revised Code and division (E)(1) of that section classifies the 4953
offender as a major drug offender, if the offender commits a 4954
felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 4955
3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, 4956
division (C) or (D) of section 3719.172, division (E) of section 4957
4729.51, or division (J) of section 4729.54 of the Revised Code 4958
that includes the sale, offer to sell, or possession of a 4959
schedule I or II controlled substance, with the exception of 4960
marihuana, and the court imposing sentence upon the offender 4961
finds that the offender is guilty of a specification of the type 4962
described in division (A) of section 2941.1410 of the Revised 4963
Code charging that the offender is a major drug offender, if the 4964

court imposing sentence upon an offender for a felony finds that 4965
the offender is guilty of corrupt activity with the most serious 4966
offense in the pattern of corrupt activity being a felony of the 4967
first degree, or if the offender is guilty of an attempted 4968
violation of section 2907.02 of the Revised Code and, had the 4969
offender completed the violation of section 2907.02 of the 4970
Revised Code that was attempted, the offender would have been 4971
subject to a sentence of life imprisonment or life imprisonment 4972
without parole for the violation of section 2907.02 of the 4973
Revised Code, the court shall impose upon the offender for the 4974
felony violation a mandatory prison term determined as described 4975
in this division that cannot be reduced pursuant to section 4976
2929.20, division (A) (2) or (3) of section 2967.193 or 2967.194, 4977
or any other provision of Chapter 2967. or 5120. of the Revised 4978
Code. The mandatory prison term shall be the maximum definite 4979
prison term prescribed in division (A) (1) (b) of this section for 4980
a felony of the first degree, except that for offenses for which 4981
division (A) (1) (a) of this section applies, the mandatory prison 4982
term shall be the longest minimum prison term prescribed in that 4983
division for the offense. 4984

(4) If the offender is being sentenced for a third or 4985
fourth degree felony OVI offense under division (G) (2) of 4986
section 2929.13 of the Revised Code, the sentencing court shall 4987
impose upon the offender a mandatory prison term in accordance 4988
with that division. In addition to the mandatory prison term, if 4989
the offender is being sentenced for a fourth degree felony OVI 4990
offense, the court, notwithstanding division (A) (4) of this 4991
section, may sentence the offender to a definite prison term of 4992
not less than six months and not more than thirty months, and if 4993
the offender is being sentenced for a third degree felony OVI 4994
offense, the sentencing court may sentence the offender to an 4995

additional prison term of any duration specified in division (A) 4996
(3) of this section. In either case, the additional prison term 4997
imposed shall be reduced by the sixty or one hundred twenty days 4998
imposed upon the offender as the mandatory prison term. The 4999
total of the additional prison term imposed under division (B) 5000
(4) of this section plus the sixty or one hundred twenty days 5001
imposed as the mandatory prison term shall equal a definite term 5002
in the range of six months to thirty months for a fourth degree 5003
felony OVI offense and shall equal one of the authorized prison 5004
terms specified in division (A) (3) of this section for a third 5005
degree felony OVI offense. If the court imposes an additional 5006
prison term under division (B) (4) of this section, the offender 5007
shall serve the additional prison term after the offender has 5008
served the mandatory prison term required for the offense. In 5009
addition to the mandatory prison term or mandatory and 5010
additional prison term imposed as described in division (B) (4) 5011
of this section, the court also may sentence the offender to a 5012
community control sanction under section 2929.16 or 2929.17 of 5013
the Revised Code, but the offender shall serve all of the prison 5014
terms so imposed prior to serving the community control 5015
sanction. 5016

If the offender is being sentenced for a fourth degree 5017
felony OVI offense under division (G) (1) of section 2929.13 of 5018
the Revised Code and the court imposes a mandatory term of local 5019
incarceration, the court may impose a prison term as described 5020
in division (A) (1) of that section. 5021

(5) If an offender is convicted of or pleads guilty to a 5022
violation of division (A) (1) or (2) of section 2903.06 of the 5023
Revised Code and also is convicted of or pleads guilty to a 5024
specification of the type described in section 2941.1414 of the 5025
Revised Code that charges that the victim of the offense is a 5026

peace officer, as defined in section 2935.01 of the Revised Code, an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, or a firefighter or emergency medical worker, both as defined in section 4123.026 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 shall not be reduced pursuant to section 2929.20, division (A) (2) or (3) of section 2967.193 or 2967.194, 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) 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 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 shall not be reduced pursuant to section 2929.20, division (A) (2) or (3) of section 2967.193 or 2967.194, 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 felonies committed as part of the same act.

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

(i) If the offense is a felony of the first degree, a definite prison term of not less than five years and not greater than eleven years, except that if the offense is a felony of the first degree committed on or after March 22, 2019, the court shall impose as the minimum prison term a mandatory term of not less than five years and not greater than eleven years;

(ii) If the offense is a felony of the second or third degree, a definite prison term of not less than three years and not greater than the maximum prison term allowed for the offense by division (A) (2) (b) or (3) of this section, except that if the offense is a felony of the second degree committed on or after March 22, 2019, the court shall impose as the minimum prison term a mandatory term of not less than three years and not greater than eight years;

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

(b) The prison term imposed under division (B) (7) (a) of this section shall not be reduced pursuant to section 2929.20,

division (A) (2) or (3) of section 2967.193 or 2967.194, or any 5088
other provision of Chapter 2967. of the Revised Code. A court 5089
shall not impose more than one prison term on an offender under 5090
division (B) (7) (a) of this section for felonies committed as 5091
part of the same act, scheme, or plan. 5092

(8) If an offender is convicted of or pleads guilty to a 5093
felony violation of section 2903.11, 2903.12, or 2903.13 of the 5094
Revised Code and also is convicted of or pleads guilty to a 5095
specification of the type described in section 2941.1423 of the 5096
Revised Code that charges that the victim of the violation was a 5097
woman whom the offender knew was pregnant at the time of the 5098
violation, notwithstanding the range prescribed in division (A) 5099
of this section as the definite prison term or minimum prison 5100
term for felonies of the same degree as the violation, the court 5101
shall impose on the offender a mandatory prison term that is 5102
either a definite prison term of six months or one of the prison 5103
terms prescribed in division (A) of this section for felonies of 5104
the same degree as the violation, except that if the violation 5105
is a felony of the first or second degree committed on or after 5106
March 22, 2019, the court shall impose as the minimum prison term 5107
under division (A) (1) (a) or (2) (a) of this section a mandatory 5108
term that is one of the terms prescribed in that division, 5109
whichever is applicable, for the offense. 5110

(9) (a) If an offender is convicted of or pleads guilty to 5111
a violation of division (A) (1) or (2) of section 2903.11 of the 5112
Revised Code and also is convicted of or pleads guilty to a 5113
specification of the type described in section 2941.1425 of the 5114
Revised Code, the court shall impose on the offender a mandatory 5115
prison term of six years if either of the following applies: 5116

(i) The violation is a violation of division (A) (1) of 5117

section 2903.11 of the Revised Code and the specification 5118
charges that the offender used an accelerant in committing the 5119
violation and the serious physical harm to another or to 5120
another's unborn caused by the violation resulted in a 5121
permanent, serious disfigurement or permanent, substantial 5122
incapacity; 5123

(ii) The violation is a violation of division (A) (2) of 5124
section 2903.11 of the Revised Code and the specification 5125
charges that the offender used an accelerant in committing the 5126
violation, that the violation caused physical harm to another or 5127
to another's unborn, and that the physical harm resulted in a 5128
permanent, serious disfigurement or permanent, substantial 5129
incapacity. 5130

(b) If a court imposes a prison term on an offender under 5131
division (B) (9) (a) of this section, the prison term shall not be 5132
reduced pursuant to section 2929.20, division (A) (2) or (3) of 5133
section 2967.193 or 2967.194, or any other provision of Chapter 5134
2967. or Chapter 5120. of the Revised Code. A court shall not 5135
impose more than one prison term on an offender under division 5136
(B) (9) of this section for felonies committed as part of the 5137
same act. 5138

(c) The provisions of divisions (B) (9) and (C) (6) of this 5139
section and of division (D) (2) of section 2903.11, division (F) 5140
(20) of section 2929.13, and section 2941.1425 of the Revised 5141
Code shall be known as "Judy's Law." 5142

(10) If an offender is convicted of or pleads guilty to a 5143
violation of division (A) of section 2903.11 of the Revised Code 5144
and also is convicted of or pleads guilty to a specification of 5145
the type described in section 2941.1426 of the Revised Code that 5146
charges that the victim of the offense suffered permanent 5147

disabling harm as a result of the offense and that the victim 5148
was under ten years of age at the time of the offense, 5149
regardless of whether the offender knew the age of the victim, 5150
the court shall impose upon the offender an additional definite 5151
prison term of six years. A prison term imposed on an offender 5152
under division (B) (10) of this section shall not be reduced 5153
pursuant to section 2929.20, division (A) (2) or (3) of section 5154
2967.193 or 2967.194, or any other provision of Chapter 2967. or 5155
Chapter 5120. of the Revised Code. If a court imposes an 5156
additional prison term on an offender under this division 5157
relative to a violation of division (A) of section 2903.11 of 5158
the Revised Code, the court shall not impose any other 5159
additional prison term on the offender relative to the same 5160
offense. 5161

(11) If an offender is convicted of or pleads guilty to a 5162
felony violation of section 2925.03 or 2925.05 of the Revised 5163
Code or a felony violation of section 2925.11 of the Revised 5164
Code for which division (C) (11) of that section applies in 5165
determining the sentence for the violation, if the drug involved 5166
in the violation is a fentanyl-related compound or a compound, 5167
mixture, preparation, or substance containing a fentanyl-related 5168
compound, and if the offender also is convicted of or pleads 5169
guilty to a specification of the type described in division (B) 5170
of section 2941.1410 of the Revised Code that charges that the 5171
offender is a major drug offender, in addition to any other 5172
penalty imposed for the violation, the court shall impose on the 5173
offender a mandatory prison term of three, four, five, six, 5174
seven, or eight years. If a court imposes a prison term on an 5175
offender under division (B) (11) of this section, the prison term 5176
shall not be reduced pursuant to section 2929.20, division (A) 5177
(2) or (3) of section 2967.193 or 2967.194, or any other 5178

provision of Chapter 2967. or 5120. of the Revised Code. A court 5179
shall not impose more than one prison term on an offender under 5180
division (B) (11) of this section for felonies committed as part 5181
of the same act. 5182

(C) (1) (a) Subject to division (C) (1) (b) of this section, 5183
if a mandatory prison term is imposed upon an offender pursuant 5184
to division (B) (1) (a) of this section for having a firearm on or 5185
about the offender's person or under the offender's control 5186
while committing a felony, if a mandatory prison term is imposed 5187
upon an offender pursuant to division (B) (1) (c) of this section 5188
for committing a felony specified in that division by 5189
discharging a firearm from a motor vehicle, or if both types of 5190
mandatory prison terms are imposed, the offender shall serve any 5191
mandatory prison term imposed under either division 5192
consecutively to any other mandatory prison term imposed under 5193
either division or under division (B) (1) (d) of this section, 5194
consecutively to and prior to any prison term imposed for the 5195
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 5196
this section or any other section of the Revised Code, and 5197
consecutively to any other prison term or mandatory prison term 5198
previously or subsequently imposed upon the offender. 5199

(b) If a mandatory prison term is imposed upon an offender 5200
pursuant to division (B) (1) (d) of this section for wearing or 5201
carrying body armor while committing an offense of violence that 5202
is a felony, the offender shall serve the mandatory term so 5203
imposed consecutively to any other mandatory prison term imposed 5204
under that division or under division (B) (1) (a) or (c) of this 5205
section, consecutively to and prior to any prison term imposed 5206
for the underlying felony under division (A), (B) (2), or (B) (3) 5207
of this section or any other section of the Revised Code, and 5208
consecutively to any other prison term or mandatory prison term 5209

previously or subsequently imposed upon the offender. 5210

(c) If a mandatory prison term is imposed upon an offender 5211
pursuant to division (B)(1)(f) of this section, the offender 5212
shall serve the mandatory prison term so imposed consecutively 5213
to and prior to any prison term imposed for the underlying 5214
felony under division (A), (B)(2), or (B)(3) of this section or 5215
any other section of the Revised Code, and consecutively to any 5216
other prison term or mandatory prison term previously or 5217
subsequently imposed upon the offender. 5218

(d) If a mandatory prison term is imposed upon an offender 5219
pursuant to division (B)(7) or (8) of this section, the offender 5220
shall serve the mandatory prison term so imposed consecutively 5221
to any other mandatory prison term imposed under that division 5222
or under any other provision of law and consecutively to any 5223
other prison term or mandatory prison term previously or 5224
subsequently imposed upon the offender. 5225

(e) If a mandatory prison term is imposed upon an offender 5226
pursuant to division (B)(11) of this section, the offender shall 5227
serve the mandatory prison term consecutively to any other 5228
mandatory prison term imposed under that division, consecutively 5229
to and prior to any prison term imposed for the underlying 5230
felony, and consecutively to any other prison term or mandatory 5231
prison term previously or subsequently imposed upon the 5232
offender. 5233

(2) If an offender who is an inmate in a jail, prison, or 5234
other residential detention facility violates section 2917.02, 5235
2917.03, or 2921.35 of the Revised Code or division (A)(1) or 5236
(2) of section 2921.34 of the Revised Code, if an offender who 5237
is under detention at a detention facility commits a felony 5238
violation of section 2923.131 of the Revised Code, or if an 5239

offender who is an inmate in a jail, prison, or other 5240
residential detention facility or is under detention at a 5241
detention facility commits another felony while the offender is 5242
an escapee in violation of division (A) (1) or (2) of section 5243
2921.34 of the Revised Code, any prison term imposed upon the 5244
offender for one of those violations shall be served by the 5245
offender consecutively to the prison term or term of 5246
imprisonment the offender was serving when the offender 5247
committed that offense and to any other prison term previously 5248
or subsequently imposed upon the offender. 5249

(3) If a prison term is imposed for a violation of 5250
division (B) of section 2911.01 of the Revised Code, a violation 5251
of division (A) of section 2913.02 of the Revised Code in which 5252
the stolen property is a firearm or dangerous ordnance, or a 5253
felony violation of division (B) of section 2921.331 of the 5254
Revised Code, the offender shall serve that prison term 5255
consecutively to any other prison term or mandatory prison term 5256
previously or subsequently imposed upon the offender. 5257

(4) If multiple prison terms are imposed on an offender 5258
for convictions of multiple offenses, the court may require the 5259
offender to serve the prison terms consecutively if the court 5260
finds that the consecutive service is necessary to protect the 5261
public from future crime or to punish the offender and that 5262
consecutive sentences are not disproportionate to the 5263
seriousness of the offender's conduct and to the danger the 5264
offender poses to the public, and if the court also finds any of 5265
the following: 5266

(a) The offender committed one or more of the multiple 5267
offenses while the offender was awaiting trial or sentencing, 5268
was under a sanction imposed pursuant to section 2929.16, 5269

2929.17, or 2929.18 of the Revised Code, or was under post- 5270
release control for a prior offense. 5271

(b) At least two of the multiple offenses were committed 5272
as part of one or more courses of conduct, and the harm caused 5273
by two or more of the multiple offenses so committed was so 5274
great or unusual that no single prison term for any of the 5275
offenses committed as part of any of the courses of conduct 5276
adequately reflects the seriousness of the offender's conduct. 5277

(c) The offender's history of criminal conduct 5278
demonstrates that consecutive sentences are necessary to protect 5279
the public from future crime by the offender. 5280

(5) If a mandatory prison term is imposed upon an offender 5281
pursuant to division (B) (5) or (6) of this section, the offender 5282
shall serve the mandatory prison term consecutively to and prior 5283
to any prison term imposed for the underlying violation of 5284
division (A) (1) or (2) of section 2903.06 of the Revised Code 5285
pursuant to division (A) of this section or section 2929.142 of 5286
the Revised Code. If a mandatory prison term is imposed upon an 5287
offender pursuant to division (B) (5) of this section, and if a 5288
mandatory prison term also is imposed upon the offender pursuant 5289
to division (B) (6) of this section in relation to the same 5290
violation, the offender shall serve the mandatory prison term 5291
imposed pursuant to division (B) (5) of this section 5292
consecutively to and prior to the mandatory prison term imposed 5293
pursuant to division (B) (6) of this section and consecutively to 5294
and prior to any prison term imposed for the underlying 5295
violation of division (A) (1) or (2) of section 2903.06 of the 5296
Revised Code pursuant to division (A) of this section or section 5297
2929.142 of the Revised Code. 5298

(6) If a mandatory prison term is imposed on an offender 5299

pursuant to division (B)(9) of this section, the offender shall 5300
serve the mandatory prison term consecutively to and prior to 5301
any prison term imposed for the underlying violation of division 5302
(A)(1) or (2) of section 2903.11 of the Revised Code and 5303
consecutively to and prior to any other prison term or mandatory 5304
prison term previously or subsequently imposed on the offender. 5305

(7) If a mandatory prison term is imposed on an offender 5306
pursuant to division (B)(10) of this section, the offender shall 5307
serve that mandatory prison term consecutively to and prior to 5308
any prison term imposed for the underlying felonious assault. 5309
Except as otherwise provided in division (C) of this section, 5310
any other prison term or mandatory prison term previously or 5311
subsequently imposed upon the offender may be served 5312
concurrently with, or consecutively to, the prison term imposed 5313
pursuant to division (B)(10) of this section. 5314

(8) Any prison term imposed for a violation of section 5315
2903.04 of the Revised Code that is based on a violation of 5316
section 2925.03 or 2925.11 of the Revised Code or on a violation 5317
of section 2925.05 of the Revised Code that is not funding of 5318
marihuana trafficking shall run consecutively to any prison term 5319
imposed for the violation of section 2925.03 or 2925.11 of the 5320
Revised Code or for the violation of section 2925.05 of the 5321
Revised Code that is not funding of marihuana trafficking. 5322

(9) When consecutive prison terms are imposed pursuant to 5323
division (C)(1), (2), (3), (4), (5), (6), (7), or (8) or 5324
division (H)(1) or (2) of this section, subject to division (C) 5325
(10) of this section, the term to be served is the aggregate of 5326
all of the terms so imposed. 5327

(10) When a court sentences an offender to a non-life 5328
felony indefinite prison term, any definite prison term or 5329

mandatory definite prison term previously or subsequently 5330
imposed on the offender in addition to that indefinite sentence 5331
that is required to be served consecutively to that indefinite 5332
sentence shall be served prior to the indefinite sentence. 5333

(11) If a court is sentencing an offender for a felony of 5334
the first or second degree, if division (A) (1) (a) or (2) (a) of 5335
this section applies with respect to the sentencing for the 5336
offense, and if the court is required under the Revised Code 5337
section that sets forth the offense or any other Revised Code 5338
provision to impose a mandatory prison term for the offense, the 5339
court shall impose the required mandatory prison term as the 5340
minimum term imposed under division (A) (1) (a) or (2) (a) of this 5341
section, whichever is applicable. 5342

(D) (1) If a court imposes a prison term, other than a term 5343
of life imprisonment, for a felony of the first degree, for a 5344
felony of the second degree, for a felony sex offense, or for a 5345
felony of the third degree that is an offense of violence and 5346
that is not a felony sex offense, it shall include in the 5347
sentence a requirement that the offender be subject to a period 5348
of post-release control after the offender's release from 5349
imprisonment, in accordance with section 2967.28 of the Revised 5350
Code. If a court imposes a sentence including a prison term of a 5351
type described in this division on or after July 11, 2006, the 5352
failure of a court to include a post-release control requirement 5353
in the sentence pursuant to this division does not negate, 5354
limit, or otherwise affect the mandatory period of post-release 5355
control that is required for the offender under division (B) of 5356
section 2967.28 of the Revised Code. Section 2929.191 of the 5357
Revised Code applies if, prior to July 11, 2006, a court imposed 5358
a sentence including a prison term of a type described in this 5359
division and failed to include in the sentence pursuant to this 5360

division a statement regarding post-release control. 5361

(2) If a court imposes a prison term for a felony of the 5362
third, fourth, or fifth degree that is not subject to division 5363
(D)(1) of this section, it shall include in the sentence a 5364
requirement that the offender be subject to a period of post- 5365
release control after the offender's release from imprisonment, 5366
in accordance with that division, if the parole board determines 5367
that a period of post-release control is necessary. Section 5368
2929.191 of the Revised Code applies if, prior to July 11, 2006, 5369
a court imposed a sentence including a prison term of a type 5370
described in this division and failed to include in the sentence 5371
pursuant to this division a statement regarding post-release 5372
control. 5373

(E) The court shall impose sentence upon the offender in 5374
accordance with section 2971.03 of the Revised Code, and Chapter 5375
2971. of the Revised Code applies regarding the prison term or 5376
term of life imprisonment without parole imposed upon the 5377
offender and the service of that term of imprisonment if any of 5378
the following apply: 5379

(1) A person is convicted of or pleads guilty to a violent 5380
sex offense or a designated homicide, assault, or kidnapping 5381
offense, and, in relation to that offense, the offender is 5382
adjudicated a sexually violent predator. 5383

(2) A person is convicted of or pleads guilty to a 5384
violation of division (A)(1)(b) of section 2907.02 of the 5385
Revised Code committed on or after January 2, 2007, and either 5386
the court does not impose a sentence of life without parole when 5387
authorized pursuant to division (B) of section 2907.02 of the 5388
Revised Code, or division (B) of section 2907.02 of the Revised 5389
Code provides that the court shall not sentence the offender 5390

pursuant to section 2971.03 of the Revised Code. 5391

(3) A person is convicted of or pleads guilty to attempted 5392
rape committed on or after January 2, 2007, and a specification 5393
of the type described in section 2941.1418, 2941.1419, or 5394
2941.1420 of the Revised Code. 5395

(4) A person is convicted of or pleads guilty to a 5396
violation of section 2905.01 of the Revised Code committed on or 5397
after January 1, 2008, and that section requires the court to 5398
sentence the offender pursuant to section 2971.03 of the Revised 5399
Code. 5400

(5) A person is convicted of or pleads guilty to 5401
aggravated murder committed on or after January 1, 2008, and 5402
division ~~(A) (2) (b) (ii) of section 2929.022, division (A) (1) (e),~~ 5403
~~(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1)~~ 5404
~~(a) (iv) of section 2929.03, or division (A) or (B) (C) of~~ 5405
section ~~2929.06-2929.02~~ of the Revised Code requires the court 5406
to sentence the offender pursuant to division (B) (3) of section 5407
2971.03 of the Revised Code. 5408

(6) A person is convicted of or pleads guilty to murder 5409
committed on or after January 1, 2008, and division ~~(B) (2) (C)~~ 5410
(1) of section 2929.02 of the Revised Code requires the court to 5411
sentence the offender pursuant to section 2971.03 of the Revised 5412
Code. 5413

(F) If a person who has been convicted of or pleaded 5414
guilty to a felony is sentenced to a prison term or term of 5415
imprisonment under this section, ~~sections section 2929.02 to~~ 5416
~~2929.06 of the Revised Code, section 2929.142 of the Revised~~ 5417
~~Code, section or~~ 2971.03 of the Revised Code, or any other 5418
provision of law, section 5120.163 of the Revised Code applies 5419

regarding the person while the person is confined in a state 5420
correctional institution. 5421

(G) If an offender who is convicted of or pleads guilty to 5422
a felony that is an offense of violence also is convicted of or 5423
pleads guilty to a specification of the type described in 5424
section 2941.142 of the Revised Code that charges the offender 5425
with having committed the felony while participating in a 5426
criminal gang, the court shall impose upon the offender an 5427
additional prison term of one, two, or three years. 5428

(H) (1) If an offender who is convicted of or pleads guilty 5429
to aggravated murder, murder, or a felony of the first, second, 5430
or third degree that is an offense of violence also is convicted 5431
of or pleads guilty to a specification of the type described in 5432
section 2941.143 of the Revised Code that charges the offender 5433
with having committed the offense in a school safety zone or 5434
towards a person in a school safety zone, the court shall impose 5435
upon the offender an additional prison term of two years. The 5436
offender shall serve the additional two years consecutively to 5437
and prior to the prison term imposed for the underlying offense. 5438

(2) (a) If an offender is convicted of or pleads guilty to 5439
a felony violation of section 2907.22, 2907.24, 2907.241, or 5440
2907.25 of the Revised Code and to a specification of the type 5441
described in section 2941.1421 of the Revised Code and if the 5442
court imposes a prison term on the offender for the felony 5443
violation, the court may impose upon the offender an additional 5444
prison term as follows: 5445

(i) Subject to division (H) (2) (a) (ii) of this section, an 5446
additional prison term of one, two, three, four, five, or six 5447
months; 5448

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

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

(I) At the time of sentencing, the court may recommend the offender for placement in a program of shock incarceration under section 5120.031 of the Revised Code or for placement in an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program of shock incarceration or an intensive program prison of that nature, or make no recommendation on placement of the offender. In no case shall the department of rehabilitation and correction place the offender in a program or prison of that nature unless 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 the placement.

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

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

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

If the court does not make a recommendation under this division with respect to an offender and if the department

determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 or 5120.032 of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

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

(K) (1) The court shall impose an additional mandatory prison term of two, three, four, five, six, seven, eight, nine, ten, or eleven years on an offender who is convicted of or pleads guilty to a violent felony offense if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1424 of the Revised Code that charges that the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control while committing the presently charged violent felony offense and displayed or brandished the firearm, indicated that the offender possessed a firearm, or used the firearm to facilitate the offense. The offender shall serve the prison term imposed under this division consecutively to and prior to the

prison term imposed for the underlying offense. The prison term 5541
shall not be reduced pursuant to section 2929.20, division (A) 5542
(2) or (3) of section 2967.193 or 2967.194, or any other 5543
provision of Chapter 2967. or 5120. of the Revised Code. A court 5544
may not impose more than one sentence under division (B) (2) (a) 5545
of this section and this division for acts committed as part of 5546
the same act or transaction. 5547

(2) As used in division (K) (1) of this section, "violent 5548
career criminal" and "violent felony offense" have the same 5549
meanings as in section 2923.132 of the Revised Code. 5550

(L) If an offender receives or received a sentence of life 5551
imprisonment without parole, a sentence of life imprisonment, a 5552
definite sentence, or a sentence to an indefinite prison term 5553
under this chapter for a felony offense that was committed when 5554
the offender was under eighteen years of age, the offender's 5555
parole eligibility shall be determined under section 2967.132 of 5556
the Revised Code. 5557

Sec. 2929.61. (A) Persons charged with an offense that was 5558
formerly a capital offense and that was committed prior to 5559
January 1, 1974, shall be prosecuted under the law as it existed 5560
at the time the offense was committed, and, if convicted, shall 5561
be imprisoned for life, except that whenever the statute under 5562
which any such person is prosecuted provides for a lesser 5563
penalty under the circumstances of the particular case, such 5564
lesser penalty shall be imposed. 5565

(B) Persons charged with an offense, other than an offense 5566
that was formerly a capital offense, that was committed prior to 5567
January 1, 1974, shall be prosecuted under the law as it existed 5568
at the time the offense was committed. Persons convicted or 5569
sentenced on or after January 1, 1974, for an offense committed 5570

prior to January 1, 1974, shall be sentenced according to the 5571
penalty for commission of the substantially equivalent offense 5572
under Amended Substitute House Bill 511 of the 109th General 5573
Assembly. If the offense for which sentence is being imposed 5574
does not have a substantial equivalent under that act, or if 5575
that act provides a more severe penalty than that originally 5576
prescribed for the offense of which the person is convicted, 5577
then sentence shall be imposed under the law as it existed prior 5578
to January 1, 1974. 5579

(C) Persons charged with an offense that is a felony of 5580
the third or fourth degree and that was committed on or after 5581
January 1, 1974, and before July 1, 1983, shall be prosecuted 5582
under the law as it existed at the time the offense was 5583
committed. Persons convicted or sentenced on or after July 1, 5584
1983, for an offense that is a felony of the third or fourth 5585
degree and that was committed on or after January 1, 1974, and 5586
before July 1, 1983, shall be notified by the court sufficiently 5587
in advance of sentencing that they may choose to be sentenced 5588
pursuant to either the law in effect at the time of the 5589
commission of the offense or the law in effect at the time of 5590
sentencing. This notice shall be written and shall include the 5591
differences between and possible effects of the alternative 5592
sentence forms and the effect of the person's refusal to choose. 5593
The person to be sentenced shall then inform the court in 5594
writing of the person's choice, and shall be sentenced 5595
accordingly. Any person choosing to be sentenced pursuant to the 5596
law in effect at the time of the commission of an offense that 5597
is a felony of the third or fourth degree shall then be eligible 5598
for parole, and this person cannot at a later date have the 5599
person's sentence converted to a definite sentence. If the 5600
person refuses to choose between the two possible sentences, the 5601

person shall be sentenced pursuant to the law in effect at the 5602
time of the commission of the offense. 5603

(D) Persons charged with an offense that was a felony of 5604
the first or second degree at the time it was committed, that 5605
was committed on or after January 1, 1974, and that was 5606
committed prior to July 1, 1983, shall be prosecuted for that 5607
offense and, if convicted, shall be sentenced under the law as 5608
it existed at the time the offense was committed. 5609

(E) Persons charged with an offense that is a felony of 5610
the first or second degree that was committed prior to ~~the~~ 5611
~~effective date~~ March 22, 2019, of this amendment shall be 5612
prosecuted for that offense and, if convicted, shall be 5613
sentenced under the law as it existed at the time the offense 5614
was committed. 5615

Sec. 2930.19. (A) In a manner consistent with the duty of 5616
a prosecutor to represent the interests of the public as a 5617
whole, a prosecutor shall seek compliance with this chapter on 5618
behalf of a victim, a member of the victim's family, or the 5619
victim's representative. 5620

(B) The failure of a public official or public agency to 5621
comply with the requirements of this chapter does not give rise 5622
to a claim for damages against that public official or public 5623
agency, except that a public agency as an employer may be held 5624
responsible for a violation of section 2930.18 of the Revised 5625
Code. 5626

(C) The failure of any person or entity to provide a 5627
right, privilege, or notice to a victim under this chapter does 5628
not constitute grounds for declaring a mistrial or new trial, 5629
for setting aside a conviction, sentence, adjudication, or 5630

disposition, or for granting postconviction release to a 5631
defendant or alleged juvenile offender. 5632

~~(D) If there is a conflict between a provision in this 5633
chapter and a specific statute governing the procedure in a case 5634
involving a capital offense, the specific statute supersedes the 5635
provision in this chapter. 5636~~

~~(E) If the victim of a crime is incarcerated in a state or 5637
local correctional facility or is in the legal custody of the 5638
department of youth services, the victim's rights under this 5639
chapter may be modified by court order to prevent any security 5640
risk, hardship, or undue burden upon a public official or public 5641
agency with a duty under this chapter. 5642~~

Sec. 2937.222. (A) On the motion of the prosecuting 5643
attorney or on the judge's own motion, the judge shall hold a 5644
hearing to determine whether an accused person charged with 5645
aggravated murder ~~when it is not a capital offense,~~ murder, a 5646
felony of the first or second degree, a violation of section 5647
2903.06 of the Revised Code, a violation of section 2903.211 of 5648
the Revised Code that is a felony, or a felony OVI offense shall 5649
be denied bail. The judge shall order that the accused be 5650
detained until the conclusion of the hearing. Except for good 5651
cause, a continuance on the motion of the state shall not exceed 5652
three court days. Except for good cause, a continuance on the 5653
motion of the accused shall not exceed five court days unless 5654
the motion of the accused waives in writing the five-day limit 5655
and states in writing a specific period for which the accused 5656
requests a continuance. A continuance granted upon a motion of 5657
the accused that waives in writing the five-day limit shall not 5658
exceed five court days after the period of continuance requested 5659
in the motion. 5660

At the hearing, the accused has the right to be 5661
represented by counsel and, if the accused is indigent, to have 5662
counsel appointed. The judge shall afford the accused an 5663
opportunity to testify, to present witnesses and other 5664
information, and to cross-examine witnesses who appear at the 5665
hearing. The rules concerning admissibility of evidence in 5666
criminal trials do not apply to the presentation and 5667
consideration of information at the hearing. Regardless of 5668
whether the hearing is being held on the motion of the 5669
prosecuting attorney or on the court's own motion, the state has 5670
the burden of proving that the proof is evident or the 5671
presumption great that the accused committed the offense with 5672
which the accused is charged, of proving that the accused poses 5673
a substantial risk of serious physical harm to any person or to 5674
the community, and of proving that no release conditions will 5675
reasonably assure the safety of that person and the community. 5676

The judge may reopen the hearing at any time before trial 5677
if the judge finds that information exists that was not known to 5678
the movant at the time of the hearing and that that information 5679
has a material bearing on whether bail should be denied. If a 5680
municipal court or county court enters an order denying bail, a 5681
judge of the court of common pleas having jurisdiction over the 5682
case may continue that order or may hold a hearing pursuant to 5683
this section to determine whether to continue that order. 5684

(B) No accused person shall be denied bail pursuant to 5685
this section unless the judge finds by clear and convincing 5686
evidence that the proof is evident or the presumption great that 5687
the accused committed the offense described in division (A) of 5688
this section with which the accused is charged, finds by clear 5689
and convincing evidence that the accused poses a substantial 5690
risk of serious physical harm to any person or to the community, 5691

and finds by clear and convincing evidence that no release 5692
conditions will reasonably assure the safety of that person and 5693
the community. 5694

(C) The judge, in determining whether the accused person 5695
described in division (A) of this section poses a substantial 5696
risk of serious physical harm to any person or to the community 5697
and whether there are conditions of release that will reasonably 5698
assure the safety of that person and the community, shall 5699
consider all available information regarding all of the 5700
following: 5701

(1) The nature and circumstances of the offense charged, 5702
including whether the offense is an offense of violence or 5703
involves alcohol or a drug of abuse; 5704

(2) The weight of the evidence against the accused; 5705

(3) The history and characteristics of the accused, 5706
including, but not limited to, both of the following: 5707

(a) The character, physical and mental condition, family 5708
ties, employment, financial resources, length of residence in 5709
the community, community ties, past conduct, history relating to 5710
drug or alcohol abuse, and criminal history of the accused; 5711

(b) Whether, at the time of the current alleged offense or 5712
at the time of the arrest of the accused, the accused was on 5713
probation, parole, post-release control, or other release 5714
pending trial, sentencing, appeal, or completion of sentence for 5715
the commission of an offense under the laws of this state, 5716
another state, or the United States or under a municipal 5717
ordinance. 5718

(4) The nature and seriousness of the danger to any person 5719
or the community that would be posed by the person's release. 5720

(D) (1) An order of the court of common pleas denying bail 5721
pursuant to this section is a final appealable order. In an 5722
appeal pursuant to division (D) of this section, the court of 5723
appeals shall do all of the following: 5724

(a) Give the appeal priority on its calendar; 5725

(b) Liberally modify or dispense with formal requirements 5726
in the interest of a speedy and just resolution of the appeal; 5727

(c) Decide the appeal expeditiously; 5728

(d) Promptly enter its judgment affirming or reversing the 5729
order denying bail. 5730

(2) The pendency of an appeal under this section does not 5731
deprive the court of common pleas of jurisdiction to conduct 5732
further proceedings in the case or to further consider the order 5733
denying bail in accordance with this section. If, during the 5734
pendency of an appeal under division (D) of this section, the 5735
court of common pleas sets aside or terminates the order denying 5736
bail, the court of appeals shall dismiss the appeal. 5737

(E) As used in this section: 5738

(1) "Court day" has the same meaning as in section 5122.01 5739
of the Revised Code. 5740

(2) "Felony OVI offense" means a third degree felony OVI 5741
offense and a fourth degree felony OVI offense. 5742

(3) "Fourth degree felony OVI offense" and "third degree 5743
felony OVI offense" have the same meanings as in section 2929.01 5744
of the Revised Code. 5745

Sec. 2941.021. Any criminal offense which is not 5746
punishable by ~~death or~~ life imprisonment may be prosecuted by 5747

information filed in the common pleas court by the prosecuting attorney if the defendant, after ~~he has~~ having been advised by the court of the nature of the charge against ~~him~~ the defendant and of ~~his~~ the defendant's rights under the constitution, is represented by counsel or has affirmatively waived counsel by waiver in writing and in open court, waives in writing and in open court prosecution by indictment.

Sec. 2941.14. ~~(A)~~ In an indictment for aggravated murder, murder, or voluntary or involuntary manslaughter, the manner in which, or the means by which the death was caused need not be set forth.

~~(B) Imposition of the death penalty for aggravated murder is precluded unless the indictment or count in the indictment charging the offense specifies one or more of the aggravating circumstances listed in division (A) of section 2929.04 of the Revised Code. If more than one aggravating circumstance is specified to an indictment or count, each shall be in a separately numbered specification, and if an aggravating circumstance is specified to a count in an indictment containing more than one count, such specification shall be identified as to the count to which it applies.~~

~~(C) A specification to an indictment or count in an indictment charging aggravated murder shall be stated at the end of the body of the indictment or count, and may be in substantially the following form:~~

~~"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE FIRST COUNT, or SPECIFICATION 1 TO THE FIRST COUNT). The Grand Jurors further find and specify that (set forth the applicable aggravating circumstance listed in divisions (A) (1) to (10) of section 2929.04 of the Revised Code. The aggravating~~

~~circumstance may be stated in the words of the subdivision in- 5778
which it appears, or in words sufficient to give the accused- 5779
notice of the same)."~~ 5780

Sec. 2941.148. (A) (1) The application of Chapter 2971. of 5781
the Revised Code to an offender is precluded unless one of the 5782
following applies: 5783

(a) The offender is charged with a violent sex offense, 5784
and the indictment, count in the indictment, or information 5785
charging the violent sex offense also includes a specification 5786
that the offender is a sexually violent predator, or the 5787
offender is charged with a designated homicide, assault, or 5788
kidnapping offense, and the indictment, count in the indictment, 5789
or information charging the designated homicide, assault, or 5790
kidnapping offense also includes both a specification of the 5791
type described in section 2941.147 of the Revised Code and a 5792
specification that the offender is a sexually violent predator. 5793

(b) The offender is convicted of or pleads guilty to a 5794
violation of division (A) (1) (b) of section 2907.02 of the 5795
Revised Code committed on or after January 2, 2007, and division 5796
(B) of section 2907.02 of the Revised Code does not prohibit the 5797
court from sentencing the offender pursuant to section 2971.03 5798
of the Revised Code. 5799

(c) The offender is convicted of or pleads guilty to 5800
attempted rape committed on or after January 2, 2007, and to a 5801
specification of the type described in section 2941.1418, 5802
2941.1419, or 2941.1420 of the Revised Code. 5803

(d) The offender is convicted of or pleads guilty to a 5804
violation of section 2905.01 of the Revised Code and to a 5805
specification of the type described in section 2941.147 of the 5806

Revised Code, and section 2905.01 of the Revised Code requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(e) The offender is convicted of or pleads guilty to aggravated murder and to a specification of the type described in section 2941.147 of the Revised Code, and division ~~(A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of section 2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ of the Revised Code requires a court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

(f) The offender is convicted of or pleads guilty to murder and to a specification of the type described in section 2941.147 of the Revised Code, and division ~~(B) (2) (C) (1)~~ of section 2929.02 of the Revised Code requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code.

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

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

(B) In determining for purposes of this section whether a person is a sexually violent predator, all of the factors set forth in divisions (H) (1) to (6) of section 2971.01 of the

Revised Code that apply regarding the person may be considered 5836
as evidence tending to indicate that it is likely that the 5837
person will engage in the future in one or more sexually violent 5838
offenses. 5839

(C) As used in this section, "designated homicide, 5840
assault, or kidnapping offense," "violent sex offense," and 5841
"sexually violent predator" have the same meanings as in section 5842
2971.01 of the Revised Code. 5843

Sec. 2941.401. When a person has entered upon a term of 5844
imprisonment in a correctional institution of this state, and 5845
when during the continuance of the term of imprisonment there is 5846
pending in this state any untried indictment, information, or 5847
complaint against the prisoner, ~~he~~ the prisoner shall be brought 5848
to trial within one hundred eighty days after ~~he~~ the prisoner 5849
causes to be delivered to the prosecuting attorney and the 5850
appropriate court in which the matter is pending, written notice 5851
of the place of ~~his~~ the prisoner's imprisonment and a request 5852
for a final disposition to be made of the matter, except that 5853
for good cause shown in open court, with the prisoner or ~~his~~ the 5854
prisoner's counsel present, the court may grant any necessary or 5855
reasonable continuance. The request of the prisoner shall be 5856
accompanied by a certificate of the warden or superintendent 5857
having custody of the prisoner, stating the term of commitment 5858
under which the prisoner is being held, the time served and 5859
remaining to be served on the sentence, the amount of good time 5860
earned, the time of parole eligibility of the prisoner, and any 5861
decisions of the adult parole authority relating to the 5862
prisoner. 5863

The written notice and request for final disposition shall 5864
be given or sent by the prisoner to the warden or superintendent 5865

having custody of ~~him~~ the prisoner, who shall promptly forward 5866
it with the certificate to the appropriate prosecuting attorney 5867
and court by registered or certified mail, return receipt 5868
requested. 5869

The warden or superintendent having custody of the 5870
prisoner shall promptly inform ~~him~~ the prisoner in writing of 5871
the source and contents of any untried indictment, information, 5872
or complaint against ~~him~~ the prisoner, concerning which the 5873
warden or superintendent has knowledge, and of ~~his~~ the 5874
prisoner's right to make a request for final disposition 5875
thereof. 5876

Escape from custody by the prisoner, subsequent to ~~his~~ the 5877
prisoner's execution of the request for final disposition, voids 5878
the request. 5879

If the action is not brought to trial within the time 5880
provided, subject to continuance allowed pursuant to this 5881
section, no court any longer has jurisdiction thereof, the 5882
indictment, information, or complaint is void, and the court 5883
shall enter an order dismissing the action with prejudice. 5884

This section does not apply to any person adjudged to be 5885
mentally ill or who is under sentence of life imprisonment ~~or~~ 5886
~~death, or to any prisoner under sentence of death.~~ 5887

Sec. 2941.43. If the convict referred to in section 5888
2941.40 of the Revised Code is acquitted, ~~he~~ the convict shall 5889
be forthwith returned by the sheriff to the state correctional 5890
institution to serve out the remainder of ~~his~~ the convict's 5891
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 5892
state correctional institution, ~~he~~ the convict shall be returned 5893
to the state correctional institution by the sheriff to serve 5894

~~his new the convict's term. If he is sentenced to death, the~~ 5895
~~death sentence shall be executed as if he were not under~~ 5896
~~sentence of imprisonment in a state correctional institution.~~ 5897

Sec. 2941.51. (A) Counsel appointed to a case or selected 5898
by an indigent person under division (E) of section 120.16 or 5899
division (E) of section 120.26 of the Revised Code, or otherwise 5900
appointed by the court, except for counsel appointed by the 5901
court to provide legal representation for a person charged with 5902
a violation of an ordinance of a municipal corporation, shall be 5903
paid for their services by the county the compensation and 5904
expenses that the trial court approves. Each request for payment 5905
shall include a financial disclosure form completed by the 5906
indigent person on a form prescribed by the state public 5907
defender. Compensation and expenses shall not exceed the amounts 5908
fixed by the board of county commissioners pursuant to division 5909
(B) of this section. 5910

(B) The board of county commissioners shall establish a 5911
schedule of fees by case or on an hourly basis to be paid by the 5912
county for legal services provided by appointed counsel. Prior 5913
to establishing such schedule, the board shall request the bar 5914
association or associations of the county to submit a proposed 5915
~~schedule for cases other than capital cases.~~ The schedule 5916
submitted shall be subject to the review, amendment, and 5917
approval of the board of county commissioners, ~~except with~~ 5918
~~respect to capital cases. With respect to capital cases, the~~ 5919
~~schedule shall provide for fees by case or on an hourly basis to~~ 5920
~~be paid to counsel in the amount or at the rate set by the~~ 5921
~~capital case attorney fee council pursuant to division (D) of~~ 5922
~~section 120.33 of the Revised Code, and the board of county~~ 5923
~~commissioners shall approve that amount or rate.~~ 5924

~~With respect to capital cases, counsel shall be paid~~ 5925
~~compensation and expenses in accordance with the amount or at~~ 5926
~~the rate set by the capital case attorney fee council pursuant~~ 5927
~~to division (D) of section 120.33 of the Revised Code.~~ 5928

(C) In a case where counsel have been appointed to conduct 5929
an appeal under Chapter 120. of the Revised Code, such 5930
compensation shall be fixed by the court of appeals or the 5931
supreme court, as provided in divisions (A) and (B) of this 5932
section. 5933

(D) The fees and expenses approved by the court under this 5934
section shall not be taxed as part of the costs and shall be 5935
paid by the county. However, if the person represented has, or 5936
reasonably may be expected to have, the means to meet some part 5937
of the cost of the services rendered to the person, the person 5938
shall pay the county an amount that the person reasonably can be 5939
expected to pay. Pursuant to section 120.04 of the Revised Code, 5940
the county shall pay to the state public defender a percentage 5941
of the payment received from the person in an amount 5942
proportionate to the percentage of the costs of the person's 5943
case that were paid to the county by the state public defender 5944
pursuant to this section. The money paid to the state public 5945
defender shall be credited to the client payment fund created 5946
pursuant to division (B) (5) of section 120.04 of the Revised 5947
Code. 5948

(E) The county auditor shall draw a warrant on the county 5949
treasurer for the payment of such counsel in the amount fixed by 5950
the court, plus the expenses that the court fixes and certifies 5951
to the auditor. The county auditor shall report periodically, 5952
but not less than annually, to the board of county commissioners 5953
and to the Ohio public defender commission the amounts paid out 5954

pursuant to the approval of the court under this section, 5955
~~separately stating costs and expenses that are reimbursable~~ 5956
~~under section 120.35 of the Revised Code.~~ The board, after 5957
review and approval of the auditor's report, may then certify it 5958
to the state public defender for reimbursement. The request for 5959
reimbursement shall be accompanied by a financial disclosure 5960
form completed by each indigent person for whom counsel was 5961
provided on a form prescribed by the state public defender. The 5962
state public defender shall review the report and, in accordance 5963
with the standards, guidelines, and maximums established 5964
pursuant to divisions (B) (7) and (8) of section 120.04 of the 5965
Revised Code and the payment determination provisions of section 5966
120.34 of the Revised Code, pay the cost, ~~other than costs and~~ 5967
~~expenses that are reimbursable under section 120.35 of the~~ 5968
~~Revised Code, if any,~~ of paying appointed counsel in each county 5969
and ~~pay costs and expenses that are reimbursable under section~~ 5970
~~120.35 of the Revised Code, if any,~~ to the board. The amount of 5971
payments the state public defender is to make shall be 5972
determined as specified in section 120.34 of the Revised Code. 5973

(F) If any county system for paying appointed counsel 5974
fails to maintain the standards for the conduct of the system 5975
established by the rules of the Ohio public defender commission 5976
pursuant to divisions (B) and (C) of section 120.03 of the 5977
Revised Code or the standards established by the state public 5978
defender pursuant to division (B) (7) of section 120.04 of the 5979
Revised Code, the commission shall notify the board of county 5980
commissioners of the county that the county system for paying 5981
appointed counsel has failed to comply with its rules. Unless 5982
the board corrects the conduct of its appointed counsel system 5983
to comply with the rules within ninety days after the date of 5984
the notice, the state public defender may deny all or part of 5985

the county's reimbursement from the state provided for in this 5986
section. 5987

Sec. 2945.06. In any case in which a defendant waives ~~his~~ 5988
~~the defendant's~~ right to trial by jury and elects to be tried by 5989
the court under section 2945.05 of the Revised Code, any judge 5990
of the court in which the cause is pending shall proceed to 5991
hear, try, and determine the cause in accordance with the rules 5992
and in like manner as if the cause were being tried before a 5993
jury. ~~If the accused is charged with an offense punishable with~~ 5994
~~death, he shall be tried by a court to be composed of three~~ 5995
~~judges, consisting of the judge presiding at the time in the~~ 5996
~~trial of criminal cases and two other judges to be designated by~~ 5997
~~the presiding judge or chief justice of that court, and in case~~ 5998
~~there is neither a presiding judge nor a chief justice, by the~~ 5999
~~chief justice of the supreme court. The judges or a majority of~~ 6000
~~them may decide all questions of fact and law arising upon the~~ 6001
~~trial; however the accused shall not be found guilty or not~~ 6002
~~guilty of any offense unless the judges unanimously find the~~ 6003
~~accused guilty or not guilty. If the accused pleads guilty of~~ 6004
~~aggravated murder, a court composed of three judges shall~~ 6005
~~examine the witnesses, determine whether the accused is guilty~~ 6006
~~of aggravated murder or any other offense, and pronounce~~ 6007
~~sentence accordingly. The court shall follow the procedures~~ 6008
~~contained in sections 2929.03 and 2929.04 of the Revised Code in~~ 6009
~~all cases in which the accused is charged with an offense~~ 6010
~~punishable by death. If in the composition of the court it is~~ 6011
~~necessary that a judge from another county be assigned by the~~ 6012
~~chief justice, the judge from another county shall be~~ 6013
~~compensated for his services as provided by section 141.07 of~~ 6014
~~the Revised Code.~~ 6015

Sec. 2945.10. The trial of an issue upon an indictment or 6016

information shall proceed before the trial court or jury as 6017
follows: 6018

(A) Counsel for the state must first state the case for 6019
the prosecution, and may briefly state the evidence by which the 6020
counsel for the state expects to sustain it. 6021

(B) The defendant or the defendant's counsel must then 6022
state the defense, and may briefly state the evidence which the 6023
defendant or the defendant's counsel expects to offer in support 6024
of it. 6025

(C) The state must first produce its evidence and the 6026
defendant shall then produce the defendant's evidence. 6027

(D) The state will then be confined to rebutting evidence, 6028
but the court, for good reason, in furtherance of justice, may 6029
permit evidence to be offered by either side out of its order. 6030

(E) When the evidence is concluded, ~~one of the following~~ 6031
~~applies regarding jury instructions:~~ 6032

~~(1) In a capital case that is being heard by a jury, the~~ 6033
~~court shall prepare written instructions to the jury on the~~ 6034
~~points of law, shall provide copies of the written instructions~~ 6035
~~to the jury before orally instructing the jury, and shall permit~~ 6036
~~the jury to retain and consult the instructions during the~~ 6037
~~court's presentation of the oral instructions and during the~~ 6038
~~jury's deliberations.~~ 6039

~~(2) In a case that is not a capital case, either party may~~ 6040
request instructions to the jury on the points of law, which 6041
instructions shall be reduced to writing if either party 6042
requests it. 6043

(F) When the evidence is concluded, unless the case is 6044

submitted without argument, the counsel for the state shall 6045
commence, the defendant or the defendant's counsel follow, and 6046
the counsel for the state conclude the argument to the jury. 6047

(G) The court, after the argument is concluded and before 6048
proceeding with other business, shall forthwith charge the jury. 6049
Such charge shall be reduced to writing by the court if either 6050
party requests it before the argument to the jury is commenced. 6051
Such charge, or other charge or instruction provided for in this 6052
section, when so written and given, shall not be orally 6053
qualified, modified, or explained to the jury by the court. 6054
Written charges and instructions shall be taken by the jury in 6055
their retirement and returned with their verdict into court and 6056
remain on file with the papers of the case. 6057

The court may deviate from the order of proceedings listed 6058
in this section. 6059

Sec. 2945.13. When two or more persons are jointly 6060
indicted for a felony, ~~except a capital offense,~~ they shall be 6061
tried jointly unless the court, for good cause shown on 6062
application therefor by the prosecuting attorney or one or more 6063
of said defendants, orders one or more of said defendants to be 6064
tried separately. 6065

Sec. 2945.21. (A) (1) In criminal cases in which there is 6066
only one defendant, each party, in addition to the challenges 6067
for cause authorized by law, may peremptorily challenge three of 6068
the jurors in misdemeanor cases ~~and,~~ four of the jurors in 6069
felony cases other than ~~capital~~ cases that may subject the 6070
defendant to a sentence of life imprisonment, and six of the 6071
jurors in cases that may subject the defendant to a sentence of 6072
life imprisonment. If there is more than one defendant, each 6073
defendant may peremptorily challenge the same number of jurors 6074

as if ~~he~~ the defendant were the sole defendant. 6075

~~(2) Notwithstanding Criminal Rule 24, in capital cases in
which there is only one defendant, each party, in addition to
the challenges for cause authorized by law, may peremptorily
challenge twelve of the jurors. If there is more than one
defendant, each defendant may peremptorily challenge the same
number of jurors as if he were the sole defendant.~~ 6076
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~~(3)~~ In any case in which there are multiple defendants,
the prosecuting attorney may peremptorily challenge a number of
jurors equal to the total number of peremptory challenges
allowed to all of the defendants. 6082
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(B) If any indictments, informations, or complaints are
consolidated for trial, the consolidated cases shall be
considered, for purposes of exercising peremptory challenges, as
though the defendants or offenses had been joined in the same
indictment, information, or complaint. 6086
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(C) The exercise of peremptory challenges authorized by
this section shall be in accordance with the procedures of
Criminal Rule 24. 6091
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Sec. 2945.25. A person called as a juror in a criminal
case may be challenged for the following causes: 6094
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(A) That the person was a member of the grand jury that
found the indictment in the case; 6096
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(B) That the person is possessed of a state of mind
evincing enmity or bias toward the defendant or the state; but
no person summoned as a juror shall be disqualified by reason of
a previously formed or expressed opinion with reference to the
guilt or innocence of the accused, if the court is satisfied,
from examination of the juror or from other evidence, that the
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juror will render an impartial verdict according to the law and 6104
the evidence submitted to the jury at the trial; 6105

~~(C) In the trial of a capital offense, that the person 6106
unequivocally states that under no circumstances will the person 6107
follow the instructions of a trial judge and consider fairly the 6108
imposition of a sentence of death in a particular case. A 6109
prospective juror's conscientious or religious opposition to the 6110
death penalty in and of itself is not grounds for a challenge 6111
for cause. All parties shall be given wide latitude in voir dire 6112
questioning in this regard. 6113~~

~~(D) That the person is related by consanguinity or 6114
affinity within the fifth degree to the person alleged to be 6115
injured or attempted to be injured by the offense charged, or to 6116
the person on whose complaint the prosecution was instituted, or 6117
to the defendant; 6118~~

~~(E) (D) That the person served on a petit jury drawn in 6119
the same cause against the same defendant, and that jury was 6120
discharged after hearing the evidence or rendering a verdict on 6121
the evidence that was set aside; 6122~~

~~(F) (E) That the person served as a juror in a civil case 6123
brought against the defendant for the same act; 6124~~

~~(G) (F) That the person has been subpoenaed in good faith 6125
as a witness in the case; 6126~~

~~(H) (G) That the person has chronic alcoholism, or a drug 6127
dependency; 6128~~

~~(I) (H) That the person has been convicted of a crime that 6129
by law disqualifies the person from serving on a jury; 6130~~

~~(J) (I) That the person has an action pending between the 6131~~

person and the state or the defendant; 6132

~~(K)~~ (J) That the person or the person's spouse is a party 6133
to another action then pending in any court in which an attorney 6134
in the cause then on trial is an attorney, either for or against 6135
the person; 6136

~~(L)~~ (K) That the person is the person alleged to be 6137
injured or attempted to be injured by the offense charged, or is 6138
the person on whose complaint the prosecution was instituted, or 6139
the defendant; 6140

~~(M)~~ (L) That the person is the employer or employee, or 6141
the spouse, parent, son, or daughter of the employer or 6142
employee, or the counselor, agent, or attorney of any person 6143
included in division ~~(L)~~ (K) of this section; 6144

~~(N)~~ (M) That English is not the person's native language, 6145
and the person's knowledge of English is insufficient to permit 6146
the person to understand the facts and law in the case; 6147

~~(O)~~ (N) That the person otherwise is unsuitable for any 6148
other cause to serve as a juror. 6149

The validity of each challenge listed in this section 6150
shall be determined by the court. 6151

Sec. 2945.33. When a cause is finally submitted the jurors 6152
must be kept together in a convenient place under the charge of 6153
an officer until they agree upon a verdict, or are discharged by 6154
the court. The court, ~~except in cases where the offense charged~~ 6155
~~may be punishable by death,~~ may permit the jurors to separate 6156
during the adjournment of court overnight, under proper 6157
cautions, or under supervision of an officer. Such officer shall 6158
not permit a communication to be made to them, nor make any 6159
himself communication to them except to ask if they have agreed 6160

upon a verdict, unless ~~he~~ the officer does so by order of the 6161
court. Such officer shall not communicate to any person, before 6162
the verdict is delivered, any matter in relation to their 6163
deliberation. Upon the trial of any prosecution for misdemeanor, 6164
the court may permit the jury to separate during their 6165
deliberation, or upon adjournment of the court overnight. 6166

~~In cases where the offense charged may be punished by 6167
death, after the case is finally submitted to the jury, the 6168
jurors shall be kept in charge of the proper officer and proper 6169
arrangements for their care and maintenance shall be made as 6170
under section 2945.31 of the Revised Code. 6171~~

Sec. 2945.38. (A) If the issue of a defendant's competence 6172
to stand trial is raised and if the court, upon conducting the 6173
hearing provided for in section 2945.37 of the Revised Code, 6174
finds that the defendant is competent to stand trial, the 6175
defendant shall be proceeded against as provided by law. If the 6176
court finds the defendant competent to stand trial and the 6177
defendant is receiving psychotropic drugs or other medication, 6178
the court may authorize the continued administration of the 6179
drugs or medication or other appropriate treatment in order to 6180
maintain the defendant's competence to stand trial, unless the 6181
defendant's attending physician advises the court against 6182
continuation of the drugs, other medication, or treatment. 6183

(B) (1) (a) (i) If the defendant has been charged with a 6184
felony offense or a misdemeanor offense of violence for which 6185
the prosecutor has not recommended the procedures under division 6186
(B) (1) (a) (vi) of this section and if, after taking into 6187
consideration all relevant reports, information, and other 6188
evidence, the court finds that the defendant is incompetent to 6189
stand trial and that there is a substantial probability that the 6190

defendant will become competent to stand trial within one year 6191
if the defendant is provided with a course of treatment, the 6192
court shall order the defendant to undergo treatment. 6193

(ii) If the defendant has been charged with a felony 6194
offense and if, after taking into consideration all relevant 6195
reports, information, and other evidence, the court finds that 6196
the defendant is incompetent to stand trial, but the court is 6197
unable at that time to determine whether there is a substantial 6198
probability that the defendant will become competent to stand 6199
trial within one year if the defendant is provided with a course 6200
of treatment, the court shall order continuing evaluation and 6201
treatment of the defendant for a period not to exceed four 6202
months to determine whether there is a substantial probability 6203
that the defendant will become competent to stand trial within 6204
one year if the defendant is provided with a course of 6205
treatment. 6206

(iii) If the defendant has not been charged with a felony 6207
offense but has been charged with a misdemeanor offense of 6208
violence and if, after taking into consideration all relevant 6209
reports, information, and other evidence, the court finds that 6210
the defendant is incompetent to stand trial, but the court is 6211
unable at that time to determine whether there is a substantial 6212
probability that the defendant will become competent to stand 6213
trial within the time frame permitted under division (C) (1) of 6214
this section, the court may order continuing evaluation and 6215
treatment of the defendant for a period not to exceed the 6216
maximum period permitted under that division. 6217

(iv) If the defendant has not been charged with a felony 6218
offense or a misdemeanor offense of violence, but has been 6219
charged with a misdemeanor offense that is not a misdemeanor 6220

offense of violence and if, after taking into consideration all 6221
relevant reports, information, and other evidence, the court 6222
finds that the defendant is incompetent to stand trial, but the 6223
court is unable at that time to determine whether there is a 6224
substantial probability that the defendant will become competent 6225
to stand trial within the time frame permitted under division 6226
(C) (1) of this section, the court shall dismiss the charges and 6227
follow the process outlined in division (B) (1) (a) (v) (I) of this 6228
section. 6229

(v) If the defendant has not been charged with a felony 6230
offense or a misdemeanor offense of violence, or if the 6231
defendant has been charged with a misdemeanor offense of 6232
violence and the prosecutor has recommended the procedures under 6233
division (B) (1) (a) (vi) of this section, and if, after taking 6234
into consideration all relevant reports, information, and other 6235
evidence, the trial court finds that the defendant is 6236
incompetent to stand trial, the trial court shall do one of the 6237
following: 6238

(I) Dismiss the charges pending against the defendant. A 6239
dismissal under this division is not a bar to further 6240
prosecution based on the same conduct. Upon dismissal of the 6241
charges, the trial court shall discharge the defendant unless 6242
the court or prosecutor, after consideration of the requirements 6243
of section 5122.11 of the Revised Code, files an affidavit in 6244
probate court alleging that the defendant is a mentally ill 6245
person subject to court order or a person with an intellectual 6246
disability subject to institutionalization by court order. If an 6247
affidavit is filed in probate court, the trial court may detain 6248
the defendant for ten days pending a hearing in the probate 6249
court and shall send to the probate court copies of all written 6250
reports of the defendant's mental condition that were prepared 6251

pursuant to section 2945.371 of the Revised Code. The trial 6252
court or prosecutor shall specify in the appropriate space on 6253
the affidavit that the defendant is a person described in this 6254
subdivision. 6255

(II) Order the defendant to undergo outpatient competency 6256
restoration treatment at a facility operated or certified by the 6257
department of mental health and addiction services as being 6258
qualified to treat mental illness, at a public or community 6259
mental health facility, or in the care of a psychiatrist or 6260
other mental health professional. If a defendant who has been 6261
released on bail or recognizance refuses to comply with court- 6262
ordered outpatient treatment under this division, the court may 6263
dismiss the charges pending against the defendant and proceed 6264
under division (B) (1) (a) (v) (I) of this section or may amend the 6265
conditions of bail or recognizance and order the sheriff to take 6266
the defendant into custody and deliver the defendant to a 6267
center, program, or facility operated or certified by the 6268
department of mental health and addiction services for 6269
treatment. 6270

(vi) If the defendant has not been charged with a felony 6271
offense but has been charged with a misdemeanor offense of 6272
violence and after taking into consideration all relevant 6273
reports, information, and other evidence, the court finds that 6274
the defendant is incompetent to stand trial, the prosecutor in 6275
the case may recommend that the court follow the procedures 6276
prescribed in division (B) (1) (a) (v) of this section. If the 6277
prosecutor does not make such a recommendation, the court shall 6278
follow the procedures in division (B) (1) (a) (i) of this section. 6279

(b) The court order for the defendant to undergo treatment 6280
or continuing evaluation and treatment under division (B) (1) (a) 6281

of this section shall specify that the defendant, if determined 6282
to require mental health treatment or continuing evaluation and 6283
treatment, either shall be committed to the department of mental 6284
health and addiction services for treatment or continuing 6285
evaluation and treatment at a hospital, facility, or agency, as 6286
determined to be clinically appropriate by the department of 6287
mental health and addiction services or shall be committed to a 6288
facility certified by the department of mental health and 6289
addiction services as being qualified to treat mental illness, 6290
to a public or community mental health facility, or to a 6291
psychiatrist or another mental health professional for treatment 6292
or continuing evaluation and treatment. Prior to placing the 6293
defendant, the department of mental health and addiction 6294
services shall obtain court approval for that placement 6295
following a hearing. The court order for the defendant to 6296
undergo treatment or continuing evaluation and treatment under 6297
division (B)(1)(a) of this section shall specify that the 6298
defendant, if determined to require treatment or continuing 6299
evaluation and treatment for an intellectual disability, shall 6300
receive treatment or continuing evaluation and treatment at an 6301
institution or facility operated by the department of 6302
developmental disabilities, at a facility certified by the 6303
department of developmental disabilities as being qualified to 6304
treat intellectual disabilities, at a public or private 6305
intellectual disabilities facility, or by a psychiatrist or 6306
another intellectual disabilities professional. In any case, the 6307
order may restrict the defendant's freedom of movement as the 6308
court considers necessary. The prosecutor in the defendant's 6309
case shall send to the chief clinical officer of the hospital, 6310
facility, or agency where the defendant is placed by the 6311
department of mental health and addiction services, or to the 6312
managing officer of the institution, the director of the program 6313

or facility, or the person to which the defendant is committed, 6314
copies of relevant police reports and other background 6315
information that pertains to the defendant and is available to 6316
the prosecutor unless the prosecutor determines that the release 6317
of any of the information in the police reports or any of the 6318
other background information to unauthorized persons would 6319
interfere with the effective prosecution of any person or would 6320
create a substantial risk of harm to any person. 6321

In determining the place of commitment, the court shall 6322
consider the extent to which the person is a danger to the 6323
person and to others, the need for security, the availability of 6324
housing and supportive services, including outpatient mental 6325
health services in the community, and the type of crime involved 6326
and shall order the least restrictive alternative available that 6327
is consistent with public safety and treatment goals. In 6328
weighing these factors, the court shall give preference to 6329
protecting public safety and the availability of housing and 6330
supportive services. 6331

(c) If the defendant is found incompetent to stand trial, 6332
if the chief clinical officer of the hospital, facility, or 6333
agency where the defendant is placed, or the managing officer of 6334
the institution, the director of the program or facility, or the 6335
person to which the defendant is committed for treatment or 6336
continuing evaluation and treatment under division (B) (1) (b) of 6337
this section determines that medication is necessary to restore 6338
the defendant's competency to stand trial, and if the defendant 6339
lacks the capacity to give informed consent or refuses 6340
medication, the chief clinical officer of the hospital, 6341
facility, or agency where the defendant is placed, or the 6342
managing officer of the institution, the director of the program 6343
or facility, or the person to which the defendant is committed 6344

for treatment or continuing evaluation and treatment may 6345
petition the court for authorization for the involuntary 6346
administration of medication. The court shall hold a hearing on 6347
the petition within five days of the filing of the petition if 6348
the petition was filed in a municipal court or a county court 6349
regarding an incompetent defendant charged with a misdemeanor or 6350
within ten days of the filing of the petition if the petition 6351
was filed in a court of common pleas regarding an incompetent 6352
defendant charged with a felony offense. Following the hearing, 6353
the court may authorize the involuntary administration of 6354
medication or may dismiss the petition. 6355

(2) If the court finds that the defendant is incompetent 6356
to stand trial and that, even if the defendant is provided with 6357
a course of treatment, there is not a substantial probability 6358
that the defendant will become competent to stand trial within 6359
one year, the court shall order the discharge of the defendant, 6360
unless upon motion of the prosecutor or on its own motion, the 6361
court either seeks to retain jurisdiction over the defendant 6362
pursuant to section 2945.39 of the Revised Code or files an 6363
affidavit in the probate court for the civil commitment of the 6364
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 6365
alleging that the defendant is a person with a mental illness 6366
subject to court order or a person with an intellectual 6367
disability subject to institutionalization by court order. If an 6368
affidavit is filed in the probate court, the trial court shall 6369
send to the probate court copies of all written reports of the 6370
defendant's mental condition that were prepared pursuant to 6371
section 2945.371 of the Revised Code. 6372

The trial court may issue the temporary order of detention 6373
that a probate court may issue under section 5122.11 or 5123.71 6374
of the Revised Code, to remain in effect until the probable 6375

cause or initial hearing in the probate court. Further 6376
proceedings in the probate court are civil proceedings governed 6377
by Chapter 5122. or 5123. of the Revised Code. 6378

(C) No defendant shall be required to undergo treatment, 6379
including any continuing evaluation and treatment, under 6380
division (B) (1) of this section for longer than whichever of the 6381
following periods is applicable: 6382

(1) One year, if the most serious offense with which the 6383
defendant is charged is one of the following offenses: 6384

(a) Aggravated murder, murder, or an offense of violence 6385
for which a sentence of ~~death or~~ life imprisonment may be 6386
imposed; 6387

(b) An offense of violence that is a felony of the first 6388
or second degree; 6389

(c) A conspiracy to commit, an attempt to commit, or 6390
complicity in the commission of an offense described in division 6391
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 6392
complicity is a felony of the first or second degree. 6393

(2) Six months, if the most serious offense with which the 6394
defendant is charged is a felony other than a felony described 6395
in division (C) (1) of this section; 6396

(3) Sixty days, if the most serious offense with which the 6397
defendant is charged is a misdemeanor of the first or second 6398
degree; 6399

(4) Thirty days, if the most serious offense with which 6400
the defendant is charged is a misdemeanor of the third or fourth 6401
degree, a minor misdemeanor, or an unclassified misdemeanor. 6402

(D) Any defendant who is committed pursuant to this 6403

section shall not voluntarily admit the defendant or be 6404
voluntarily admitted to a hospital or institution pursuant to 6405
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 6406
Code. 6407

(E) Except as otherwise provided in this division, a 6408
defendant who is charged with an offense and is committed by the 6409
court under this section to the department of mental health and 6410
addiction services or is committed to an institution or facility 6411
for the treatment of intellectual disabilities shall not be 6412
granted unsupervised on-grounds movement, supervised off-grounds 6413
movement, or nonsecured status except in accordance with the 6414
court order. The court may grant a defendant supervised off- 6415
grounds movement to obtain medical treatment or specialized 6416
habilitation treatment services if the person who supervises the 6417
treatment or the continuing evaluation and treatment of the 6418
defendant ordered under division (B) (1) (a) of this section 6419
informs the court that the treatment or continuing evaluation 6420
and treatment cannot be provided at the hospital or facility 6421
where the defendant is placed by the department of mental health 6422
and addiction services or the institution or facility to which 6423
the defendant is committed. The chief clinical officer of the 6424
hospital or facility where the defendant is placed by the 6425
department of mental health and addiction services or the 6426
managing officer of the institution or director of the facility 6427
to which the defendant is committed, or a designee of any of 6428
those persons, may grant a defendant movement to a medical 6429
facility for an emergency medical situation with appropriate 6430
supervision to ensure the safety of the defendant, staff, and 6431
community during that emergency medical situation. The chief 6432
clinical officer of the hospital or facility where the defendant 6433
is placed by the department of mental health and addiction 6434

services or the managing officer of the institution or director 6435
of the facility to which the defendant is committed shall notify 6436
the court within twenty-four hours of the defendant's movement 6437
to the medical facility for an emergency medical situation under 6438
this division. 6439

(F) The person who supervises the treatment or continuing 6440
evaluation and treatment of a defendant ordered to undergo 6441
treatment or continuing evaluation and treatment under division 6442
(B) (1) (a) of this section shall file a written report with the 6443
court at the following times: 6444

(1) Whenever the person believes the defendant is capable 6445
of understanding the nature and objective of the proceedings 6446
against the defendant and of assisting in the defendant's 6447
defense; 6448

(2) For a felony offense, fourteen days before expiration 6449
of the maximum time for treatment as specified in division (C) 6450
of this section and fourteen days before the expiration of the 6451
maximum time for continuing evaluation and treatment as 6452
specified in division (B) (1) (a) of this section, and, for a 6453
misdemeanor offense, ten days before the expiration of the 6454
maximum time for treatment, as specified in division (C) of this 6455
section; 6456

(3) At a minimum, after each six months of treatment; 6457

(4) Whenever the person who supervises the treatment or 6458
continuing evaluation and treatment of a defendant ordered under 6459
division (B) (1) (a) of this section believes that there is not a 6460
substantial probability that the defendant will become capable 6461
of understanding the nature and objective of the proceedings 6462
against the defendant or of assisting in the defendant's defense 6463

even if the defendant is provided with a course of treatment. 6464

(G) A report under division (F) of this section shall 6465
contain the examiner's findings, the facts in reasonable detail 6466
on which the findings are based, and the examiner's opinion as 6467
to the defendant's capability of understanding the nature and 6468
objective of the proceedings against the defendant and of 6469
assisting in the defendant's defense. If, in the examiner's 6470
opinion, the defendant remains incapable of understanding the 6471
nature and objective of the proceedings against the defendant 6472
and of assisting in the defendant's defense and there is a 6473
substantial probability that the defendant will become capable 6474
of understanding the nature and objective of the proceedings 6475
against the defendant and of assisting in the defendant's 6476
defense if the defendant is provided with a course of treatment, 6477
if in the examiner's opinion the defendant continues to have a 6478
mental illness or an intellectual disability, and if the maximum 6479
time for treatment as specified in division (C) of this section 6480
has not expired, the report also shall contain the examiner's 6481
recommendation as to the least restrictive placement or 6482
commitment alternative that is consistent with the defendant's 6483
treatment needs for restoration to competency and with the 6484
safety of the community. The court shall provide copies of the 6485
report to the prosecutor and defense counsel. 6486

(H) If a defendant is committed pursuant to division (B) 6487
(1) of this section, within ten days after the treating 6488
physician of the defendant or the examiner of the defendant who 6489
is employed or retained by the treating facility advises that 6490
there is not a substantial probability that the defendant will 6491
become capable of understanding the nature and objective of the 6492
proceedings against the defendant or of assisting in the 6493
defendant's defense even if the defendant is provided with a 6494

course of treatment, within ten days after the expiration of the 6495
maximum time for treatment as specified in division (C) of this 6496
section, within ten days after the expiration of the maximum 6497
time for continuing evaluation and treatment as specified in 6498
division (B) (1) (a) of this section, within thirty days after a 6499
defendant's request for a hearing that is made after six months 6500
of treatment, or within thirty days after being advised by the 6501
treating physician or examiner that the defendant is competent 6502
to stand trial, whichever is the earliest, the court shall 6503
conduct another hearing to determine if the defendant is 6504
competent to stand trial and shall do whichever of the following 6505
is applicable: 6506

(1) If the court finds that the defendant is competent to 6507
stand trial, the defendant shall be proceeded against as 6508
provided by law. 6509

(2) If the court finds that the defendant is incompetent 6510
to stand trial, but that there is a substantial probability that 6511
the defendant will become competent to stand trial if the 6512
defendant is provided with a course of treatment, and the 6513
maximum time for treatment as specified in division (C) of this 6514
section has not expired, the court, after consideration of the 6515
examiner's recommendation, shall order that treatment be 6516
continued, may change the facility or program at which the 6517
treatment is to be continued, and shall specify whether the 6518
treatment is to be continued at the same or a different facility 6519
or program. 6520

(3) If the court finds that the defendant is incompetent 6521
to stand trial, if the defendant is charged with an offense 6522
listed in division (C) (1) of this section, and if the court 6523
finds that there is not a substantial probability that the 6524

defendant will become competent to stand trial even if the 6525
defendant is provided with a course of treatment, or if the 6526
maximum time for treatment relative to that offense as specified 6527
in division (C) of this section has expired, further proceedings 6528
shall be as provided in sections 2945.39, 2945.401, and 2945.402 6529
of the Revised Code. 6530

(4) If the court finds that the defendant is incompetent 6531
to stand trial, if the most serious offense with which the 6532
defendant is charged is a misdemeanor or a felony other than a 6533
felony listed in division (C)(1) of this section, and if the 6534
court finds that there is not a substantial probability that the 6535
defendant will become competent to stand trial even if the 6536
defendant is provided with a course of treatment, or if the 6537
maximum time for treatment relative to that offense as specified 6538
in division (C) of this section has expired, the court shall 6539
dismiss the indictment, information, or complaint against the 6540
defendant. A dismissal under this division is not a bar to 6541
further prosecution based on the same conduct. The court shall 6542
discharge the defendant unless the court or prosecutor files an 6543
affidavit in probate court for civil commitment pursuant to 6544
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 6545
civil commitment is filed, the court may detain the defendant 6546
for ten days pending civil commitment and shall send to the 6547
probate court copies of all written reports of the defendant's 6548
mental condition prepared pursuant to section 2945.371 of the 6549
Revised Code. 6550

All of the following provisions apply to persons charged 6551
with a misdemeanor or a felony other than a felony listed in 6552
division (C)(1) of this section who are committed by the probate 6553
court subsequent to the court's or prosecutor's filing of an 6554
affidavit for civil commitment under authority of this division: 6555

(a) The chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall do all of the following:

(i) Notify the prosecutor, in writing, of the discharge of the defendant, send the notice at least ten days prior to the discharge unless the discharge is by the probate court, and state in the notice the date on which the defendant will be discharged;

(ii) Notify the prosecutor, in writing, when the defendant is absent without leave or is granted unsupervised, off-grounds movement, and send this notice promptly after the discovery of the absence without leave or prior to the granting of the unsupervised, off-grounds movement, whichever is applicable;

(iii) Notify the prosecutor, in writing, of the change of the defendant's commitment or admission to voluntary status, send the notice promptly upon learning of the change to voluntary status, and state in the notice the date on which the defendant was committed or admitted on a voluntary status.

(b) Upon receiving notice that the defendant will be granted unsupervised, off-grounds movement, the prosecutor either shall re-indict the defendant or promptly notify the court that the prosecutor does not intend to prosecute the charges against the defendant.

(I) If a defendant is convicted of a crime and sentenced to a jail or workhouse, the defendant's sentence shall be reduced by the total number of days the defendant is confined for evaluation to determine the defendant's competence to stand trial or treatment under this section and sections 2945.37 and

2945.371 of the Revised Code or by the total number of days the 6585
defendant is confined for evaluation to determine the 6586
defendant's mental condition at the time of the offense charged. 6587

Sec. 2949.02. (A) If a person is convicted of anyailable 6588
offense, including, but not limited to, a violation of an 6589
ordinance of a municipal corporation, in a municipal or county 6590
court or in a court of common pleas and if the person gives to 6591
the trial judge or magistrate a written notice of the person's 6592
intention to file or apply for leave to file an appeal to the 6593
court of appeals, the trial judge or magistrate may suspend, ~~—~~ 6594
~~subject to division (A) (2) (b) of section 2953.09 of the Revised~~ 6595
~~Code,~~ execution of the sentence or judgment imposed for any 6596
fixed time that will give the person time either to prepare and 6597
file, or to apply for leave to file, the appeal. In allailable 6598
cases, except as provided in division (B) of this section, the 6599
trial judge or magistrate may release the person on bail in 6600
accordance with Criminal Rule 46, and the bail shall at least be 6601
conditioned that the person will appeal without delay and abide 6602
by the judgment and sentence of the court. 6603

(B) Notwithstanding any provision of Criminal Rule 46 to 6604
the contrary, a trial judge of a court of common pleas shall not 6605
release on bail pursuant to division (A) of this section a 6606
person who is convicted of aailable offense if the person is 6607
sentenced to imprisonment for life or if that offense is a 6608
violation of section 2903.01, 2903.02, 2903.03, 2903.04, 6609
2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 6610
2911.02, or 2911.11 of the Revised Code or is felonious sexual 6611
penetration in violation of former section 2907.12 of the 6612
Revised Code. 6613

(C) If a trial judge of a court of common pleas is 6614

prohibited by division (B) of this section from releasing on 6615
bail pursuant to division (A) of this section a person who is 6616
convicted of a bailable offense and not sentenced to 6617
imprisonment for life, the appropriate court of appeals or two 6618
judges of it, upon motion of such a person and for good cause 6619
shown, may release the person on bail in accordance with 6620
Appellate Rule 8 and Criminal Rule 46, and the bail shall at 6621
least be conditioned as described in division (A) of this 6622
section. 6623

Sec. 2949.03. If a judgment of conviction by a court of 6624
common pleas, municipal court, or county court is affirmed by a 6625
court of appeals and remanded to the trial court for execution 6626
of the sentence or judgment imposed, and the person so convicted 6627
gives notice of ~~his~~ the person's intention to file a notice of 6628
appeal to the supreme court, the trial court, on the filing of a 6629
motion by such person within three days after the rendition by 6630
the court of appeals of the judgment of affirmation, may further 6631
suspend, ~~subject to division (A) (2) (b) of section 2953.09 of the~~ 6632
~~Revised Code,~~ the execution of the sentence or judgment imposed 6633
for a time sufficient to give such person an opportunity to file 6634
a notice of appeal to the supreme court, but the sentence or 6635
judgment imposed shall not be suspended more than thirty days 6636
for that purpose. 6637

Sec. 2953.02. In ~~a capital case in which a sentence of~~ 6638
~~death is imposed for an offense committed before January 1,~~ 6639
~~1995, and in any other~~ criminal case, including a conviction for 6640
the violation of an ordinance of a municipal corporation, the 6641
judgment or final order of a court of record inferior to the 6642
court of appeals may be reviewed in the court of appeals. A 6643
final order of an administrative officer or agency may be 6644
reviewed in the court of common pleas. A judgment or final order 6645

of the court of appeals involving a question arising under the 6646
Constitution of the United States or of this state may be 6647
appealed to the supreme court as a matter of right. This right 6648
of appeal from judgments and final orders of the court of 6649
appeals shall extend to ~~cases in which a sentence of death is~~ 6650
~~imposed for an offense committed before January 1, 1995, and in~~ 6651
~~which the death penalty has been affirmed,~~ felony cases in which 6652
the supreme court has directed the court of appeals to certify 6653
its record, and in all other criminal cases of public or general 6654
interest wherein the supreme court has granted a motion to 6655
certify the record of the court of appeals. ~~In a capital case in~~ 6656
~~which a sentence of death is imposed for an offense committed on~~ 6657
~~or after January 1, 1995, the judgment or final order may be~~ 6658
~~appealed from the trial court directly to the supreme court as a~~ 6659
~~matter of right.~~ The supreme court in criminal cases shall not 6660
be required to determine as to the weight of the evidence, 6661
~~except that, in cases in which a sentence of death is imposed~~ 6662
~~for an offense committed on or after January 1, 1995, and in~~ 6663
~~which the question of the weight of the evidence to support the~~ 6664
~~judgment has been raised on appeal, the supreme court shall~~ 6665
~~determine as to the weight of the evidence to support the~~ 6666
~~judgment and shall determine as to the weight of the evidence to~~ 6667
~~support the sentence of death as provided in section 2929.05 of~~ 6668
~~the Revised Code.~~ 6669

Sec. 2953.07. ~~(A)~~ Upon the hearing of an appeal other than 6670
an appeal from a mayor's court, the appellate court may affirm 6671
the judgment or reverse it, in whole or in part, or modify it, 6672
and order the accused to be discharged or grant a new trial. The 6673
appellate court may remand the accused for the sole purpose of 6674
correcting a sentence imposed contrary to law, provided that, on 6675
an appeal of a sentence imposed upon a person who is convicted 6676

of or pleads guilty to a felony that is brought under section 6677
2953.08 of the Revised Code, division (G) of that section 6678
applies to the court. If the judgment is reversed, the appellant 6679
shall recover from the appellee all court costs incurred to 6680
secure the reversal, including the cost of transcripts. In 6681
~~capital cases, when the judgment is affirmed and the day fixed~~ 6682
~~for the execution is passed, the appellate court shall appoint a~~ 6683
~~day for it, and the clerk of the appellate court shall issue a~~ 6684
~~warrant under the seal of the appellate court, to the sheriff of~~ 6685
~~the proper county, or the warden of the appropriate state~~ 6686
~~correctional institution, commanding the sheriff or warden to~~ 6687
~~carry the sentence into execution on the day so appointed. The~~ 6688
~~sheriff or warden shall execute and return the warrant as in~~ 6689
~~other cases, and the clerk shall record the warrant and return.~~ 6690

~~(B) As used in this section, "appellate court" means, for~~ 6691
~~a case in which a sentence of death is imposed for an offense~~ 6692
~~committed before January 1, 1995, both the court of appeals and~~ 6693
~~the supreme court, and for a case in which a sentence of death~~ 6694
~~is imposed for an offense committed on or after January 1, 1995,~~ 6695
~~the supreme court.~~ 6696

Sec. 2953.08. (A) In addition to any other right to appeal 6697
and except as provided in division (D) of this section, a 6698
defendant who is convicted of or pleads guilty to a felony may 6699
appeal as a matter of right the sentence imposed upon the 6700
defendant on one of the following grounds: 6701

(1) The sentence consisted of or included the maximum 6702
definite prison term allowed for the offense by division (A) of 6703
section 2929.14 or section 2929.142 of the Revised Code or, with 6704
respect to a non-life felony indefinite prison term, the longest 6705
minimum prison term allowed for the offense by division (A) (1) 6706

(a) or (2)(a) of section 2929.14 of the Revised Code, the maximum definite prison term or longest minimum prison term was not required for the offense pursuant to Chapter 2925. or any other provision of the Revised Code, and the court imposed the sentence under one of the following circumstances:

(a) The sentence was imposed for only one offense.

(b) The sentence was imposed for two or more offenses arising out of a single incident, and the court imposed the maximum definite prison term or longest minimum prison term for the offense of the highest degree.

(2) The sentence consisted of or included a prison term and the offense for which it was imposed is a felony of the fourth or fifth degree or is a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to division (B) of section 2929.13 of the Revised Code for purposes of sentencing. If the court specifies that it found one or more of the factors in division (B)(1)(b) of section 2929.13 of the Revised Code to apply relative to the defendant, the defendant is not entitled under this division to appeal as a matter of right the sentence imposed upon the offender.

(3) The person was convicted of or pleaded guilty to a 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 6737
minimum prison term allowed for the offense by division (A) (1) 6738
(a) or (2) (a) of section 2929.14 of the Revised Code. As used in 6739
this division, "designated homicide, assault, or kidnapping 6740
offense" and "violent sex offense" have the same meanings as in 6741
section 2971.01 of the Revised Code. As used in this division, 6742
"adjudicated a sexually violent predator" has the same meaning 6743
as in section 2929.01 of the Revised Code, and a person is 6744
"adjudicated a sexually violent predator" in the same manner and 6745
the same circumstances as are described in that section. 6746

(4) The sentence is contrary to law. 6747

(5) The sentence consisted of an additional prison term of 6748
ten years imposed pursuant to division (B) (2) (a) of section 6749
2929.14 of the Revised Code. 6750

(B) In addition to any other right to appeal and except as 6751
provided in division (D) of this section, a prosecuting 6752
attorney, a city director of law, village solicitor, or similar 6753
chief legal officer of a municipal corporation, or the attorney 6754
general, if one of those persons prosecuted the case, may appeal 6755
as a matter of right a sentence imposed upon a defendant who is 6756
convicted of or pleads guilty to a felony or, in the 6757
circumstances described in division (B) (3) of this section the 6758
modification of a sentence imposed upon such a defendant, on any 6759
of the following grounds: 6760

(1) The sentence did not include a prison term despite a 6761
presumption favoring a prison term for the offense for which it 6762
was imposed, as set forth in section 2929.13 or Chapter 2925. of 6763
the Revised Code. 6764

(2) The sentence is contrary to law. 6765

(3) The sentence is a modification under section 2929.20 6766
of the Revised Code of a sentence that was imposed for a felony 6767
of the first or second degree. 6768

(C) (1) In addition to the right to appeal a sentence 6769
granted under division (A) or (B) of this section, a defendant 6770
who is convicted of or pleads guilty to a felony may seek leave 6771
to appeal a sentence imposed upon the defendant on the basis 6772
that the sentencing judge has imposed consecutive sentences 6773
under division (C) (3) of section 2929.14 of the Revised Code and 6774
that the consecutive sentences exceed the maximum definite 6775
prison term allowed by division (A) of that section for the most 6776
serious offense of which the defendant was convicted or, with 6777
respect to a non-life felony indefinite prison term, exceed the 6778
longest minimum prison term allowed by division (A) (1) (a) or (2) 6779
(a) of that section for the most serious such offense. Upon the 6780
filing of a motion under this division, the court of appeals may 6781
grant leave to appeal the sentence if the court determines that 6782
the allegation included as the basis of the motion is true. 6783

(2) A defendant may seek leave to appeal an additional 6784
sentence imposed upon the defendant pursuant to division (B) (2) 6785
(a) or (b) of section 2929.14 of the Revised Code if the 6786
additional sentence is for a definite prison term that is longer 6787
than five years. 6788

(D) (1) A sentence imposed upon a defendant is not subject 6789
to review under this section if the sentence is authorized by 6790
law, has been recommended jointly by the defendant and the 6791
prosecution in the case, and is imposed by a sentencing judge. 6792

(2) Except as provided in division (C) (2) of this section, 6793
a sentence imposed upon a defendant is not subject to review 6794
under this section if the sentence is imposed pursuant to 6795

division (B) (2) (b) of section 2929.14 of the Revised Code. 6796
Except as otherwise provided in this division, a defendant 6797
retains all rights to appeal as provided under this chapter or 6798
any other provision of the Revised Code. A defendant has the 6799
right to appeal under this chapter or any other provision of the 6800
Revised Code the court's application of division (B) (2) (c) of 6801
section 2929.14 of the Revised Code. 6802

(3) A sentence imposed for aggravated murder or murder 6803
pursuant to ~~sections~~ section 2929.02 to ~~2929.06~~ of the Revised 6804
Code is not subject to review under this section. 6805

(E) A defendant, prosecuting attorney, city director of 6806
law, village solicitor, or chief municipal legal officer shall 6807
file an appeal of a sentence under this section to a court of 6808
appeals within the time limits specified in Rule 4(B) of the 6809
Rules of Appellate Procedure, provided that if the appeal is 6810
pursuant to division (B) (3) of this section, the time limits 6811
specified in that rule shall not commence running until the 6812
court grants the motion that makes the sentence modification in 6813
question. A sentence appeal under this section shall be 6814
consolidated with any other appeal in the case. If no other 6815
appeal is filed, the court of appeals may review only the 6816
portions of the trial record that pertain to sentencing. 6817

(F) On the appeal of a sentence under this section, the 6818
record to be reviewed shall include all of the following, as 6819
applicable: 6820

(1) Any presentence, psychiatric, or other investigative 6821
report that was submitted to the court in writing before the 6822
sentence was imposed. An appellate court that reviews a 6823
presentence investigation report prepared pursuant to section 6824
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 6825

connection with the appeal of a sentence under this section 6826
shall comply with division (D) (3) of section 2951.03 of the 6827
Revised Code when the appellate court is not using the 6828
presentence investigation report, and the appellate court's use 6829
of a presentence investigation report of that nature in 6830
connection with the appeal of a sentence under this section does 6831
not affect the otherwise confidential character of the contents 6832
of that report as described in division (D) (1) of section 6833
2951.03 of the Revised Code and does not cause that report to 6834
become a public record, as defined in section 149.43 of the 6835
Revised Code, following the appellate court's use of the report. 6836

(2) The trial record in the case in which the sentence was 6837
imposed; 6838

(3) Any oral or written statements made to or by the court 6839
at the sentencing hearing at which the sentence was imposed; 6840

(4) Any written findings that the court was required to 6841
make in connection with the modification of the sentence 6842
pursuant to a judicial release under division (I) of section 6843
2929.20 of the Revised Code. 6844

(G) (1) If the sentencing court was required to make the 6845
findings required by division (B) or (D) of section 2929.13 or 6846
division (I) of section 2929.20 of the Revised Code, or to state 6847
the findings of the trier of fact required by division (B) (2) (e) 6848
of section 2929.14 of the Revised Code, relative to the 6849
imposition or modification of the sentence, and if the 6850
sentencing court failed to state the required findings on the 6851
record, the court hearing an appeal under division (A), (B), or 6852
(C) of this section shall remand the case to the sentencing 6853
court and instruct the sentencing court to state, on the record, 6854
the required findings. 6855

(2) The court hearing an appeal under division (A), (B), 6856
or (C) of this section shall review the record, including the 6857
findings underlying the sentence or modification given by the 6858
sentencing court. 6859

The appellate court may increase, reduce, or otherwise 6860
modify a sentence that is appealed under this section or may 6861
vacate the sentence and remand the matter to the sentencing 6862
court for resentencing. The appellate court's standard for 6863
review is not whether the sentencing court abused its 6864
discretion. The appellate court may take any action authorized 6865
by this division if it clearly and convincingly finds either of 6866
the following: 6867

(a) That the record does not support the sentencing 6868
court's findings under division (B) or (D) of section 2929.13, 6869
division (B) (2) (e) or (C) (4) of section 2929.14, or division (I) 6870
of section 2929.20 of the Revised Code, whichever, if any, is 6871
relevant; 6872

(b) That the sentence is otherwise contrary to law. 6873

(H) A judgment or final order of a court of appeals under 6874
this section may be appealed, by leave of court, to the supreme 6875
court. 6876

(I) As used in this section, "non-life felony indefinite 6877
prison term" has the same meaning as in section 2929.01 of the 6878
Revised Code. 6879

Sec. 2953.09. (A) (1) Upon filing an appeal in the supreme 6880
court, the execution of the sentence or judgment imposed in 6881
cases of felony is suspended. 6882

(2)~~(a)~~ If a notice of appeal is filed pursuant to the 6883
Rules of Appellate Procedure by a defendant who is convicted in 6884

a municipal or county court or a court of common pleas of a 6885
felony or misdemeanor under the Revised Code or an ordinance of 6886
a municipal corporation, the filing of the notice of appeal does 6887
not suspend execution of the sentence or judgment imposed. 6888
However, consistent with divisions ~~(A) (2) (b)~~, ~~(B)~~, and (C) of 6889
this section, Appellate Rule 8, and Criminal Rule 46, the 6890
municipal or county court, court of common pleas, or court of 6891
appeals may suspend execution of the sentence or judgment 6892
imposed during the pendency of the appeal and shall determine 6893
whether that defendant is entitled to bail and the amount and 6894
nature of any bail that is required. The bail shall at least be 6895
conditioned that the defendant will prosecute the appeal without 6896
delay and abide by the judgment and sentence of the court. 6897

~~(b) (i) A court of common pleas or court of appeals may 6898
suspend the execution of a sentence of death imposed for an 6899
offense committed before January 1, 1995, only if no date for 6900
execution has been set by the supreme court, good cause is shown 6901
for the suspension, the defendant files a motion requesting the 6902
suspension, and notice has been given to the prosecuting 6903
attorney of the appropriate county. 6904~~

~~(ii) A court of common pleas may suspend the execution of 6905
a sentence of death imposed for an offense committed on or after 6906
January 1, 1995, only if no date for execution has been set by 6907
the supreme court, good cause is shown, the defendant files a 6908
motion requesting the suspension, and notice has been given to 6909
the prosecuting attorney of the appropriate county. 6910~~

~~(iii) A court of common pleas or court of appeals may 6911
suspend the execution of the sentence or judgment imposed for a 6912
felony in a capital case in which a sentence of death is not 6913
imposed only if no date for execution of the sentence has been 6914~~

~~set by the supreme court, good cause is shown for the~~ 6915
~~suspension, the defendant files a motion requesting the~~ 6916
~~suspension, and only after notice has been given to the~~ 6917
~~prosecuting attorney of the appropriate county.~~ 6918

(B) Notwithstanding any provision of Criminal Rule 46 to 6919
the contrary, a trial judge of a court of common pleas shall not 6920
release on bail pursuant to division (A) (2) ~~(a)~~ of this section a 6921
defendant who is convicted of a bailable offense if the 6922
defendant is sentenced to imprisonment for life or if that 6923
offense is a violation of section 2903.01, 2903.02, 2903.03, 6924
2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 6925
2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious 6926
sexual penetration in violation of former section 2907.12 of the 6927
Revised Code. 6928

(C) If a trial judge of a court of common pleas is 6929
prohibited by division (B) of this section from releasing on 6930
bail pursuant to division (A) (2) ~~(a)~~ of this section a defendant 6931
who is convicted of a bailable offense and not sentenced to 6932
imprisonment for life, the appropriate court of appeals or two 6933
judges of it, upon motion of the defendant and for good cause 6934
shown, may release the defendant on bail in accordance with 6935
division (A) (2) of this section. 6936

Sec. 2953.10. When an appeal is taken from a court of 6937
appeals to the supreme court, the supreme court has the same 6938
power and authority to suspend the execution of sentence during 6939
the pendency of the appeal and admit the defendant to bail as 6940
does the court of appeals unless another section of the Revised 6941
Code or the Rules of Practice of the Supreme Court specify a 6942
distinct bail or suspension of sentence authority. 6943

~~When an appeal in a case in which a sentence of death is~~ 6944

~~imposed for an offense committed on or after January 1, 1995, is~~ 6945
~~taken directly from the trial court to the supreme court, the~~ 6946
~~supreme court has the same power and authority to suspend the~~ 6947
~~execution of the sentence during the pendency of the appeal and~~ 6948
~~admit the defendant to bail as does the court of appeals for~~ 6949
~~cases in which a sentence of death is imposed for an offense~~ 6950
~~committed before January 1, 1995, unless another section of the~~ 6951
~~Revised Code or the Rules of Practice of the Supreme Court~~ 6952
~~specify a distinct bail or suspension of sentence authority.~~ 6953

Sec. 2953.21. (A) (1) (a) A person in ~~any~~ either of the 6954
following categories may file a petition in the court that 6955
imposed sentence, stating the grounds for relief relied upon, 6956
and asking the court to vacate or set aside the judgment or 6957
sentence or to grant other appropriate relief: 6958

(i) Any person who has been convicted of a criminal 6959
offense or adjudicated a delinquent child and who claims that 6960
there was such a denial or infringement of the person's rights 6961
as to render the judgment void or voidable under the Ohio 6962
Constitution or the Constitution of the United States; 6963

~~(ii) Any person who has been convicted of a criminal~~ 6964
~~offense and sentenced to death and who claims that there was a~~ 6965
~~denial or infringement of the person's rights under either of~~ 6966
~~those Constitutions that creates a reasonable probability of an~~ 6967
~~altered verdict;~~ 6968

~~(iii)~~ Any person who has been convicted of a criminal 6969
offense that is a felony and who is an offender for whom DNA 6970
testing that was performed under sections 2953.71 to 2953.81 of 6971
the Revised Code or under former section 2953.82 of the Revised 6972
Code and analyzed in the context of and upon consideration of 6973
all available admissible evidence related to the person's case 6974

as described in division (D) of section 2953.74 of the Revised Code provided results that establish, by clear and convincing evidence, actual innocence of that felony offense ~~or, if the person was sentenced to death, establish, by clear and convincing evidence, actual innocence of the aggravating circumstance or circumstances the person was found guilty of committing and that is or are the basis of that sentence of death;~~

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

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

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

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

~~or circumstances the petitioner was found guilty of committing— 7005
and that is or are the basis of that sentence of death. 7006~~

(ii) "Serious mental illness" has the same meaning as in 7007
section 2929.025 of the Revised Code. 7008

(d) As used in divisions (A) (1) (a) and (c) of this 7009
section, "former section 2953.82 of the Revised Code" means 7010
section 2953.82 of the Revised Code as it existed prior to July 7011
6, 2010. 7012

~~(e) At any time in conjunction with the filing of a 7013
petition for postconviction relief under division (A) of this 7014
section by a person who has been sentenced to death, or with the 7015
litigation of a petition so filed, the court, for good cause 7016
shown, may authorize the petitioner in seeking the 7017
postconviction relief and the prosecuting attorney of the county 7018
served by the court in defending the proceeding, to take 7019
depositions and to issue subpoenas and subpoenas duces tecum in 7020
accordance with divisions (A) (1) (e), (A) (1) (f), and (C) of this 7021
section, and to any other form of discovery as in a civil action 7022
that the court in its discretion permits. The court may limit 7023
the extent of discovery under this division. In addition to 7024
discovery that is relevant to the claim and was available under 7025
Criminal Rule 16 through conclusion of the original criminal 7026
trial, the court, for good cause shown, may authorize the 7027
petitioner or prosecuting attorney to take depositions and issue 7028
subpoenas and subpoenas duces tecum in either of the following 7029
circumstances: 7030~~

~~(i) For any witness who testified at trial or who was 7031
disclosed by the state prior to trial, except as otherwise 7032
provided in this division, the petitioner or prosecuting 7033
attorney shows clear and convincing evidence that the witness is 7034~~

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

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

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

~~(g) If a person who has been sentenced to death and who
files a petition for postconviction relief under division (A) of
this section requests postconviction discovery as described in
division (A) (1) (c) of this section or if the prosecuting
attorney of the county served by the court requests~~

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

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

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

~~The orders that may be made under division (A) (1) (g) of~~

~~this section include, but are not limited to, any of the~~ 7095
~~following:~~ 7096

- ~~(i) That the discovery not be had;~~ 7097
- ~~(ii) That the discovery may be had only on specified terms~~ 7098
~~and conditions, including a designation of the time or place;~~ 7099
- ~~(iii) That the discovery may be had only by a method of~~ 7100
~~discovery other than that selected by the party seeking~~ 7101
~~discovery;~~ 7102
- ~~(iv) That certain matters not be inquired into or that the~~ 7103
~~scope of the discovery be limited to certain matters;~~ 7104
- ~~(v) That discovery be conducted with no one present except~~ 7105
~~persons designated by the court;~~ 7106
- ~~(vi) That a deposition after being sealed be opened only~~ 7107
~~by order of the court;~~ 7108
- ~~(vii) That a trade secret or other confidential research,~~ 7109
~~development, or commercial information not be disclosed or be~~ 7110
~~disclosed only in a designated way;~~ 7111
- ~~(viii) That the parties simultaneously file specified~~ 7112
~~documents or information enclosed in sealed envelopes to be~~ 7113
~~opened as directed by the court.~~ 7114
- ~~(i) Any postconviction discovery authorized under division~~ 7115
~~(A) (1) (e) of this section shall be completed not later than~~ 7116
~~eighteen months after the start of the discovery proceedings~~ 7117
~~unless, for good cause shown, the court extends that period for~~ 7118
~~completing the discovery.~~ 7119
- ~~(j) Nothing in division (A) (1) (e) of this section~~ 7120
~~authorizes, or shall be construed as authorizing, the~~ 7121

~~relitigation, or discovery in support of relitigation, of any matter barred by the doctrine of res judicata.~~ 7122
7123

~~(k) 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.~~ 7124
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(2) (a) Except as otherwise provided in section 2953.23 of the Revised Code, a petition under division ~~(A) (1) (a) (i), (ii), or (iii)~~ (A) (1) (a) 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. 7128
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(b) Except as otherwise provided in section 2953.23 of the Revised Code, a petition under division (A) (1) (a) (iv) of this section shall be filed not later than three hundred sixty-five days after ~~the effective date of this amendment~~ April 12, 2021. 7140
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~~(3) (a) In a petition filed under division (A) (1) (a) (i), (ii), or (iii) 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 the specification of an aggravating circumstance or the sentence of death.~~ 7144
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~~(b) A person sentenced to death who files a petition under~~ 7150

~~division (A) (1) (a) (iv) of this section may ask the court to~~ 7151
~~render void the sentence of death and to order the resentencing~~ 7152
~~of the person under division (A) of section 2929.06 of the~~ 7153
~~Revised Code. If a person sentenced to death files such a~~ 7154
~~petition and asks the court to render void the sentence of death~~ 7155
~~and to order the resentencing of the person under division (A)~~ 7156
~~of section 2929.06 of the Revised Code, the act of filing the~~ 7157
~~petition constitutes a waiver of any right to be sentenced under~~ 7158
~~the law that existed at the time the offense was committed and~~ 7159
~~constitutes consent to be sentenced to life imprisonment without~~ 7160
~~parole under division (A) of section 2929.06 of the Revised~~ 7161
~~Code.~~ 7162

~~(4)~~ A petitioner shall state in the original or amended 7163
petition filed under division (A) of this section all grounds 7164
for relief claimed by the petitioner. Except as provided in 7165
section 2953.23 of the Revised Code, any ground for relief that 7166
is not so stated in the petition is waived. 7167

~~(5)~~ (4) If the petitioner in a petition filed under 7168
division ~~(A) (1) (a) (i), (ii), or (iii)~~ (A) (1) (a) of this section 7169
was convicted of or pleaded guilty to a felony, the petition may 7170
include a claim that the petitioner was denied the equal 7171
protection of the laws in violation of the Ohio Constitution or 7172
the United States Constitution because the sentence imposed upon 7173
the petitioner for the felony was part of a consistent pattern 7174
of disparity in sentencing by the judge who imposed the 7175
sentence, with regard to the petitioner's race, gender, ethnic 7176
background, or religion. If the supreme court adopts a rule 7177
requiring a court of common pleas to maintain information with 7178
regard to an offender's race, gender, ethnic background, or 7179
religion, the supporting evidence for the petition shall 7180
include, but shall not be limited to, a copy of that type of 7181

information relative to the petitioner's sentence and copies of 7182
that type of information relative to sentences that the same 7183
judge imposed upon other persons. 7184

~~(6) Notwithstanding any law or court rule to the contrary,~~ 7185
~~there is no limit on the number of pages in, or on the length~~ 7186
~~of, a petition filed under division (A)(1)(a)(i), (ii), (iii),~~ 7187
~~or (iv) of this section by a person who has been sentenced to~~ 7188
~~death. If any court rule specifies a limit on the number of~~ 7189
~~pages in, or on the length of, a petition filed under division~~ 7190
~~(A)(1)(a)(i), (ii), (iii), or (iv) of this section or on a~~ 7191
~~prosecuting attorney's response to such a petition by answer or~~ 7192
~~motion and a person who has been sentenced to death files a~~ 7193
~~petition that exceeds the limit specified for the petition, the~~ 7194
~~prosecuting attorney may respond by an answer or motion that~~ 7195
~~exceeds the limit specified for the response.~~ 7196

(B) The clerk of the court in which the petition for 7197
postconviction relief and, ~~if applicable, a request for~~ 7198
~~postconviction discovery described in division (A)(1)(c) of this~~ 7199
~~section is filed shall docket the petition and the request and~~ 7200
bring ~~them~~ it promptly to the attention of the court. The clerk 7201
of the court in which the petition for postconviction relief 7202
and, ~~if applicable, a request for postconviction discovery~~ 7203
~~described in division (A)(1)(c) of this section is filed~~ 7204
immediately shall forward a copy of the petition and ~~a copy of~~ 7205
~~the request if filed by the petitioner~~ to the prosecuting 7206
attorney of the county served by the court. ~~If the request for~~ 7207
~~postconviction discovery is filed by the prosecuting attorney,~~ 7208
~~the clerk of the court immediately shall forward a copy of the~~ 7209
~~request to the petitioner or the petitioner's counsel.~~ 7210

(C) ~~If a person who has been sentenced to death and who~~ 7211

~~files a petition for postconviction relief under division (A) (1) 7212
(a) (i), (ii), (iii), or (iv) of this section requests a 7213
deposition or the prosecuting attorney in the case requests a 7214
deposition, and if the court grants the request under division 7215
(A) (1) (c) of this section, the court shall notify the petitioner 7216
or the petitioner's counsel and the prosecuting attorney. The 7217
deposition shall be conducted pursuant to divisions (B), (D), 7218
and (E) of Criminal Rule 15. Notwithstanding division (C) of 7219
Criminal Rule 15, the petitioner is not entitled to attend the 7220
deposition. The prosecuting attorney shall be permitted to 7221
attend and participate in any deposition. 7222~~

~~(D) The court shall consider a petition that is timely 7223
filed within the period specified in division (A) (2) of this 7224
section even if a direct appeal of the judgment is pending. 7225
Before granting a hearing on a petition filed under division (A) 7226
(1) (a) (i), (ii), (iii), or (iv) of this section, the court shall 7227
determine whether there are substantive grounds for relief. In 7228
making such a determination, the court shall consider, in 7229
addition to the petition, the supporting affidavits, and the 7230
documentary evidence, all the files and records pertaining to 7231
the proceedings against the petitioner, including, but not 7232
limited to, the indictment, the court's journal entries, the 7233
journalized records of the clerk of the court, and the court 7234
reporter's transcript. The court reporter's transcript, if 7235
ordered and certified by the court, shall be taxed as court 7236
costs. If the court dismisses the petition, it shall make and 7237
file findings of fact and conclusions of law with respect to 7238
such dismissal. If the petition was filed by a person who has 7239
been sentenced to death, the findings of fact and conclusions of 7240
law shall state specifically the reasons for the dismissal of 7241
the petition and of each claim it contains. 7242~~

~~(E)-(D)~~ Within ten days after the docketing of the 7243
petition, or within any further time that the court may fix for 7244
good cause shown, the prosecuting attorney shall respond by 7245
answer or motion. ~~Division (A) (6) of this section applies with~~ 7246
~~respect to the prosecuting attorney's response.~~ Within twenty 7247
days from the date the issues are raised, either party may move 7248
for summary judgment. The right to summary judgment shall appear 7249
on the face of the record. 7250

~~(F)-(E)~~ Unless the petition and the files and records of 7251
the case show the petitioner is not entitled to relief, the 7252
court shall proceed to a prompt hearing on the issues even if a 7253
direct appeal of the case is pending. If the court notifies the 7254
parties that it has found grounds for granting relief, either 7255
party may request an appellate court in which a direct appeal of 7256
the judgment is pending to remand the pending case to the court. 7257

~~With respect to a petition filed under division (A) (1) (a)~~ 7258
~~(iv) of this section, the procedures and rules regarding~~ 7259
~~introduction of evidence and burden of proof at the pretrial~~ 7260
~~hearing that are set forth in divisions (C), (D), and (F) of~~ 7261
~~section 2929.025 of the Revised Code apply in considering the~~ 7262
~~petition. With respect to such a petition, the grounds for~~ 7263
~~granting relief are that the person has been diagnosed with one~~ 7264
~~or more of the conditions set forth in division (A) (1) (a) of~~ 7265
~~section 2929.025 of the Revised Code and that, at the time of~~ 7266
~~the aggravated murder that was the basis of the sentence of~~ 7267
~~death, the condition or conditions significantly impaired the~~ 7268
~~person's capacity in a manner described in division (A) (1) (b) of~~ 7269
~~that section.~~ 7270

~~(G) A petitioner who files a petition under division (A)~~ 7271
~~(1) (a) (i), (ii), (iii), or (iv) of this section may amend the~~ 7272

~~petition as follows:~~ 7273

~~(1) If the petition was filed by a person who has been~~ 7274
~~sentenced to death, at any time that is not later than one~~ 7275
~~hundred eighty days after the petition is filed, the petitioner~~ 7276
~~may amend the petition with or without leave or prejudice to the~~ 7277
~~proceedings.~~ 7278

~~(2) If division (G) (1) of this section does not apply, at~~ 7279
~~(F) At~~ any time before the answer or motion is filed, the 7280
petitioner may amend the petition with or without leave or 7281
prejudice to the proceedings. 7282

~~(3) The petitioner may amend the petition with leave of~~ 7283
~~court at any time after the expiration of the applicable period~~ 7284
~~specified in division (G) (1) or (2) of this section~~thereafter. 7285

~~(H) (G)~~ If the court does not find grounds for granting 7286
relief, it shall make and file findings of fact and conclusions 7287
of law and shall enter judgment denying relief on the petition. 7288
~~If the petition was filed by a person who has been sentenced to~~ 7289
~~death, the findings of fact and conclusions of law shall state~~ 7290
~~specifically the reasons for the denial of relief on the~~ 7291
~~petition and of each claim it contains.~~ If no direct appeal of 7292
the case is pending and the court finds grounds for relief or if 7293
a pending direct appeal of the case has been remanded to the 7294
court pursuant to a request made pursuant to division ~~(F)~~(E) of 7295
this section and the court finds grounds for granting relief, it 7296
shall make and file findings of fact and conclusions of law and 7297
shall enter a judgment that vacates and sets aside the judgment 7298
in question, and, in the case of a petitioner who is a prisoner 7299
in custody, except as otherwise described in this division, 7300
shall discharge or resentence the petitioner or grant a new 7301
trial as the court determines appropriate. ~~If the court finds~~ 7302

~~grounds for relief in the case of a petitioner who filed a~~ 7303
~~petition under division (A) (1) (a) (iv) of this section, the court~~ 7304
~~shall render void the sentence of death and order the~~ 7305
~~resentencing of the offender under division (A) of section~~ 7306
~~2929.06 of the Revised Code. If the petitioner has been~~ 7307
~~sentenced to death, the findings of fact and conclusions of law~~ 7308
~~shall state specifically the reasons for the finding of grounds~~ 7309
~~for granting the relief, with respect to each claim contained in~~ 7310
~~the petition. The court also may make supplementary orders to~~ 7311
the relief granted, concerning such matters as rearraignment, 7312
retrial, custody, and bail. If the trial court's order granting 7313
the petition is reversed on appeal and if the direct appeal of 7314
the case has been remanded from an appellate court pursuant to a 7315
request under division ~~(F)~~ (E) of this section, the appellate 7316
court reversing the order granting the petition shall notify the 7317
appellate court in which the direct appeal of the case was 7318
pending at the time of the remand of the reversal and remand of 7319
the trial court's order. Upon the reversal and remand of the 7320
trial court's order granting the petition, regardless of whether 7321
notice is sent or received, the direct appeal of the case that 7322
was remanded is reinstated. 7323

~~(I) Upon the filing of a petition pursuant to division (A)~~ 7324
~~(1) (a) (i), (ii), (iii), or (iv) of this section by a person~~ 7325
~~sentenced to death, only the supreme court may stay execution of~~ 7326
~~the sentence of death.~~ 7327

~~(J) (1) If a person sentenced to death intends to file a~~ 7328
~~petition under this section, the court shall appoint counsel to~~ 7329
~~represent the person upon a finding that the person is indigent~~ 7330
~~and that the person either accepts the appointment of counsel or~~ 7331
~~is unable to make a competent decision whether to accept or~~ 7332
~~reject the appointment of counsel. The court may decline to~~ 7333

~~appoint counsel for the person only upon a finding, after a
hearing if necessary, that the person rejects the appointment of
counsel and understands the legal consequences of that decision
or upon a finding that the person is not indigent.~~ 7334
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~~(2) The court shall not appoint as counsel under division
(J) (1) of this section an attorney who represented the
petitioner at trial in the case to which the petition relates
unless the person and the attorney expressly request the
appointment. The court shall appoint as counsel under division
(J) (1) of this section only an attorney who is certified under
Rule 20 of the Rules of Superintendence for the Courts of Ohio
to represent indigent defendants charged with or convicted of an
offense for which the death penalty can be or has been imposed.
The ineffectiveness or incompetence of counsel during
proceedings under this section does not constitute grounds for
relief in a proceeding under this section, in an appeal of any
action under this section, or in an application to reopen a
direct appeal.~~ 7338
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~~(3) Division (J) of this section does not preclude
attorneys who represent the state of Ohio from invoking the
provisions of 28 U.S.C. 154 with respect to capital cases that
were pending in federal habeas corpus proceedings prior to July
1, 1996, insofar as the petitioners in those cases were
represented in proceedings under this section by one or more
counsel appointed by the court under this section or section
120.06, 120.16, 120.26, or 120.33 of the Revised Code and those
appointed counsel meet the requirements of division (J) (2) of
this section.~~ 7352
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~~(K)~~ (H) Subject to the appeal of a sentence for a felony
that is authorized by section 2953.08 of the Revised Code, the 7362
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remedy set forth in this section is the exclusive remedy by 7364
which a person may bring a collateral challenge to the validity 7365
of a conviction or sentence in a criminal case or to the 7366
validity of an adjudication of a child as a delinquent child for 7367
the commission of an act that would be a criminal offense if 7368
committed by an adult or the validity of a related order of 7369
disposition. 7370

Sec. 2953.23. (A) Whether a hearing is or is not held on a 7371
petition filed pursuant to section 2953.21 of the Revised Code, 7372
a court may not entertain a petition filed after the expiration 7373
of the period prescribed in division (A) of that section or a 7374
second petition or successive petitions for similar relief on 7375
behalf of a petitioner unless division (A) (1) or (2) of this 7376
section applies: 7377

(1) Both of the following apply: 7378

(a) Either the petitioner shows that the petitioner was 7379
unavoidably prevented from discovery of the facts upon which the 7380
petitioner must rely to present the claim for relief, or, 7381
subsequent to the period prescribed in division (A) (2) of 7382
section 2953.21 of the Revised Code or to the filing of an 7383
earlier petition, the United States Supreme Court recognized a 7384
new federal or state right that applies retroactively to persons 7385
in the petitioner's situation, and the petition asserts a claim 7386
based on that right. 7387

(b) The petitioner shows by clear and convincing evidence 7388
that, but for constitutional error at trial, no reasonable 7389
factfinder would have found the petitioner guilty of the offense 7390
of which the petitioner was convicted ~~or, if the claim~~ 7391
~~challenges a sentence of death that, but for constitutional~~ 7392
~~error at the sentencing hearing, no reasonable factfinder would~~ 7393

~~have found the petitioner eligible for the death sentence.~~ 7394

(2) The petitioner was convicted of a felony, the 7395
petitioner is an offender for whom DNA testing was performed 7396
under sections 2953.71 to 2953.81 of the Revised Code or under 7397
former section 2953.82 of the Revised Code and analyzed in the 7398
context of and upon consideration of all available admissible 7399
evidence related to the inmate's case as described in division 7400
(D) of section 2953.74 of the Revised Code, and the results of 7401
the DNA testing establish, by clear and convincing evidence, 7402
actual innocence of that felony offense ~~or, if the person was~~ 7403
~~sentenced to death, establish, by clear and convincing evidence,~~ 7404
~~actual innocence of the aggravating circumstance or~~ 7405
~~circumstances the person was found guilty of committing and that~~ 7406
~~is or are the basis of that sentence of death.~~ 7407

As used in this division, "actual innocence" has the same 7408
meaning as in division (A) (1) (c) of section 2953.21 of the 7409
Revised Code, and "former section 2953.82 of the Revised Code" 7410
has the same meaning as in division (A) (1) (d) of section 2953.21 7411
of the Revised Code. 7412

(B) An order awarding or denying relief sought in a 7413
petition filed pursuant to section 2953.21 of the Revised Code 7414
is a final judgment and may be appealed pursuant to Chapter 7415
2953. of the Revised Code. 7416

~~If a petition filed pursuant to section 2953.21 of the~~ 7417
~~Revised Code by a person who has been sentenced to death is~~ 7418
~~denied and the person appeals the judgment, notwithstanding any~~ 7419
~~law or court rule to the contrary, there is no limit on the~~ 7420
~~number of pages in, or on the length of, a notice of appeal or~~ 7421
~~briefs related to an appeal filed by the person. If any court~~ 7422
~~rule specifies a limit on the number of pages in, or on the~~ 7423

~~length of, a notice of appeal or briefs described in this~~ 7424
~~division or on a prosecuting attorney's response or briefs with~~ 7425
~~respect to such an appeal and a person who has been sentenced to~~ 7426
~~death files a notice of appeal or briefs that exceed the limit~~ 7427
~~specified for the petition, the prosecuting attorney may file a~~ 7428
~~response or briefs that exceed the limit specified for the~~ 7429
~~answer or briefs.~~ 7430

Sec. 2953.71. As used in sections 2953.71 to 2953.83 of 7431
the Revised Code: 7432

(A) "Application" or "application for DNA testing" means a 7433
request through postconviction relief for the state to do DNA 7434
testing on biological material from the case in which the 7435
offender was convicted of the offense for which the offender is 7436
an eligible offender and is requesting the DNA testing under 7437
sections 2953.71 to 2953.81 of the Revised Code. 7438

(B) "Biological material" means any product of a human 7439
body containing DNA. 7440

(C) "Chain of custody" means a record or other evidence 7441
that tracks a subject sample of biological material from the 7442
time the biological material was first obtained until the time 7443
it currently exists in its place of storage and, in relation to 7444
a DNA sample, a record or other evidence that tracks the DNA 7445
sample from the time it was first obtained until it currently 7446
exists in its place of storage. For purposes of this division, 7447
examples of when biological material or a DNA sample is first 7448
obtained include, but are not limited to, obtaining the material 7449
or sample at the scene of a crime, from a victim, from an 7450
offender, or in any other manner or time as is appropriate in 7451
the facts and circumstances present. 7452

(D) "Custodial agency" means the group or entity that has the responsibility to maintain biological material in question. 7453
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(E) "Custodian" means the person who is the primary representative of a custodial agency. 7455
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(F) "Eligible offender" means an offender who is eligible under division (C) of section 2953.72 of the Revised Code to request DNA testing to be conducted under sections 2953.71 to 2953.81 of the Revised Code. 7457
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(G) "Exclusion" or "exclusion result" means a result of DNA testing that scientifically precludes or forecloses the subject offender as a contributor of biological material recovered from the crime scene or victim in question, in relation to the offense for which the offender is an eligible offender and for which the ~~sentence of death or~~ prison term was imposed upon the offender. 7461
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(H) "Extracting personnel" means medically approved personnel who are employed to physically obtain an offender's DNA specimen for purposes of DNA testing under sections 2953.71 to 2953.81 of the Revised Code. 7468
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(I) "Inclusion" or "inclusion result" means a result of DNA testing that scientifically cannot exclude, or that holds accountable, the subject offender as a contributor of biological material recovered from the crime scene or victim in question, in relation to the offense for which the offender is an eligible offender and for which the ~~sentence of death or~~ prison term was imposed upon the offender. 7472
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(J) "Inconclusive" or "inconclusive result" means a result of DNA testing that is rendered when a scientifically appropriate and definitive DNA analysis or result, or both, 7479
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cannot be determined. 7482

(K) "Offender" means a criminal offender who was sentenced 7483
by a court, or by a jury and a court, of this state. 7484

(L) "Outcome determinative" means that had the results of 7485
DNA testing of the subject offender been presented at the trial 7486
of the subject offender requesting DNA testing and been found 7487
relevant and admissible with respect to the felony offense for 7488
which the offender is an eligible offender and is requesting the 7489
DNA testing, and had those results been analyzed in the context 7490
of and upon consideration of all available admissible evidence 7491
related to the offender's case as described in division (D) of 7492
section 2953.74 of the Revised Code, there is a strong 7493
probability that no reasonable factfinder would have found the 7494
offender guilty of that offense ~~or, if the offender was~~ 7495
~~sentenced to death relative to that offense, would have found~~ 7496
~~the offender guilty of the aggravating circumstance or~~ 7497
~~circumstances the offender was found guilty of committing and~~ 7498
~~that is or are the basis of that sentence of death.~~ 7499

(M) "Parent sample" means the biological material first 7500
obtained from a crime scene or a victim of an offense for which 7501
an offender is an eligible offender, and from which a sample 7502
will be presently taken to do a DNA comparison to the DNA of the 7503
subject offender under sections 2953.71 to 2953.81 of the 7504
Revised Code. 7505

(N) "Prison" and "community control sanction" have the 7506
same meanings as in section 2929.01 of the Revised Code. 7507

(O) "Prosecuting attorney" means the prosecuting attorney 7508
who, or whose office, prosecuted the case in which the subject 7509
offender was convicted of the offense for which the offender is 7510

an eligible offender and is requesting the DNA testing. 7511

(P) "Prosecuting authority" means the prosecuting attorney 7512
or the attorney general. 7513

(Q) "Reasonable diligence" means a degree of diligence 7514
that is comparable to the diligence a reasonable person would 7515
employ in searching for information regarding an important 7516
matter in the person's own life. 7517

(R) "Testing authority" means a laboratory at which DNA 7518
testing will be conducted under sections 2953.71 to 2953.81 of 7519
the Revised Code. 7520

(S) "Parole" and "post-release control" have the same 7521
meanings as in section 2967.01 of the Revised Code. 7522

(T) "Sexually oriented offense" and "child-victim oriented 7523
offense" have the same meanings as in section 2950.01 of the 7524
Revised Code. 7525

(U) "Definitive DNA test" means a DNA test that clearly 7526
establishes that biological material from the perpetrator of the 7527
crime was recovered from the crime scene and also clearly 7528
establishes whether or not the biological material is that of 7529
the eligible offender. A prior DNA test is not definitive if the 7530
eligible offender proves by a preponderance of the evidence that 7531
because of advances in DNA technology there is a possibility of 7532
discovering new biological material from the perpetrator that 7533
the prior DNA test may have failed to discover. Prior testing 7534
may have been a prior "definitive DNA test" as to some 7535
biological evidence but may not have been a prior "definitive 7536
DNA test" as to other biological evidence. 7537

Sec. 2953.72. (A) Any eligible offender who wishes to 7538
request DNA testing under sections 2953.71 to 2953.81 of the 7539

Revised Code shall submit an application for the testing to the 7540
court of common pleas specified in section 2953.73 of the 7541
Revised Code, on a form prescribed by the attorney general for 7542
this purpose. The eligible offender shall submit the application 7543
in accordance with the procedures set forth in section 2953.73 7544
of the Revised Code. The eligible offender shall specify on the 7545
application the offense or offenses for which the offender is an 7546
eligible offender and is requesting the DNA testing. Along with 7547
the application, the eligible offender shall submit an 7548
acknowledgment that is on a form prescribed by the attorney 7549
general for this purpose and that is signed by the offender. The 7550
acknowledgment shall set forth all of the following: 7551

(1) That sections 2953.71 to 2953.81 of the Revised Code 7552
contemplate applications for DNA testing of an eligible offender 7553
at a stage of a prosecution or case after the offender has been 7554
sentenced, that any exclusion or inclusion result of DNA testing 7555
rendered pursuant to those sections may be used by a party in 7556
any proceeding as described in section 2953.81 of the Revised 7557
Code, and that all requests for any DNA testing made at trial 7558
will continue to be handled by the prosecuting attorney in the 7559
case; 7560

(2) That the process of conducting postconviction DNA 7561
testing for an eligible offender under sections 2953.71 to 7562
2953.81 of the Revised Code begins when the offender submits an 7563
application under section 2953.73 of the Revised Code and the 7564
acknowledgment described in this section; 7565

(3) That the eligible offender must submit the application 7566
and acknowledgment to the court of common pleas that heard the 7567
case in which the offender was convicted of the offense for 7568
which the offender is an eligible offender and is requesting the 7569

DNA testing; 7570

(4) That the state has established a set of criteria set 7571
forth in section 2953.74 of the Revised Code by which eligible 7572
offender applications for DNA testing will be screened and that 7573
a judge of a court of common pleas upon receipt of a properly 7574
filed application and accompanying acknowledgment will apply 7575
those criteria to determine whether to accept or reject the 7576
application; 7577

(5) That the results of DNA testing conducted under 7578
sections 2953.71 to 2953.81 of the Revised Code will be provided 7579
as described in section 2953.81 of the Revised Code to all 7580
parties in the postconviction proceedings and will be reported 7581
to various courts; 7582

(6) That, if DNA testing is conducted with respect to an 7583
offender under sections 2953.71 to 2953.81 of the Revised Code, 7584
the state will not offer the offender a retest if an inclusion 7585
result is achieved relative to the testing and that, if the 7586
state were to offer a retest after an inclusion result, the 7587
policy would create an atmosphere in which endless testing could 7588
occur and in which postconviction proceedings could be stalled 7589
for many years; 7590

(7) That, if the court rejects an eligible offender's 7591
application for DNA testing because the offender does not 7592
satisfy the acceptance criteria described in division (A)(4) of 7593
this section, the court will not accept or consider subsequent 7594
applications; 7595

(8) That the acknowledgment memorializes the provisions of 7596
sections 2953.71 to 2953.81 of the Revised Code with respect to 7597
the application of postconviction DNA testing to offenders, that 7598

those provisions do not give any offender any additional 7599
constitutional right that the offender did not already have, 7600
that the court has no duty or obligation to provide 7601
postconviction DNA testing to offenders, that the court of 7602
common pleas has the sole discretion subject to an appeal as 7603
described in this division to determine whether an offender is 7604
an eligible offender and whether an eligible offender's 7605
application for DNA testing satisfies the acceptance criteria 7606
described in division (A) (4) of this section and whether the 7607
application should be accepted or rejected, that if the court of 7608
common pleas rejects an eligible offender's application, the 7609
offender may ~~seek leave of the supreme court to appeal the~~ 7610
~~rejection to that court if the offender was sentenced to death~~ 7611
~~for the offense for which the offender is requesting the DNA~~ 7612
~~testing and, if the offender was not sentenced to death for that~~ 7613
~~offense, may appeal the rejection to the court of appeals, and~~ 7614
that no determination otherwise made by the court of common 7615
pleas in the exercise of its discretion regarding the 7616
eligibility of an offender or regarding postconviction DNA 7617
testing under those provisions is reviewable by or appealable to 7618
any court; 7619

(9) That the manner in which sections 2953.71 to 2953.81 7620
of the Revised Code with respect to the offering of 7621
postconviction DNA testing to offenders are carried out does not 7622
confer any constitutional right upon any offender, that the 7623
state has established guidelines and procedures relative to 7624
those provisions to ensure that they are carried out with both 7625
justice and efficiency in mind, and that an offender who 7626
participates in any phase of the mechanism contained in those 7627
provisions, including, but not limited to, applying for DNA 7628
testing and being rejected, having an application for DNA 7629

testing accepted and not receiving the test, or having DNA 7630
testing conducted and receiving unfavorable results, does not 7631
gain as a result of the participation any constitutional right 7632
to challenge, or, except as provided in division (A) (8) of this 7633
section, any right to any review or appeal of, the manner in 7634
which those provisions are carried out; 7635

(10) That the most basic aspect of sections 2953.71 to 7636
2953.81 of the Revised Code is that, in order for DNA testing to 7637
occur, there must be an offender sample against which other 7638
evidence may be compared, that, if an eligible offender's 7639
application is accepted but the offender subsequently refuses to 7640
submit to the collection of the sample of biological material 7641
from the offender or hinders the state from obtaining a sample 7642
of biological material from the offender, the goal of those 7643
provisions will be frustrated, and that an offender's refusal or 7644
hindrance shall cause the court to rescind its prior acceptance 7645
of the application for DNA testing for the offender and deny the 7646
application. 7647

(B) The attorney general shall prescribe a form to be used 7648
to make an application for DNA testing under division (A) of 7649
this section and section 2953.73 of the Revised Code and a form 7650
to be used to provide the acknowledgment described in division 7651
(A) of this section. The forms shall include all information 7652
described in division (A) of this section, spaces for an 7653
offender to insert all information necessary to complete the 7654
forms, including, but not limited to, specifying the offense or 7655
offenses for which the offender is an eligible offender and is 7656
requesting the DNA testing, and any other information or 7657
material the attorney general determines is necessary or 7658
relevant. The attorney general shall distribute copies of the 7659
prescribed forms to the department of rehabilitation and 7660

correction, the department shall ensure that each prison in 7661
which offenders are housed has a supply of copies of the forms, 7662
and the department shall ensure that copies of the forms are 7663
provided free of charge to any offender who requests them. 7664

(C) (1) An offender is eligible to request DNA testing to 7665
be conducted under sections 2953.71 to 2953.81 of the Revised 7666
Code only if all of the following apply: 7667

(a) The offense for which the offender claims to be an 7668
eligible offender is a felony, and the offender was convicted by 7669
a judge or jury of that offense. 7670

(b) One of the following applies: 7671

(i) The offender was sentenced to a prison term ~~or~~ 7672
~~sentence of death~~ for the felony described in division (C) (1) (a) 7673
of this section, and the offender is in prison serving that 7674
prison term ~~or under that sentence of death~~, has been paroled or 7675
is on probation regarding that felony, is under post-release 7676
control regarding that felony, or has been released from that 7677
prison term and is under a community control sanction regarding 7678
that felony. 7679

(ii) The offender was not sentenced to a prison term ~~or~~ 7680
~~sentence of death~~ for the felony described in division (C) (1) (a) 7681
of this section, but was sentenced to a community control 7682
sanction for that felony and is under that community control 7683
sanction. 7684

(iii) The felony described in division (C) (1) (a) of this 7685
section was a sexually oriented offense or child-victim oriented 7686
offense, and the offender has a duty to comply with sections 7687
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7688
relative to that felony. 7689

(2) An offender is not an eligible offender under division 7690
(C) (1) of this section regarding any offense to which the 7691
offender pleaded guilty or no contest. 7692

(3) An offender is not an eligible offender under division 7693
(C) (1) of this section regarding any offense if the offender 7694
dies prior to submitting an application for DNA testing related 7695
to that offense under section 2953.73 of the Revised Code. 7696

Sec. 2953.73. (A) An eligible offender who wishes to 7697
request DNA testing to be conducted under sections 2953.71 to 7698
2953.81 of the Revised Code shall submit an application for DNA 7699
testing on a form prescribed by the attorney general for this 7700
purpose and shall submit the form to the court of common pleas 7701
that sentenced the offender for the offense for which the 7702
offender is an eligible offender and is requesting DNA testing. 7703

(B) If an eligible offender submits an application for DNA 7704
testing under division (A) of this section, upon the submission 7705
of the application, all of the following apply: 7706

(1) The eligible offender shall serve a copy of the 7707
application on the prosecuting attorney and the attorney 7708
general. 7709

(2) The application shall be assigned to the judge of that 7710
court of common pleas who was the trial judge in the case in 7711
which the eligible offender was convicted of the offense for 7712
which the offender is requesting DNA testing, or, if that judge 7713
no longer is a judge of that court, it shall be assigned 7714
according to court rules. The judge to whom the application is 7715
assigned shall decide the application. The application shall 7716
become part of the file in the case. 7717

(C) If an eligible offender submits an application for DNA 7718

testing under division (A) of this section, regardless of 7719
whether the offender has commenced any federal habeas corpus 7720
proceeding relative to the case in which the offender was 7721
convicted of the offense for which the offender is an eligible 7722
offender and is requesting DNA testing, any response to the 7723
application by the prosecuting attorney or the attorney general 7724
shall be filed not later than forty-five days after the date on 7725
which the eligible offender submits the application. The 7726
prosecuting attorney or the attorney general, or both, may, but 7727
are not required to, file a response to the application. If the 7728
prosecuting attorney or the attorney general files a response 7729
under this division, the prosecuting attorney or attorney 7730
general, whoever filed the response, shall serve a copy of the 7731
response on the eligible offender. 7732

(D) If an eligible offender submits an application for DNA 7733
testing under division (A) of this section, the court shall make 7734
the determination as to whether the application should be 7735
accepted or rejected. The court shall expedite its review of the 7736
application. The court shall make the determination in 7737
accordance with the criteria and procedures set forth in 7738
sections 2953.74 to 2953.81 of the Revised Code and, in making 7739
the determination, shall consider the application, the 7740
supporting affidavits, and the documentary evidence and, in 7741
addition to those materials, shall consider all the files and 7742
records pertaining to the proceedings against the applicant, 7743
including, but not limited to, the indictment, the court's 7744
journal entries, the journalized records of the clerk of the 7745
court, and the court reporter's transcript and all responses to 7746
the application filed under division (C) of this section by a 7747
prosecuting attorney or the attorney general, unless the 7748
application and the files and records show the applicant is not 7749

entitled to DNA testing, in which case the application may be 7750
denied. The court is not required to conduct an evidentiary 7751
hearing in conducting its review of, and in making its 7752
determination as to whether to accept or reject, the 7753
application. Upon making its determination, the court shall 7754
enter a judgment and order that either accepts or rejects the 7755
application and that includes within the judgment and order the 7756
reasons for the acceptance or rejection as applied to the 7757
criteria and procedures set forth in sections 2953.71 to 2953.81 7758
of the Revised Code. The court shall send a copy of the judgment 7759
and order to the eligible offender who filed it, the prosecuting 7760
attorney, and the attorney general. 7761

(E) A judgment and order of a court entered under division 7762
(D) of this section is appealable only as provided in this 7763
division. If an eligible offender submits an application for DNA 7764
testing under section 2953.73 of the Revised Code and the court 7765
of common pleas rejects the application under division (D) of 7766
this section, ~~one of the following applies:~~ 7767

~~(1) If the offender was sentenced to death for the offense 7768
for which the offender claims to be an eligible offender and is 7769
requesting DNA testing, the offender may seek leave of the 7770
supreme court to appeal the rejection to the supreme court. 7771
Courts of appeals do not have jurisdiction to review any 7772
rejection if the offender was sentenced to death for the offense 7773
for which the offender claims to be an eligible offender and is 7774
requesting DNA testing. 7775~~

~~(2) If the offender was not sentenced to death for the 7776
offense for which the offender claims to be an eligible offender 7777
and is requesting DNA testing, the rejection is a final 7778
appealable order, and the offender may appeal it to the court of 7779~~

appeals of the district in which is located that court of common pleas. 7780
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(F) Notwithstanding any provision of law regarding fees and costs, no filing fee shall be required of, and no court costs shall be assessed against, an eligible offender who is indigent and who submits an application under this section. 7782
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(G) If a court rejects an eligible offender's application for DNA testing under division (D) of this section, unless the rejection is overturned on appeal, no court shall require the state to administer a DNA test under sections 2953.71 to 2953.81 of the Revised Code on the eligible offender. 7786
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Sec. 2953.81. If an eligible offender submits an application for DNA testing under section 2953.73 of the Revised Code and if DNA testing is performed based on that application, upon completion of the testing, all of the following apply: 7791
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(A) The court or a designee of the court shall require the state to maintain the results of the testing and to maintain and preserve both the parent sample of the biological material used and the offender sample of the biological material used. The testing authority may be designated as the person to maintain the results of the testing or to maintain and preserve some or all of the samples, or both. The results of the testing remain state's evidence. The samples shall be preserved during the entire period of time for which the offender is imprisoned or confined relative to the sentence in question, is on parole or probation relative to that sentence, is under post-release control or a community control sanction relative to that sentence, or has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code relative to that sentence. Additionally, if the prison term or confinement 7795
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under the sentence in question expires, ~~if the sentence in~~ 7810
~~question is a sentence of death and the offender is executed,~~ or 7811
if the parole or probation period, the period of post-release 7812
control, the community control sanction, or the duty to comply 7813
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 7814
Revised Code under the sentence in question ends, the samples 7815
shall be preserved for a reasonable period of time of not less 7816
than twenty-four months after the term or confinement expires, ~~—~~ 7817
~~the offender is executed,~~ or the parole or probation period, the 7818
period of post-release control, the community control sanction, 7819
or the duty to comply with sections 2950.04, 2950.041, 2950.05, 7820
and 2950.06 of the Revised Code ends, whichever is applicable. 7821
The court shall determine the period of time that is reasonable 7822
for purposes of this division, provided that the period shall 7823
not be less than twenty-four months after the term or 7824
confinement expires, ~~the offender is executed,~~ or the parole or 7825
probation period, the period of post-release control, the 7826
community control sanction, or the duty to comply with sections 7827
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7828
ends, whichever is applicable. 7829

(B) The results of the testing are a public record. 7830

(C) The court or the testing authority shall provide a 7831
copy of the results of the testing to the prosecuting attorney, 7832
the attorney general, and the subject offender. 7833

(D) If the postconviction proceeding in question is 7834
pending at that time in a court of this state, the court of 7835
common pleas that decided the DNA application or the testing 7836
authority shall provide a copy of the results of the testing to 7837
any court of this state, and, if it is pending in a federal 7838
court, the court of common pleas that decided the DNA 7839

application or the testing authority shall provide a copy of the 7840
results of the testing to that federal court. 7841

(E) The testing authority shall provide a copy of the 7842
results of the testing to the court of common pleas that decided 7843
the DNA application. 7844

(F) The offender or the state may enter the results of the 7845
testing into any proceeding. 7846

Sec. 2967.05. (A) As used in this section: 7847

(1) "Imminent danger of death" means that the inmate has a 7848
medically diagnosable condition that will cause death to occur 7849
within a short period of time. 7850

As used in division (A) (1) of this section, "within a 7851
short period of time" means generally within six months. 7852

(2) (a) "Medically incapacitated" means any diagnosable 7853
medical condition, including mental dementia and severe, 7854
permanent medical or cognitive disability, that prevents the 7855
inmate from completing activities of daily living without 7856
significant assistance, that incapacitates the inmate to the 7857
extent that institutional confinement does not offer additional 7858
restrictions, that is likely to continue throughout the entire 7859
period of parole, and that is unlikely to improve noticeably. 7860

(b) "Medically incapacitated" does not include conditions 7861
related solely to mental illness unless the mental illness is 7862
accompanied by injury, disease, or organic defect. 7863

(3) (a) "Terminal illness" means a condition that satisfies 7864
all of the following criteria: 7865

(i) The condition is irreversible and incurable and is 7866
caused by disease, illness, or injury from which the inmate is 7867

unlikely to recover. 7868

(ii) In accordance with reasonable medical standards and a 7869
reasonable degree of medical certainty, the condition is likely 7870
to cause death to the inmate within twelve months. 7871

(iii) Institutional confinement of the inmate does not 7872
offer additional protections for public safety or against the 7873
inmate's risk to reoffend. 7874

(b) The department of rehabilitation and correction shall 7875
adopt rules pursuant to Chapter 119. of the Revised Code to 7876
implement the definition of "terminal illness" in division (A) 7877
(3) (a) of this section. 7878

(B) Upon the recommendation of the director of 7879
rehabilitation and correction, accompanied by a certificate of 7880
the attending physician that an inmate is terminally ill, 7881
medically incapacitated, or in imminent danger of death, the 7882
governor may order the inmate's release as if on parole, 7883
reserving the right to return the inmate to the institution 7884
pursuant to this section. If, subsequent to the inmate's 7885
release, the inmate's health improves so that the inmate is no 7886
longer terminally ill, medically incapacitated, or in imminent 7887
danger of death, the inmateshall be returned, by order of the 7888
governor, to the institution from which the inmate was released. 7889
If the inmate violates any rules or conditions applicable to the 7890
inmate, the inmate may be returned to an institution under the 7891
control of the department of rehabilitation and correction. The 7892
governor may direct the adult parole authority to investigate or 7893
cause to be investigated the inmate and make a recommendation. 7894
An inmate released under this section shall be subject to 7895
supervision by the adult parole authority in accordance with any 7896
recommendation of the adult parole authority that is approved by 7897

the governor. The adult parole authority shall adopt rules 7898
pursuant to section 119.03 of the Revised Code to establish the 7899
procedure for medical release of an inmate when an inmate is 7900
terminally ill, medically incapacitated, or in imminent danger 7901
of death. 7902

(C) No inmate is eligible for release under this section 7903
if the inmate is serving ~~a death sentence,~~ a sentence of life 7904
without parole, a sentence under Chapter 2971. of the Revised 7905
Code for a felony of the first or second degree, a sentence for 7906
aggravated murder or murder, or a mandatory prison term for an 7907
offense of violence or any specification described in Chapter 7908
2941. of the Revised Code. 7909

Sec. 2967.12. (A) Except as provided in division (G) of 7910
this section, at least sixty days before the adult parole 7911
authority recommends any pardon or commutation of sentence, or 7912
grants any parole, the authority shall provide a notice of the 7913
pendency of the pardon, commutation, or parole, setting forth 7914
the name of the person on whose behalf it is made, the offense 7915
of which the person was convicted or to which the person pleaded 7916
guilty, the time of conviction or the guilty plea, and the term 7917
of the person's sentence, to the prosecuting attorney and the 7918
judge of the court of common pleas of the county in which the 7919
indictment against the person was found. If there is more than 7920
one judge of that court of common pleas, the authority shall 7921
provide the notice to the presiding judge. Upon the request of 7922
the prosecuting attorney or of any law enforcement agency, the 7923
authority shall provide to the requesting prosecuting attorney 7924
and law enforcement agencies an institutional summary report 7925
that covers the subject person's participation while confined in 7926
a state correctional institution in training, work, and other 7927
rehabilitative activities and any disciplinary action taken 7928

against the person while so confined. The department of 7929
rehabilitation and correction may utilize electronic means to 7930
provide this notice. The department of rehabilitation and 7931
correction, at the same time that it provides the notice to the 7932
prosecuting attorney and judge under this division, also shall 7933
post on the database it maintains pursuant to section 5120.66 of 7934
the Revised Code the offender's name and all of the information 7935
specified in division (A) (1) (c) (iii) of that section. 7936

(B) If a request for notification has been made pursuant 7937
to section 2930.16 of the Revised Code or if division (H) of 7938
this section applies, the office of victim services or the adult 7939
parole authority also shall provide notice to the victim or the 7940
victim's representative at least sixty days prior to 7941
recommending any pardon or commutation of sentence for, or 7942
granting any parole to, the person. The notice shall include the 7943
information required by division (A) of this section and may be 7944
provided by telephone or through electronic means. The notice 7945
also shall inform the victim or the victim's representative that 7946
the victim or representative may send a written statement 7947
relative to the victimization and the pending action to the 7948
adult parole authority and that, if the authority receives any 7949
written statement prior to recommending a pardon or commutation 7950
or granting a parole for a person, the authority will consider 7951
the statement before it recommends a pardon or commutation or 7952
grants a parole. If the person is being considered for parole, 7953
the notice shall inform the victim or the victim's 7954
representative that a full board hearing of the parole board may 7955
be held and that the victim or victim's representative may 7956
contact the office of victims' services for further information. 7957
If the person being considered for parole was convicted of or 7958
pleaded guilty to a violation of section 2903.01 or 2903.02 of 7959

the Revised Code, an offense of violence that is a felony of the 7960
first, second, or third degree, or an offense punished by a 7961
sentence of life imprisonment, the notice shall inform the 7962
victim of that offense, the victim's representative, or a member 7963
of the victim's immediate family that the victim, the victim's 7964
representative, and the victim's immediate family have the right 7965
to give testimony at a full board hearing of the parole board 7966
and that the victim or victim's representative may contact the 7967
office of victims' services for further information. 7968

(C) When notice of the pendency of any pardon, commutation 7969
of sentence, or parole has been provided to a judge or 7970
prosecutor or posted on the database as required in division (A) 7971
of this section and a hearing on the pardon, commutation, or 7972
parole is continued to a date certain, the authority shall 7973
provide notice of the further consideration of the pardon, 7974
commutation, or parole at least sixty days before the further 7975
consideration. The notice of the further consideration shall be 7976
provided to the proper judge and prosecuting attorney at least 7977
sixty days before the further consideration, and may be provided 7978
using electronic means, and, if the initial notice was posted on 7979
the database as provided in division (A) of this section, the 7980
notice of the further consideration shall be posted on the 7981
database at least sixty days before the further consideration. 7982
If the prosecuting attorney or a law enforcement agency was 7983
provided a copy of the institutional summary report relative to 7984
the subject person under division (A) of this section, the 7985
authority shall include with the notice of the further 7986
consideration sent to the prosecuting attorney any new 7987
information with respect to the person that relates to 7988
activities and actions of the person that are of a type covered 7989
by the report and shall send to the law enforcement agency a 7990

report that provides notice of the further consideration and 7991
includes any such new information with respect to the person. 7992
When notice of the pendency of any pardon, commutation, or 7993
parole has been given as provided in division (B) of this 7994
section and the hearing on it is continued to a date certain, 7995
the authority shall give notice of the further consideration to 7996
the victim or the victim's representative in accordance with 7997
section 2930.03 of the Revised Code. 7998

(D) In case of an application for the pardon or 7999
commutation of sentence of a person sentenced to capital 8000
punishment prior to the effective date of this amendment, the 8001
governor may modify the requirements of notification and 8002
publication if there is not sufficient time for compliance with 8003
the requirements before the date fixed for the execution of 8004
sentence. 8005

(E) If an offender is serving a prison term imposed under 8006
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8007
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8008
Code and if the parole board terminates its control over the 8009
offender's service of that term pursuant to section 2971.04 of 8010
the Revised Code, the parole board immediately shall provide 8011
written notice of its termination of control or the transfer of 8012
control to the entities and persons specified in section 2971.04 8013
of the Revised Code. 8014

(F) The failure of the adult parole authority to comply 8015
with the notice or posting provisions of division (A), (B), or 8016
(C) of this section or the failure of the parole board to comply 8017
with the notice provisions of division (E) of this section do 8018
not give any rights or any grounds for appeal or post-conviction 8019
relief to the person serving the sentence. 8020

(G) Divisions (A), (B), and (C) of this section do not 8021
apply to any release of a person that is of the type described 8022
in division (B) (2) (b) of section 5120.031 of the Revised Code. 8023

(H) If a defendant is incarcerated for the commission of 8024
aggravated murder, murder, or an offense of violence that is a 8025
felony of the first, second, or third degree or is under a 8026
sentence of life imprisonment, except as otherwise provided in 8027
this division, the notice described in division (B) of this 8028
section shall be given to the victim or victim's representative 8029
regardless of whether the victim or victim's representative has 8030
made a request for notification. The notice described in 8031
division (B) of this section shall not be given under this 8032
division to a victim or victim's representative if the victim or 8033
victim's representative has requested pursuant to division (B) 8034
(2) of section 2930.03 of the Revised Code that the victim or 8035
the victim's representative not be provided the notice. The 8036
notice described in division (B) of this section does not have 8037
to be given under this division to a victim or victim's 8038
representative if notice was given to the victim or victim's 8039
representative with respect to at least two prior considerations 8040
of pardon, commutation, or parole of a person and the victim or 8041
victim's representative did not provide any written statement 8042
relative to the victimization and the pending action, did not 8043
attend any hearing conducted relative to the pending action, and 8044
did not otherwise respond to the office with respect to the 8045
pending action. Regardless of whether the victim or victim's 8046
representative has requested that the notice described in 8047
division (B) of this section be provided or not be provided, the 8048
office of victim services or adult parole authority shall give 8049
similar notice to the law enforcement agency that arrested the 8050
defendant if any officer of that agency was a victim of the 8051

offense and to any member of the victim's immediate family who 8052
requests notification. If notice is to be given under this 8053
division, the office or authority may give the notice by any 8054
reasonable means, including regular mail, telephone, and 8055
electronic mail, in accordance with division (D)(1) of section 8056
2930.16 of the Revised Code. If the notice is based on an 8057
offense committed prior to ~~the effective date of this amendment~~ 8058
March 22, 2013, the notice to the victim or victim's 8059
representative also shall include the opt-out information 8060
described in division (D)(1) of section 2930.16 of the Revised 8061
Code. The office or authority, in accordance with division (D) 8062
(2) of section 2930.16 of the Revised Code, shall keep a record 8063
of all attempts to provide the notice, and of all notices 8064
provided, under this division. 8065

Division (H) of this section, and the notice-related 8066
provisions of divisions (E)(2) and (K) of section 2929.20, 8067
division (D)(1) of section 2930.16, division (E)(1)(b) of 8068
section 2967.19, division (A)(3)(b) of section 2967.26, division 8069
(D)(1) of section 2967.28, and division (A)(2) of section 8070
5149.101 of the Revised Code enacted in the act in which 8071
division (H) of this section was enacted, shall be known as 8072
"Roberta's Law." 8073

(I) In addition to and independent of the right of a 8074
victim to make a statement as described in division (A) of this 8075
section or pursuant to section 2930.17 of the Revised Code or to 8076
otherwise make a statement, the authority for a judge or 8077
prosecuting attorney to furnish statements and information, make 8078
recommendations, and give testimony as described in division (A) 8079
of this section, the right of a prosecuting attorney, judge, or 8080
victim to give testimony or submit a statement at a full parole 8081
board hearing pursuant to section 5149.101 of the Revised Code, 8082

and any other right or duty of a person to present information 8083
or make a statement, any person may send to the adult parole 8084
authority at any time prior to the authority's recommending a 8085
pardon or commutation or granting a parole for the offender a 8086
written statement relative to the offense and the pending 8087
action. 8088

(J) As used in this section, "victim's immediate family" 8089
means the mother, father, spouse, sibling, or child of the 8090
victim, provided that in no case does "victim's immediate 8091
family" include the offender with respect to whom the notice in 8092
question applies. 8093

Sec. 2967.13. (A) Except as provided in division (G) of 8094
this section or section 2967.132 of the Revised Code, a prisoner 8095
serving a sentence of imprisonment for life for an offense 8096
committed on or after July 1, 1996, is not entitled to any 8097
earned credit under division (A) (2) or (3) of section 2967.193 8098
or 2967.194 of the Revised Code and becomes eligible for parole 8099
as follows: 8100

(1) If a sentence of imprisonment for life was imposed for 8101
the offense of murder, at the expiration of the prisoner's 8102
minimum term; 8103

(2) If a sentence of imprisonment for life with parole 8104
eligibility after serving twenty years of imprisonment was 8105
imposed pursuant to section 2929.02 or former section 2929.022 8106
or 2929.03 of the Revised Code, after serving a term of twenty 8107
years; 8108

(3) If a sentence of imprisonment for life with parole 8109
eligibility after serving twenty-five full years of imprisonment 8110
was imposed pursuant to section 2929.02 or former section 8111

2929.022 or 2929.03 of the Revised Code, after serving a term of 8112
twenty-five full years; 8113

(4) If a sentence of imprisonment for life with parole 8114
eligibility after serving thirty full years of imprisonment was 8115
imposed pursuant to section 2929.02 or former section 2929.022 8116
or 2929.03 of the Revised Code, after serving a term of thirty 8117
full years; 8118

(5) If a sentence of imprisonment for life was imposed for 8119
rape, after serving a term of ten full years' imprisonment; 8120

(6) If a sentence of imprisonment for life with parole 8121
eligibility after serving fifteen years of imprisonment was 8122
imposed for a violation of section 2927.24 of the Revised Code, 8123
after serving a term of fifteen years. 8124

(B) Except as provided in division (G) of this section or 8125
section 2967.132 of the Revised Code, a prisoner serving a 8126
sentence of imprisonment for life with parole eligibility after 8127
serving twenty years of imprisonment or a sentence of 8128
imprisonment for life with parole eligibility after serving 8129
twenty-five full years or thirty full years of imprisonment 8130
imposed pursuant to section 2929.02 or former section 2929.022 8131
or 2929.03 of the Revised Code for an offense committed on or 8132
after July 1, 1996, consecutively to any other term of 8133
imprisonment, becomes eligible for parole after serving twenty 8134
years, twenty full years, or thirty full years, as applicable, 8135
as to each such sentence of life imprisonment, which shall not 8136
be reduced for earned credits under division (A) (2) or (3) of 8137
section 2967.193 or 2967.194 of the Revised Code, plus the term 8138
or terms of the other sentences consecutively imposed or, if one 8139
of the other sentences is another type of life sentence with 8140
parole eligibility, the number of years before parole 8141

eligibility for that sentence. 8142

(C) Except as provided in division (G) of this section or 8143
section 2967.132 of the Revised Code, a prisoner serving 8144
consecutively two or more sentences in which an indefinite term 8145
of imprisonment is imposed becomes eligible for parole upon the 8146
expiration of the aggregate of the minimum terms of the 8147
sentences. 8148

(D) Except as provided in division (G) of this section or 8149
section 2967.132 of the Revised Code, a prisoner serving a term 8150
of imprisonment who is described in division (A) of section 8151
2967.021 of the Revised Code becomes eligible for parole as 8152
described in that division or, if the prisoner is serving a 8153
definite term of imprisonment, shall be released as described in 8154
that division. 8155

(E) Except as provided in section 2967.132 of the Revised 8156
Code, a prisoner serving a sentence of life imprisonment without 8157
parole imposed pursuant to section 2907.02 or section 2929.02 or 8158
former section 2929.03 or 2929.06 of the Revised Code is not 8159
eligible for parole and shall be imprisoned until death. 8160

(F) A prisoner serving a stated prison term that is a non- 8161
life felony indefinite prison term shall be released in 8162
accordance with sections 2967.271 and 2967.28 of the Revised 8163
Code. A prisoner serving a stated prison term of any other 8164
nature shall be released in accordance with section 2967.28 of 8165
the Revised Code. 8166

(G) Except as provided in section 2967.132 of the Revised 8167
Code, a prisoner serving a prison term or term of life 8168
imprisonment without parole imposed pursuant to section 2971.03 8169
of the Revised Code never becomes eligible for parole during 8170

that term of imprisonment. 8171

Sec. 2967.193. (A) (1) The provisions of this section shall 8172
apply, until the date that is one year after the effective date 8173
of this amendment, April 4, 2023, to persons confined in a state 8174
correctional institution or in the substance use disorder 8175
treatment program. 8176

(2) Except as provided in division (C) of this section and 8177
subject to the maximum aggregate total specified in division (A) 8178
(4) of this section, a person confined in a state correctional 8179
institution or placed in the substance use disorder treatment 8180
program may provisionally earn one day or five days of credit, 8181
based on the category set forth in division (D) (1), (2), (3), 8182
(4), or (5) of this section in which the person is included, 8183
toward satisfaction of the person's stated prison term, as 8184
described in division (F) of this section, for each completed 8185
month during which the person, if confined in a state 8186
correctional institution, productively participates in an 8187
education program, vocational training, employment in prison 8188
industries, treatment for substance abuse, or any other 8189
constructive program developed by the department of 8190
rehabilitation and correction with specific standards for 8191
performance by prisoners or during which the person, if placed 8192
in the substance use disorder treatment program, productively 8193
participates in the program. Except as provided in division (C) 8194
of this section and subject to the maximum aggregate total 8195
specified in division (A) (4) of this section, a person so 8196
confined in a state correctional institution who successfully 8197
completes two programs or activities of that type may, in 8198
addition, provisionally earn up to five days of credit toward 8199
satisfaction of the person's stated prison term, as described in 8200
division (F) of this section, for the successful completion of 8201

the second program or activity. The person shall not be awarded 8202
any provisional days of credit for the successful completion of 8203
the first program or activity or for the successful completion 8204
of any program or activity that is completed after the second 8205
program or activity. At the end of each calendar month in which 8206
a person productively participates in a program or activity 8207
listed in this division or successfully completes a program or 8208
activity listed in this division, the department of 8209
rehabilitation and correction shall determine and record the 8210
total number of days credit that the person provisionally earned 8211
in that calendar month. If the person in a state correctional 8212
institution violates prison rules or the person in the substance 8213
use disorder treatment program violates program or department 8214
rules, the department may deny the person a credit that 8215
otherwise could have been provisionally awarded to the person or 8216
may withdraw one or more credits previously provisionally earned 8217
by the person. Days of credit provisionally earned by a person 8218
shall be finalized and awarded by the department subject to 8219
administrative review by the department of the person's conduct. 8220

(3) Unless a person is serving a mandatory prison term or 8221
a prison term for an offense of violence or a sexually oriented 8222
offense, and notwithstanding the maximum aggregate total 8223
specified in division (A) (4) of this section, a person who 8224
successfully completes any of the following shall earn ninety 8225
days of credit toward satisfaction of the person's stated prison 8226
term or a ten per cent reduction of the person's stated prison 8227
term, whichever is less: 8228

(a) An Ohio high school diploma or Ohio certificate of 8229
high school equivalence certified by the Ohio central school 8230
system; 8231

(b) A therapeutic drug community program;	8232
(c) All three phases of the department of rehabilitation and correction's intensive outpatient drug treatment program;	8233 8234
(d) A career technical vocational school program;	8235
(e) A college certification program;	8236
(f) The criteria for a certificate of achievement and employability as specified in division (A) (1) of section 2961.22 of the Revised Code.	8237 8238 8239
(4) Except for persons described in division (A) (3) 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.	8240 8241 8242 8243 8244 8245 8246
(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 of a violation of prison rules, or program or department rules, whichever is applicable.	8247 8248 8249 8250 8251 8252 8253 8254 8255 8256
(C) No person confined in a state correctional institution or placed in a substance use disorder treatment program to whom any of the following applies shall be awarded any days of credit under division (A) of this section:	8257 8258 8259 8260

(1) The person is serving a prison term that section 8261
2929.13 or section 2929.14 of the Revised Code specifies cannot 8262
be reduced pursuant to this section or this chapter or is 8263
serving a sentence for which section 2967.13 or division (B) of 8264
section 2929.143 of the Revised Code specifies that the person 8265
is not entitled to any earned credit under this section. 8266

(2) The person is ~~sentenced to death or is~~ serving a 8267
prison term or a term of life imprisonment for aggravated 8268
murder, murder, or a conspiracy or attempt to commit, or 8269
complicity in committing, aggravated murder or murder. 8270

(3) The person is serving a sentence of life imprisonment 8271
without parole imposed pursuant to section 2929.02 or former 8272
section 2929.03 or 2929.06 of the Revised Code, a prison term or 8273
a term of life imprisonment without parole imposed pursuant to 8274
section 2971.03 of the Revised Code, or a sentence for a 8275
sexually oriented offense that was committed on or after 8276
September 30, 2011. 8277

(D) This division does not apply to a determination of 8278
whether a person confined in a state correctional institution or 8279
placed in a substance use disorder treatment program may earn 8280
any days of credit under division (A) of this section for 8281
successful completion of a second program or activity. The 8282
determination of whether a person confined in a state 8283
correctional institution may earn one day of credit or five days 8284
of credit under division (A) of this section for each completed 8285
month during which the person productively participates in a 8286
program or activity specified under that division shall be made 8287
in accordance with the following: 8288

(1) The offender may earn one day of credit under division 8289
(A) of this section, except as provided in division (C) of this 8290

section, if the most serious offense for which the offender is 8291
confined is any of the following that is a felony of the first 8292
or second degree: 8293

(a) A violation of division (A) of section 2903.04 or of 8294
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 8295
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 8296
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.15, 2919.151, 8297
2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, 8298
or 2927.24 of the Revised Code; 8299

(b) A conspiracy or attempt to commit, or complicity in 8300
committing, any other offense for which the maximum penalty is 8301
imprisonment for life or any offense listed in division (D) (1) 8302
(a) of this section. 8303

(2) The offender may earn one day of credit under division 8304
(A) of this section, except as provided in division (C) of this 8305
section, if the offender is serving a stated prison term that 8306
includes a prison term imposed for a sexually oriented offense 8307
that the offender committed prior to September 30, 2011. 8308

(3) The offender may earn one day of credit under division 8309
(A) of this section, except as provided in division (C) of this 8310
section, if the offender is serving a stated prison term that 8311
includes a prison term imposed for a felony other than carrying 8312
a concealed weapon an essential element of which is any conduct 8313
or failure to act expressly involving any deadly weapon or 8314
dangerous ordnance. 8315

(4) Except as provided in division (C) of this section, if 8316
the most serious offense for which the offender is confined is a 8317
felony of the first or second degree and divisions (D) (1), (2), 8318
and (3) of this section do not apply to the offender, the 8319

offender may earn one day of credit under division (A) of this 8320
section if the offender committed that offense prior to 8321
September 30, 2011, and the offender may earn five days of 8322
credit under division (A) of this section if the offender 8323
committed that offense on or after September 30, 2011. 8324

(5) Except as provided in division (C) of this section, if 8325
the most serious offense for which the offender is confined is a 8326
felony of the third, fourth, or fifth degree or an unclassified 8327
felony and neither division (D) (2) nor (3) of this section 8328
applies to the offender, the offender may earn one day of credit 8329
under division (A) of this section if the offender committed 8330
that offense prior to September 30, 2011, and the offender may 8331
earn five days of credit under division (A) of this section if 8332
the offender committed that offense on or after September 30, 8333
2011. 8334

(E) The department annually shall seek and consider the 8335
written feedback of the Ohio prosecuting attorneys association, 8336
the Ohio judicial conference, the Ohio public defender, the Ohio 8337
association of criminal defense lawyers, and other organizations 8338
and associations that have an interest in the operation of the 8339
corrections system and the earned credits program under this 8340
section as part of its evaluation of the program and in 8341
determining whether to modify the program. 8342

(F) Days of credit awarded under this section shall be 8343
applied toward satisfaction of a person's stated prison term as 8344
follows: 8345

(1) Toward the definite prison term of a prisoner serving 8346
a definite prison term as a stated prison term; 8347

(2) Toward the minimum and maximum terms of a prisoner 8348

8349 serving an indefinite prison term imposed under division (A) (1)
8350 (a) or (2) (a) of section 2929.14 of the Revised Code for a
8351 felony of the first or second degree committed on or after March
8352 22, 2019.

(G) As used in this section: 8353

(1) "Sexually oriented offense" has the same meaning as in 8354
8355 section 2950.01 of the Revised Code.

(2) "Substance use disorder treatment program" means the 8356
8357 substance use disorder treatment program established by the
8358 department of rehabilitation and correction under section
8359 5120.035 of the Revised Code.

Sec. 2967.194. (A) (1) Beginning one year after ~~the~~ 8360
8361 ~~effective date of this section~~ April 4, 2023, the provisions of
8362 this section shall apply, in the manner described in division
8363 (G) of this section, to persons confined in a state correctional
8364 institution or in the substance use disorder treatment program.

(2) Except as provided in division (C) of this section and 8365
8366 subject to the maximum aggregate total specified in division (A)
8367 (4) of this section, a person confined in a state correctional
8368 institution or placed in the substance use disorder treatment
8369 program may provisionally earn one day or five days of credit,
8370 based on the category set forth in division (D) (1) or (2) of
8371 this section in which the person is included, toward
8372 satisfaction of the person's stated prison term, as described in
8373 division (F) of this section, for each completed month during
8374 which the person, if confined in a state correctional
8375 institution, productively participates in an education program,
8376 vocational training, employment in prison industries, treatment
8377 for substance abuse, or any other constructive program developed

by the department of rehabilitation and correction with specific 8378
standards for performance by prisoners or during which the 8379
person, if placed in the substance use disorder treatment 8380
program, productively participates in the program. Except as 8381
provided in division (C) of this section and subject to the 8382
maximum aggregate total specified in division (A)(4) of this 8383
section, a person so confined in a state correctional 8384
institution who successfully completes two programs or 8385
activities of that type may, in addition, provisionally earn up 8386
to five days of credit toward satisfaction of the person's 8387
stated prison term, as described in division (F) of this 8388
section, for the successful completion of the second program or 8389
activity. The person shall not be awarded any provisional days 8390
of credit for the successful completion of the first program or 8391
activity or for the successful completion of any program or 8392
activity that is completed after the second program or activity. 8393
At the end of each calendar month in which a person productively 8394
participates in a program or activity listed in this division or 8395
successfully completes a program or activity listed in this 8396
division, the department of rehabilitation and correction shall 8397
determine and record the total number of days credit that the 8398
person provisionally earned in that calendar month. If the 8399
person in a state correctional institution violates prison rules 8400
or the person in the substance use disorder treatment program 8401
violates program or department rules, the department may deny 8402
the person a credit that otherwise could have been provisionally 8403
awarded to the person or may withdraw one or more credits 8404
previously provisionally earned by the person. Days of credit 8405
provisionally earned by a person shall be finalized and awarded 8406
by the department subject to administrative review by the 8407
department of the person's conduct. 8408

(3) Except as provided in division (C) of this section, 8409
unless a person is serving a mandatory prison term or a prison 8410
term for an offense of violence or a sexually oriented offense, 8411
and notwithstanding the maximum aggregate total specified in 8412
division (A)(4) of this section, a person who successfully 8413
completes any diploma, equivalence, program, or criteria 8414
identified in divisions (A)(3)(a) to (g) of this section shall 8415
earn ninety days of credit toward satisfaction of the person's 8416
stated prison term or a ten per cent reduction of the person's 8417
stated prison term, whichever is less, for each such diploma, 8418
equivalence, program, or criteria successfully completed. The 8419
diplomas, equivalences, programs, and criteria for which credit 8420
shall be granted under this division, upon successful 8421
completion, are: 8422

(a) An Ohio high school diploma or Ohio certificate of 8423
high school equivalence certified by the Ohio central school 8424
system; 8425

(b) A therapeutic drug community program; 8426

(c) All three phases of the department of rehabilitation 8427
and correction's intensive outpatient drug treatment program; 8428

(d) A career technical vocational school program; 8429

(e) A college certification program; 8430

(f) The criteria for a certificate of achievement and 8431
employability as specified in division (A)(1) of section 2961.22 8432
of the Revised Code; 8433

(g) Any other constructive program developed by the 8434
department of rehabilitation and correction with specific 8435
standards for performance by prisoners. 8436

(4) Except for persons described in division (A) (3) of 8437
this section, the aggregate days of credit provisionally earned 8438
by a person for program or activity participation and program 8439
and activity completion under this section and the aggregate 8440
days of credit finally credited to a person under this section 8441
shall not exceed fifteen per cent of the total number of days in 8442
the person's stated prison term. 8443

(B) The department of rehabilitation and correction shall 8444
adopt rules that specify the programs or activities for which 8445
credit may be earned under this section, the criteria for 8446
determining productive participation in, or completion of, the 8447
programs or activities and the criteria for awarding credit, 8448
including criteria for awarding additional credit for successful 8449
program or activity completion, and the criteria for denying or 8450
withdrawing previously provisionally earned credit as a result 8451
of a violation of prison rules, or program or department rules, 8452
whichever is applicable. 8453

(C) No person confined in a state correctional institution 8454
or placed in a substance use disorder treatment program to whom 8455
any of the following applies shall be awarded any days of credit 8456
under division (A) (2) or (3) of this section: 8457

(1) The person is serving a prison term that section 8458
2929.13 or section 2929.14 of the Revised Code specifies cannot 8459
be reduced pursuant to this section or this chapter or is 8460
serving a sentence for which section 2967.13 or division (B) of 8461
section 2929.143 of the Revised Code specifies that the person 8462
is not entitled to any earned credit under this section. 8463

(2) The person is sentenced to death or is serving a 8464
prison term or a term of life imprisonment for aggravated 8465
murder, murder, or a conspiracy or attempt to commit, or 8466

complicity in committing, aggravated murder or murder. 8467

(3) The person is serving a sentence of life imprisonment 8468
without parole imposed pursuant to section 2929.03 or former 8469
section 2929.06 of the Revised Code, a prison term or a term of 8470
life imprisonment without parole imposed pursuant to section 8471
2971.03 of the Revised Code, or a sentence for a sexually 8472
oriented offense that was committed on or after September 30, 8473
2011. 8474

(D) This division does not apply to a determination of 8475
whether a person confined in a state correctional institution or 8476
placed in a substance use disorder treatment program may earn 8477
any days of credit under division (A) (2) of this section for 8478
successful completion of a second program or activity. The 8479
determination of whether a person confined in a state 8480
correctional institution may earn one day of credit or five days 8481
of credit under division (A) (2) of this section for each 8482
completed month during which the person productively 8483
participates in a program or activity specified under that 8484
division shall be made in accordance with the following: 8485

(1) The offender may earn one day of credit under division 8486
(A) (2) of this section, except as provided in division (C) of 8487
this section, if the offender is serving a stated prison term 8488
that includes a prison term imposed for a sexually oriented 8489
offense that the offender committed prior to September 30, 2011. 8490

(2) Except as provided in division (C) of this section, if 8491
division (D) (1) of this section does not apply to the offender, 8492
the offender may earn five days of credit under division (A) (2) 8493
of this section. 8494

(E) The department annually shall seek and consider the 8495

written feedback of the Ohio prosecuting attorneys association, 8496
the Ohio judicial conference, the Ohio public defender, the Ohio 8497
association of criminal defense lawyers, and other organizations 8498
and associations that have an interest in the operation of the 8499
corrections system and the earned credits program under this 8500
section as part of its evaluation of the program and in 8501
determining whether to modify the program. 8502

(F) Days of credit awarded under this section shall be 8503
applied toward satisfaction of a person's stated prison term as 8504
follows: 8505

(1) Toward the definite prison term of a prisoner serving 8506
a definite prison term as a stated prison term; 8507

(2) Toward the minimum and maximum terms of a prisoner 8508
serving an indefinite prison term imposed under division (A)(1) 8509
(a) or (2)(a) of section 2929.14 of the Revised Code for a 8510
felony of the first or second degree committed on or after March 8511
22, 2019. 8512

(G) The provisions of this section apply to persons 8513
confined in a state correctional institution or in the substance 8514
use disorder treatment program on or after the date that is one 8515
year after ~~the effective date of this section~~ April 4, 2023, as 8516
follows: 8517

(1) Subject to division (G)(2) of this section, the 8518
provisions apply to a person so confined regardless of whether 8519
the person committed the offense for which the person is 8520
confined in the institution or was placed in the program prior 8521
to, on, or after the date that is one year after ~~the effective~~ 8522
~~date of this section~~ April 4, 2023, and regardless of whether 8523
the person was convicted of or pleaded guilty to that offense 8524

prior to, on, or after the date that is one year after ~~the~~ 8525
~~effective date of this section~~ April 4, 2023. 8526

(2) The provisions apply to a person so confined only with 8527
respect to the time that the person is so confined on and after 8528
the date that is one year after ~~the effective date of this~~ 8529
~~section~~ April 4, 2023, and the provisions of section 2967.193 of 8530
the Revised Code that were in effect prior to the date that is 8531
one year after ~~the effective date of this section~~ April 4, 2023, 8532
and that applied to the person prior to that date apply to the 8533
person with respect to the time that the person was so confined 8534
prior to the date that is one year after ~~that effective date~~ 8535
April 4, 2023. 8536

(H) As used in this section: 8537

(1) "Sexually oriented offense" has the same meaning as in 8538
section 2950.01 of the Revised Code. 8539

(2) "Substance use disorder treatment program" means the 8540
substance use disorder treatment program established by the 8541
department of rehabilitation and correction under section 8542
5120.035 of the Revised Code. 8543

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 8544
section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or 8545
another section of the Revised Code, other than divisions (B) 8546
and (C) of section 2929.14 of the Revised Code, that authorizes 8547
or requires a specified prison term or a mandatory prison term 8548
for a person who is convicted of or pleads guilty to a felony or 8549
that specifies the manner and place of service of a prison term 8550
or term of imprisonment, the court shall impose a sentence upon 8551
a person who is convicted of or pleads guilty to a violent sex 8552
offense and who also is convicted of or pleads guilty to a 8553

sexually violent predator specification that was included in the 8554
indictment, count in the indictment, or information charging 8555
that offense, and upon a person who is convicted of or pleads 8556
guilty to a designated homicide, assault, or kidnapping offense 8557
and also is convicted of or pleads guilty to both a sexual 8558
motivation specification and a sexually violent predator 8559
specification that were included in the indictment, count in the 8560
indictment, or information charging that offense, as follows: 8561

(1) Except as provided in division (A) (5) of this section, 8562
if the offense for which the sentence is being imposed is 8563
aggravated murder ~~and if the court does not impose upon the~~ 8564
~~offender a sentence of death,~~ it shall impose upon the offender 8565
a term of life imprisonment without parole. ~~If the court~~ 8566
~~sentences the offender to death and the sentence of death is~~ 8567
~~vacated, overturned, or otherwise set aside, the court shall~~ 8568
~~impose upon the offender a term of life imprisonment without~~ 8569
~~parole.~~ 8570

(2) Except as provided in division (A) (5) of this section, 8571
if the offense for which the sentence is being imposed is 8572
murder; or if the offense is rape committed in violation of 8573
division (A) (1) (b) of section 2907.02 of the Revised Code when 8574
the offender purposely compelled the victim to submit by force 8575
or threat of force, when the victim was less than ten years of 8576
age, when the offender previously has been convicted of or 8577
pleaded guilty to either rape committed in violation of that 8578
division or a violation of an existing or former law of this 8579
state, another state, or the United States that is substantially 8580
similar to division (A) (1) (b) of section 2907.02 of the Revised 8581
Code, or when the offender during or immediately after the 8582
commission of the rape caused serious physical harm to the 8583
victim; or if the offense is an offense other than aggravated 8584

murder or murder for which a term of life imprisonment may be 8585
imposed, it shall impose upon the offender a term of life 8586
imprisonment without parole. 8587

(3) (a) Except as otherwise provided in division (A) (3) (b), 8588
(c), (d), or (e) or (A) (4) of this section, if the offense for 8589
which the sentence is being imposed is an offense other than 8590
aggravated murder, murder, or rape and other than an offense for 8591
which a term of life imprisonment may be imposed, it shall 8592
impose an indefinite prison term consisting of a minimum term 8593
fixed by the court as described in this division, but not less 8594
than two years, and a maximum term of life imprisonment. Except 8595
as otherwise specified in this division, the minimum term shall 8596
be fixed by the court from among the range of terms available as 8597
a definite term for the offense. If the offense is a felony of 8598
the first or second degree committed on or after March 22, 2019, 8599
the minimum term shall be fixed by the court from among the 8600
range of terms available as a minimum term for the offense under 8601
division (A) (1) (a) or (2) (a) of that section. 8602

(b) Except as otherwise provided in division (A) (4) of 8603
this section, if the offense for which the sentence is being 8604
imposed is kidnapping that is a felony of the first degree, it 8605
shall impose an indefinite prison term as follows: 8606

(i) If the kidnapping is committed on or after January 1, 8607
2008, and the victim of the offense is less than thirteen years 8608
of age, except as otherwise provided in this division, it shall 8609
impose an indefinite prison term consisting of a minimum term of 8610
fifteen years and a maximum term of life imprisonment. If the 8611
kidnapping is committed on or after January 1, 2008, the victim 8612
of the offense is less than thirteen years of age, and the 8613
offender released the victim in a safe place unharmed, it shall 8614

impose an indefinite prison term consisting of a minimum term of 8615
ten years and a maximum term of life imprisonment. 8616

(ii) If the kidnapping is committed prior to January 1, 8617
2008, or division (A) (3) (b) (i) of this section does not apply, 8618
it shall impose an indefinite term consisting of a minimum term 8619
fixed by the court that is not less than ten years and a maximum 8620
term of life imprisonment. 8621

(c) Except as otherwise provided in division (A) (4) of 8622
this section, if the offense for which the sentence is being 8623
imposed is kidnapping that is a felony of the second degree, it 8624
shall impose an indefinite prison term consisting of a minimum 8625
term fixed by the court that is not less than eight years, and a 8626
maximum term of life imprisonment. 8627

(d) Except as otherwise provided in division (A) (4) of 8628
this section, if the offense for which the sentence is being 8629
imposed is rape for which a term of life imprisonment is not 8630
imposed under division (A) (2) of this section or division (B) of 8631
section 2907.02 of the Revised Code, it shall impose an 8632
indefinite prison term as follows: 8633

(i) If the rape is committed on or after January 2, 2007, 8634
in violation of division (A) (1) (b) of section 2907.02 of the 8635
Revised Code, it shall impose an indefinite prison term 8636
consisting of a minimum term of twenty-five years and a maximum 8637
term of life imprisonment. 8638

(ii) If the rape is committed prior to January 2, 2007, or 8639
the rape is committed on or after January 2, 2007, other than in 8640
violation of division (A) (1) (b) of section 2907.02 of the 8641
Revised Code, it shall impose an indefinite prison term 8642
consisting of a minimum term fixed by the court that is not less 8643

than ten years, and a maximum term of life imprisonment. 8644

(e) Except as otherwise provided in division (A) (4) of 8645
this section, if the offense for which sentence is being imposed 8646
is attempted rape, it shall impose an indefinite prison term as 8647
follows: 8648

(i) Except as otherwise provided in division (A) (3) (e) 8649
(ii), (iii), or (iv) of this section, it shall impose an 8650
indefinite prison term pursuant to division (A) (3) (a) of this 8651
section. 8652

(ii) If the attempted rape for which sentence is being 8653
imposed was committed on or after January 2, 2007, and if the 8654
offender also is convicted of or pleads guilty to a 8655
specification of the type described in section 2941.1418 of the 8656
Revised Code, it shall impose an indefinite prison term 8657
consisting of a minimum term of five years and a maximum term of 8658
twenty-five years. 8659

(iii) If the attempted rape for which sentence is being 8660
imposed was committed on or after January 2, 2007, and if the 8661
offender also is convicted of or pleads guilty to a 8662
specification of the type described in section 2941.1419 of the 8663
Revised Code, it shall impose an indefinite prison term 8664
consisting of a minimum term of ten years and a maximum of life 8665
imprisonment. 8666

(iv) If the attempted rape for which sentence is being 8667
imposed was committed on or after January 2, 2007, and if the 8668
offender also is convicted of or pleads guilty to a 8669
specification of the type described in section 2941.1420 of the 8670
Revised Code, it shall impose an indefinite prison term 8671
consisting of a minimum term of fifteen years and a maximum of 8672

life imprisonment. 8673

(4) Except as provided in division (A) (5) of this section, 8674
for any offense for which the sentence is being imposed, if the 8675
offender previously has been convicted of or pleaded guilty to a 8676
violent sex offense and also to a sexually violent predator 8677
specification that was included in the indictment, count in the 8678
indictment, or information charging that offense, or previously 8679
has been convicted of or pleaded guilty to a designated 8680
homicide, assault, or kidnapping offense and also to both a 8681
sexual motivation specification and a sexually violent predator 8682
specification that were included in the indictment, count in the 8683
indictment, or information charging that offense, it shall 8684
impose upon the offender a term of life imprisonment without 8685
parole. 8686

(5) Notwithstanding divisions (A) (1), (2), and (4) of this 8687
section, the court shall not impose a sentence of life 8688
imprisonment without parole upon any person for an offense that 8689
was committed when the person was under eighteen years of age. 8690
In any case described in division (A) (1), (2), or (4) of this 8691
section, if the offense was committed when the person was under 8692
eighteen years of age, the court shall impose an indefinite 8693
prison term consisting of a minimum term of thirty years and a 8694
maximum term of life imprisonment. 8695

(B) (1) Notwithstanding section 2929.13, division (A) or 8696
(D) of section 2929.14, or another section of the Revised Code 8697
other than division (B) of section 2907.02 or divisions (B) and 8698
(C) of section 2929.14 of the Revised Code that authorizes or 8699
requires a specified prison term or a mandatory prison term for 8700
a person who is convicted of or pleads guilty to a felony or 8701
that specifies the manner and place of service of a prison term 8702

or term of imprisonment, if a person is convicted of or pleads 8703
guilty to a violation of division (A) (1) (b) of section 2907.02 8704
of the Revised Code committed on or after January 2, 2007, if 8705
division (A) of this section does not apply regarding the 8706
person, and if the court does not impose a sentence of life 8707
without parole when authorized pursuant to division (B) of 8708
section 2907.02 of the Revised Code, the court shall impose upon 8709
the person an indefinite prison term consisting of one of the 8710
following: 8711

(a) Except as otherwise required in division (B) (1) (b) or 8712
(c) of this section, a minimum term of ten years and a maximum 8713
term of life imprisonment. 8714

(b) If the victim was less than ten years of age, a 8715
minimum term of fifteen years and a maximum of life 8716
imprisonment. 8717

(c) If the offender purposely compels the victim to submit 8718
by force or threat of force, or if the offender previously has 8719
been convicted of or pleaded guilty to violating division (A) (1) 8720
(b) of section 2907.02 of the Revised Code or to violating an 8721
existing or former law of this state, another state, or the 8722
United States that is substantially similar to division (A) (1) 8723
(b) of that section, or if the offender during or immediately 8724
after the commission of the offense caused serious physical harm 8725
to the victim, a minimum term of twenty-five years and a maximum 8726
of life imprisonment. 8727

(2) Notwithstanding section 2929.13, division (A) or (D) 8728
of section 2929.14, or another section of the Revised Code other 8729
than divisions (B) and (C) of section 2929.14 of the Revised 8730
Code that authorizes or requires a specified prison term or a 8731
mandatory prison term for a person who is convicted of or pleads 8732

guilty to a felony or that specifies the manner and place of 8733
service of a prison term or term of imprisonment and except as 8734
otherwise provided in division (B) of section 2907.02 of the 8735
Revised Code, if a person is convicted of or pleads guilty to 8736
attempted rape committed on or after January 2, 2007, and if 8737
division (A) of this section does not apply regarding the 8738
person, the court shall impose upon the person an indefinite 8739
prison term consisting of one of the following: 8740

(a) If the person also is convicted of or pleads guilty to 8741
a specification of the type described in section 2941.1418 of 8742
the Revised Code, the court shall impose upon the person an 8743
indefinite prison term consisting of a minimum term of five 8744
years and a maximum term of twenty-five years. 8745

(b) If the person also is convicted of or pleads guilty to 8746
a specification of the type described in section 2941.1419 of 8747
the Revised Code, the court shall impose upon the person an 8748
indefinite prison term consisting of a minimum term of ten years 8749
and a maximum term of life imprisonment. 8750

(c) If the person also is convicted of or pleads guilty to 8751
a specification of the type described in section 2941.1420 of 8752
the Revised Code, the court shall impose upon the person an 8753
indefinite prison term consisting of a minimum term of fifteen 8754
years and a maximum term of life imprisonment. 8755

(3) Notwithstanding section 2929.13, division (A) or (D) 8756
of section 2929.14, or another section of the Revised Code other 8757
than divisions (B) and (C) of section 2929.14 of the Revised 8758
Code that authorizes or requires a specified prison term or a 8759
mandatory prison term for a person who is convicted of or pleads 8760
guilty to a felony or that specifies the manner and place of 8761
service of a prison term or term of imprisonment, if a person is 8762

convicted of or pleads guilty to an offense described in 8763
division (B) (3) (a), (b), (c), or (d) of this section committed 8764
on or after January 1, 2008, if the person also is convicted of 8765
or pleads guilty to a sexual motivation specification that was 8766
included in the indictment, count in the indictment, or 8767
information charging that offense, and if division (A) of this 8768
section does not apply regarding the person, the court shall 8769
impose upon the person an indefinite prison term consisting of 8770
one of the following: 8771

(a) An indefinite prison term consisting of a minimum of 8772
ten years and a maximum term of life imprisonment if the offense 8773
for which the sentence is being imposed is kidnapping, the 8774
victim of the offense is less than thirteen years of age, and 8775
the offender released the victim in a safe place unharmed; 8776

(b) An indefinite prison term consisting of a minimum of 8777
fifteen years and a maximum term of life imprisonment if the 8778
offense for which the sentence is being imposed is kidnapping 8779
when the victim of the offense is less than thirteen years of 8780
age and division (B) (3) (a) of this section does not apply; 8781

(c) An indefinite term consisting of a minimum of thirty 8782
years and a maximum term of life imprisonment if the offense for 8783
which the sentence is being imposed is aggravated murder, when 8784
the victim of the offense is less than thirteen years of age, a 8785
sentence of ~~death or~~ life imprisonment without parole is not 8786
imposed for the offense, and division ~~(A) (2) (b) (ii) of section~~ 8787
~~2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D)~~ 8788
~~(2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of section 2929.03, or~~ 8789
~~division (A) or (B) (C) of section 2929.06-2929.02~~ of the 8790
Revised Code requires that the sentence for the offense be 8791
imposed pursuant to this division; 8792

(d) An indefinite prison term consisting of a minimum of 8793
thirty years and a maximum term of life imprisonment if the 8794
offense for which the sentence is being imposed is murder when 8795
the victim of the offense is less than thirteen years of age. 8796

(C) (1) If the offender is sentenced to a prison term 8797
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 8798
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 8799
parole board shall have control over the offender's service of 8800
the term during the entire term unless the parole board 8801
terminates its control in accordance with section 2971.04 of the 8802
Revised Code. 8803

(2) Except as provided in division (C) (3) or (G) of this 8804
section, an offender sentenced to a prison term or term of life 8805
imprisonment without parole pursuant to division (A) of this 8806
section shall serve the entire prison term or term of life 8807
imprisonment in a state correctional institution. The offender 8808
is not eligible for judicial release under section 2929.20 of 8809
the Revised Code. 8810

(3) For a prison term imposed pursuant to division (A) (3), 8811
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 8812
(b), (c), or (d) of this section, subject to the application of 8813
division (G) of this section, the court, in accordance with 8814
section 2971.05 of the Revised Code, may terminate the prison 8815
term or modify the requirement that the offender serve the 8816
entire term in a state correctional institution if all of the 8817
following apply: 8818

(a) The offender has served at least the minimum term 8819
imposed as part of that prison term. 8820

(b) The parole board, pursuant to section 2971.04 of the 8821

Revised Code, has terminated its control over the offender's 8822
service of that prison term. 8823

(c) The court has held a hearing and found, by clear and 8824
convincing evidence, one of the following: 8825

(i) In the case of termination of the prison term, that 8826
the offender is unlikely to commit a sexually violent offense in 8827
the future; 8828

(ii) In the case of modification of the requirement, that 8829
the offender does not represent a substantial risk of physical 8830
harm to others. 8831

(4) Except as provided in division (G) of this section, an 8832
offender who has been sentenced to a term of life imprisonment 8833
without parole pursuant to division (A)(1), (2), or (4) of this 8834
section shall not be released from the term of life imprisonment 8835
or be permitted to serve a portion of it in a place other than a 8836
state correctional institution. 8837

(D) If a court sentences an offender to a prison term or 8838
term of life imprisonment without parole pursuant to division 8839
(A) of this section and the court also imposes on the offender 8840
one or more additional prison terms pursuant to division (B) of 8841
section 2929.14 of the Revised Code, all of the additional 8842
prison terms shall be served consecutively with, and prior to, 8843
the prison term or term of life imprisonment without parole 8844
imposed upon the offender pursuant to division (A) of this 8845
section. 8846

(E) If the offender is convicted of or pleads guilty to 8847
two or more offenses for which a prison term or term of life 8848
imprisonment without parole is required to be imposed pursuant 8849
to division (A) of this section, divisions (A) to (D) of this 8850

section shall be applied for each offense. All minimum terms 8851
imposed upon the offender pursuant to division (A) (3) or (B) of 8852
this section for those offenses shall be aggregated and served 8853
consecutively, as if they were a single minimum term imposed 8854
under that division. 8855

(F) (1) If an offender is convicted of or pleads guilty to 8856
a violent sex offense and also is convicted of or pleads guilty 8857
to a sexually violent predator specification that was included 8858
in the indictment, count in the indictment, or information 8859
charging that offense, or is convicted of or pleads guilty to a 8860
designated homicide, assault, or kidnapping offense and also is 8861
convicted of or pleads guilty to both a sexual motivation 8862
specification and a sexually violent predator specification that 8863
were included in the indictment, count in the indictment, or 8864
information charging that offense, the conviction of or plea of 8865
guilty to the offense and the sexually violent predator 8866
specification automatically classifies the offender as a tier 8867
III sex offender/child-victim offender for purposes of Chapter 8868
2950. of the Revised Code. 8869

(2) If an offender is convicted of or pleads guilty to 8870
committing on or after January 2, 2007, a violation of division 8871
(A) (1) (b) of section 2907.02 of the Revised Code and either the 8872
offender is sentenced under section 2971.03 of the Revised Code 8873
or a sentence of life without parole is imposed under division 8874
(B) of section 2907.02 of the Revised Code, the conviction of or 8875
plea of guilty to the offense automatically classifies the 8876
offender as a tier III sex offender/child-victim offender for 8877
purposes of Chapter 2950. of the Revised Code. 8878

(3) If a person is convicted of or pleads guilty to 8879
committing on or after January 2, 2007, attempted rape and also 8880

is convicted of or pleads guilty to a specification of the type 8881
described in section 2941.1418, 2941.1419, or 2941.1420 of the 8882
Revised Code, the conviction of or plea of guilty to the offense 8883
and the specification automatically classify the offender as a 8884
tier III sex offender/child-victim offender for purposes of 8885
Chapter 2950. of the Revised Code. 8886

(4) If a person is convicted of or pleads guilty to one of 8887
the offenses described in division (B) (3) (a), (b), (c), or (d) 8888
of this section and a sexual motivation specification related to 8889
the offense and the victim of the offense is less than thirteen 8890
years of age, the conviction of or plea of guilty to the offense 8891
automatically classifies the offender as a tier III sex 8892
offender/child-victim offender for purposes of Chapter 2950. of 8893
the Revised Code. 8894

(G) Notwithstanding divisions (A) to (E) of this section, 8895
if an offender receives or received a sentence of life 8896
imprisonment without parole, a definite sentence, or a sentence 8897
to an indefinite prison term under this chapter for an offense 8898
committed when the offender was under eighteen years of age, the 8899
offender is eligible for parole and the offender's parole 8900
eligibility shall be determined under section 2967.132 of the 8901
Revised Code. 8902

Sec. 2971.07. (A) This chapter does not apply to any 8903
offender unless the offender is one of the following: 8904

(1) The offender is convicted of or pleads guilty to a 8905
violent sex offense and also is convicted of or pleads guilty to 8906
a sexually violent predator specification that was included in 8907
the indictment, count in the indictment, or information charging 8908
that offense. 8909

(2) The offender is convicted of or pleads guilty to a 8910
designated homicide, assault, or kidnapping offense and also is 8911
convicted of or pleads guilty to both a sexual motivation 8912
specification and a sexually violent predator specification that 8913
were included in the indictment, count in the indictment, or 8914
information charging that offense. 8915

(3) The offender is convicted of or pleads guilty to a 8916
violation of division (A) (1) (b) of section 2907.02 of the 8917
Revised Code committed on or after January 2, 2007, and the 8918
court does not sentence the offender to a term of life without 8919
parole pursuant to division (B) of section 2907.02 of the 8920
Revised Code or division (B) of that section prohibits the court 8921
from sentencing the offender pursuant to section 2971.03 of the 8922
Revised Code. 8923

(4) The offender is convicted of or pleads guilty to 8924
attempted rape committed on or after January 2, 2007, and also 8925
is convicted of or pleads guilty to a specification of the type 8926
described in section 2941.1418, 2941.1419, or 2941.1420 of the 8927
Revised Code. 8928

(5) The offender is convicted of or pleads guilty to a 8929
violation of section 2905.01 of the Revised Code and also is 8930
convicted of or pleads guilty to a sexual motivation 8931
specification that was included in the indictment, count in the 8932
indictment, or information charging that offense, and that 8933
section requires a court to sentence the offender pursuant to 8934
section 2971.03 of the Revised Code. 8935

(6) The offender is convicted of or pleads guilty to 8936
aggravated murder and also is convicted of or pleads guilty to a 8937
sexual motivation specification that was included in the 8938
indictment, count in the indictment, or information charging 8939

that offense, and division ~~(A) (2) (b) (ii) of section 2929.022,~~ 8940
~~division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D)~~ 8941
~~(3) (a) (iv), or (E) (1) (a) (iv) of section 2929.03, or division (A)~~ 8942
~~or (B) (C) of section 2929.06-2929.02~~ of the Revised Code 8943
requires a court to sentence the offender pursuant to division 8944
(B) (3) of section 2971.03 of the Revised Code. 8945

(7) The offender is convicted of or pleads guilty to 8946
murder and also is convicted of or pleads guilty to a sexual 8947
motivation specification that was included in the indictment, 8948
count in the indictment, or information charging that offense, 8949
and division ~~(B) (2)~~ (C) (1) of section 2929.02 of the Revised 8950
Code requires a court to sentence the offender pursuant to 8951
section 2971.03 of the Revised Code. 8952

(B) This chapter does not limit or affect a court in 8953
imposing upon an offender described in divisions (A) (1) to (9) 8954
of this section any financial sanction under section 2929.18 or 8955
any other section of the Revised Code, or, except as 8956
specifically provided in this chapter, any other sanction that 8957
is authorized or required for the offense or violation by any 8958
other provision of law. 8959

(C) If an offender is sentenced to a prison term under 8960
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8961
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8962
Code and if, pursuant to section 2971.05 of the Revised Code, 8963
the court modifies the requirement that the offender serve the 8964
entire prison term in a state correctional institution or places 8965
the offender on conditional release that involves the placement 8966
of the offender under the supervision of the adult parole 8967
authority, authorized field officers of the authority who are 8968
engaged within the scope of their supervisory duties or 8969

responsibilities may search, with or without a warrant, the 8970
person of the offender, the place of residence of the offender, 8971
and a motor vehicle, another item of tangible or intangible 8972
personal property, or any other real property in which the 8973
offender has the express or implied permission of a person with 8974
a right, title, or interest to use, occupy, or possess if the 8975
field officer has reasonable grounds to believe that the 8976
offender is not abiding by the law or otherwise is not complying 8977
with the terms and conditions of the offender's modification or 8978
release. The authority shall provide each offender with a 8979
written notice that informs the offender that authorized field 8980
officers of the authority who are engaged within the scope of 8981
their supervisory duties or responsibilities may conduct those 8982
types of searches during the period of the modification or 8983
release if they have reasonable grounds to believe that the 8984
offender is not abiding by the law or otherwise is not complying 8985
with the terms and conditions of the offender's modification or 8986
release. 8987

Sec. 5120.113. (A) For each inmate committed to the 8988
department of rehabilitation and correction, except as provided 8989
in division (B) of this section, the department shall prepare a 8990
written reentry plan for the inmate to help guide the inmate's 8991
rehabilitation program during imprisonment, to assist in the 8992
inmate's reentry into the community, and to assess the inmate's 8993
needs upon release. 8994

(B) Division (A) of this section does not apply to an 8995
inmate who has been sentenced to life imprisonment without 8996
parole or ~~who has been sentenced to death before the effective~~ 8997
date of this amendment. Division (A) of this section does not 8998
apply to any inmate who is expected to be imprisoned for thirty 8999
days or less, but the department may prepare a written reentry 9000

plan of the type described in that division if the department 9001
determines that the plan is needed. 9002

(C) The department may collect, if available, any social 9003
and other information that will aid in the preparation of 9004
reentry plans under this section. 9005

(D) In the event the department does not prepare a written 9006
reentry plan as specified in division (A) of this section, or 9007
makes a decision to not prepare a written reentry plan under 9008
division (B) of this section or to not collect information under 9009
division (C) of this section, that fact does not give rise to a 9010
claim for damages against the state, the department, the 9011
director of the department, or any employee of the department. 9012

Sec. 5120.53. (A) If a treaty between the United States 9013
and a foreign country provides for the transfer or exchange, 9014
from one of the signatory countries to the other signatory 9015
country, of convicted offenders who are citizens or nationals of 9016
the other signatory country, the governor, subject to and in 9017
accordance with the terms of the treaty, may authorize the 9018
director of rehabilitation and correction to allow the transfer 9019
or exchange of convicted offenders and to take any action 9020
necessary to initiate participation in the treaty. If the 9021
governor grants the director the authority described in this 9022
division, the director may take the necessary action to initiate 9023
participation in the treaty and, subject to and in accordance 9024
with division (B) of this section and the terms of the treaty, 9025
may allow the transfer or exchange to a foreign country that has 9026
signed the treaty of any convicted offender who is a citizen or 9027
national of that signatory country. 9028

(B) (1) No convicted offender who is serving a term of 9029
imprisonment in this state for aggravated murder, murder, or a 9030

felony of the first or second degree, who is serving a mandatory 9031
prison term imposed under section 2925.03 or 2925.11 of the 9032
Revised Code in circumstances in which the court was required to 9033
impose as the mandatory prison term the maximum definite prison 9034
term or longest minimum prison term authorized for the degree of 9035
offense committed, or who is serving a term of imprisonment in 9036
this state imposed for an offense committed prior to July 1, 9037
1996, that was an aggravated felony of the first or second 9038
degree or that was aggravated trafficking in violation of 9039
division (A) (9) or (10) of section 2925.03 of the Revised Code, ~~—~~ 9040
~~or who has been sentenced to death in this state~~ shall be 9041
transferred or exchanged to another country pursuant to a treaty 9042
of the type described in division (A) of this section. 9043

(2) If a convicted offender is serving a term of 9044
imprisonment in this state and the offender is a citizen or 9045
national of a foreign country that has signed a treaty of the 9046
type described in division (A) of this section, if the governor 9047
has granted the director of rehabilitation and correction the 9048
authority described in that division, and if the transfer or 9049
exchange of the offender is not barred by division (B) (1) of 9050
this section, the director or the director's designee may 9051
approve the offender for transfer or exchange pursuant to the 9052
treaty if the director or the designee, after consideration of 9053
the factors set forth in the rules adopted by the department 9054
under division (D) of this section and all other relevant 9055
factors, determines that the transfer or exchange of the 9056
offender is appropriate. 9057

(C) Notwithstanding any provision of the Revised Code 9058
regarding the parole eligibility of, or the duration or 9059
calculation of a sentence of imprisonment imposed upon, an 9060
offender, if a convicted offender is serving a term of 9061

imprisonment in this state and the offender is a citizen or 9062
national of a foreign country that has signed a treaty of the 9063
type described in division (A) of this section, if the offender 9064
is serving an indefinite term of imprisonment, if the offender 9065
is barred from being transferred or exchanged pursuant to the 9066
treaty due to the indefinite nature of the offender's term of 9067
imprisonment, and if in accordance with division (B) (2) of this 9068
section the director of rehabilitation and correction or the 9069
director's designee approves the offender for transfer or 9070
exchange pursuant to the treaty, the parole board, pursuant to 9071
rules adopted by the director, shall set a date certain for the 9072
release of the offender. To the extent possible, the date 9073
certain that is set shall be reasonably proportionate to the 9074
indefinite term of imprisonment that the offender is serving. 9075
The date certain that is set for the release of the offender 9076
shall be considered only for purposes of facilitating the 9077
international transfer or exchange of the offender, shall not be 9078
viable or actionable for any other purpose, and shall not create 9079
any expectation or guarantee of release. If an offender for whom 9080
a date certain for release is set under this division is not 9081
transferred to or exchanged with the foreign country pursuant to 9082
the treaty, the date certain is null and void, and the 9083
offender's release shall be determined pursuant to the laws and 9084
rules of this state pertaining to parole eligibility and the 9085
duration and calculation of an indefinite sentence of 9086
imprisonment. 9087

(D) If the governor, pursuant to division (A) of this 9088
section, authorizes the director of rehabilitation and 9089
correction to allow any transfer or exchange of convicted 9090
offenders as described in that division, the director shall 9091
adopt rules under Chapter 119. of the Revised Code to implement 9092

the provisions of this section. The rules shall include a rule 9093
that requires the director or the director's designee, in 9094
determining whether to approve a convicted offender who is 9095
serving a term of imprisonment in this state for transfer or 9096
exchange pursuant to a treaty of the type described in division 9097
(A) of this section, to consider all of the following factors: 9098

(1) The nature of the offense for which the offender is 9099
serving the term of imprisonment in this state; 9100

(2) The likelihood that, if the offender is transferred or 9101
exchanged to a foreign country pursuant to the treaty, the 9102
offender will serve a shorter period of time in imprisonment in 9103
the foreign country than the offender would serve if the 9104
offender is not transferred or exchanged to the foreign country 9105
pursuant to the treaty; 9106

(3) The likelihood that, if the offender is transferred or 9107
exchanged to a foreign country pursuant to the treaty, the 9108
offender will return or attempt to return to this state after 9109
the offender has been released from imprisonment in the foreign 9110
country; 9111

(4) The degree of any shock to the conscience of justice 9112
and society that will be experienced in this state if the 9113
offender is transferred or exchanged to a foreign country 9114
pursuant to the treaty; 9115

(5) All other factors that the department determines are 9116
relevant to the determination. 9117

Sec. 5120.61. (A) (1) Not later than ninety days after 9118
January 1, 1997, the department of rehabilitation and correction 9119
shall adopt standards that it will use under this section to 9120
assess the following criminal offenders and may periodically 9121

revise the standards: 9122

(a) A criminal offender who is convicted of or pleads 9123
guilty to a violent sex offense or designated homicide, assault, 9124
or kidnapping offense and is adjudicated a sexually violent 9125
predator in relation to that offense; 9126

(b) A criminal offender who is convicted of or pleads 9127
guilty to a violation of division (A) (1) (b) of section 2907.02 9128
of the Revised Code committed on or after January 2, 2007, and 9129
either who is sentenced under section 2971.03 of the Revised 9130
Code or upon whom a sentence of life without parole is imposed 9131
under division (B) of section 2907.02 of the Revised Code; 9132

(c) A criminal offender who is convicted of or pleads 9133
guilty to attempted rape committed on or after January 2, 2007, 9134
and a specification of the type described in section 2941.1418, 9135
2941.1419, or 2941.1420 of the Revised Code; 9136

(d) A criminal offender who is convicted of or pleads 9137
guilty to a violation of section 2905.01 of the Revised Code and 9138
also is convicted of or pleads guilty to a sexual motivation 9139
specification that was included in the indictment, count in the 9140
indictment, or information charging that offense, and who is 9141
sentenced pursuant to section 2971.03 of the Revised Code; 9142

(e) A criminal offender who is convicted of or pleads 9143
guilty to aggravated murder and also is convicted of or pleads 9144
guilty to a sexual motivation specification that was included in 9145
the indictment, count in the indictment, or information charging 9146
that offense, and who pursuant to division ~~(A) (2) (b) (ii) of~~ 9147
~~section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a)~~ 9148
~~(ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of section~~ 9149
~~2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ 9150

of the Revised Code is sentenced pursuant to division (B) (3) of 9151
section 2971.03 of the Revised Code; 9152

(f) A criminal offender who is convicted of or pleads 9153
guilty to murder and also is convicted of or pleads guilty to a 9154
sexual motivation specification that was included in the 9155
indictment, count in the indictment, or information charging 9156
that offense, and who pursuant to division ~~(B) (2)~~ (C) (1) of 9157
section 2929.02 of the Revised Code is sentenced pursuant to 9158
section 2971.03 of the Revised Code. 9159

(2) When the department is requested by the parole board 9160
or the court to provide a risk assessment report of the offender 9161
under section 2971.04 or 2971.05 of the Revised Code, it shall 9162
assess the offender and complete the assessment as soon as 9163
possible after the offender has commenced serving the prison 9164
term or term of life imprisonment without parole imposed under 9165
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 9166
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 9167
Code. Thereafter, the department shall update a risk assessment 9168
report pertaining to an offender as follows: 9169

(a) Periodically, in the discretion of the department, 9170
provided that each report shall be updated no later than two 9171
years after its initial preparation or most recent update; 9172

(b) Upon the request of the parole board for use in 9173
determining pursuant to section 2971.04 of the Revised Code 9174
whether it should terminate its control over an offender's 9175
service of a prison term imposed upon the offender under 9176
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 9177
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 9178
Code; 9179

(c) Upon the request of the court.	9180
(3) After the department of rehabilitation and correction assesses an offender pursuant to division (A) (2) of this section, it shall prepare a report that contains its risk assessment for the offender or, if a risk assessment report previously has been prepared, it shall update the risk assessment report.	9181 9182 9183 9184 9185 9186
(4) The department of rehabilitation and correction shall provide each risk assessment report that it prepares or updates pursuant to this section regarding an offender to all of the following:	9187 9188 9189 9190
(a) The parole board for its use in determining pursuant to section 2971.04 of the Revised Code whether it should terminate its control over an offender's service of a prison term imposed upon the offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised Code, if the parole board has not terminated its control over the offender;	9191 9192 9193 9194 9195 9196 9197
(b) The court for use in determining, pursuant to section 2971.05 of the Revised Code, whether to modify the requirement that the offender serve the entire prison term imposed upon the offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised Code in a state correctional institution, whether to revise any modification previously made, or whether to terminate the prison term;	9198 9199 9200 9201 9202 9203 9204 9205
(c) The prosecuting attorney who prosecuted the case, or the successor in office to that prosecuting attorney;	9206 9207
(d) The offender.	9208

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

(C) As used in this section:

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

(2) "Designated homicide, assault, or kidnapping offense" and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code.

Sec. 5139.04. The department of youth services shall do all of the following:

(A) Support service districts through a central administrative office that shall have as its administrative head a deputy director who shall be appointed by the director of the department. When a vacancy occurs in the office of that deputy director, an assistant deputy director shall act as that deputy director until the vacancy is filled. The position of deputy director and assistant deputy director described in this division shall be in the unclassified civil service of the state.

(B) Receive custody of all children committed to it under

Chapter 2152. of the Revised Code, cause a study to be made of 9238
those children, and issue any orders, as it considers best 9239
suited to the needs of any of those children and the interest of 9240
the public, for the treatment of each of those children; 9241

(C) Obtain personnel necessary for the performance of its 9242
duties; 9243

(D) Adopt rules that regulate its organization and 9244
operation, that implement sections 5139.34 and 5139.41 to 9245
5139.43 of the Revised Code, and that pertain to the 9246
administration of other sections of this chapter; 9247

(E) Submit reports of its operations to the governor and 9248
the general assembly by the thirty-first day of January of each 9249
odd-numbered year; 9250

(F) Conduct a program of research in diagnosis, training, 9251
and treatment of delinquent children to evaluate the 9252
effectiveness of the department's services and to develop more 9253
adequate methods; 9254

(G) Develop a standard form for the disposition 9255
investigation report that a juvenile court is required pursuant 9256
to section 2152.18 of the Revised Code to complete and provide 9257
to the department when the court commits a child to the legal 9258
custody of the department; 9259

(H) Provide the state public defender the reasonable 9260
access authorized under division ~~(I)~~(H) of section 120.06 of 9261
the Revised Code in order to fulfill the department's 9262
constitutional obligation to provide juveniles who have been 9263
committed to the department's care access to the courts. 9264

(I) Do all other acts necessary or desirable to carry out 9265
this chapter. 9266

Sec. 5919.16. (A) Commissioned and warrant officers in the 9267
Ohio national guard shall be discharged by the adjutant general 9268
upon either of the following: 9269

(1) The officer's resignation; 9270

(2) Approval of a board's recommendation for withdrawal of 9271
federal recognition by the chief of the national guard bureau. 9272

(B) An officer also may be discharged under any of the 9273
following circumstances: 9274

(1) Pursuant to other federal regulations; 9275

(2) If absent without leave for three months, upon 9276
recommendation of an efficiency board; 9277

(3) Pursuant to sentence by court-martial; 9278

(4) If the officer has been convicted of a crime 9279
classified as a felony as described in division (C) or (D) ~~or~~ 9280
~~(E)~~ of section 2901.02 of the Revised Code. 9281

Section 2. That existing sections 9.07, 120.03, 120.041, 9282
120.06, 120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 9283
120.34, 149.43, 149.436, 1901.183, 2152.13, 2152.67, 2301.20, 9284
2307.60, 2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 9285
2929.13, 2929.14, 2929.61, 2930.19, 2937.222, 2941.021, 2941.14, 9286
2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 2945.13, 9287
2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 9288
2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 9289
2953.72, 2953.73, 2953.81, 2967.05, 2967.12, 2967.13, 2967.193, 9290
2967.194, 2971.03, 2971.07, 5120.113, 5120.53, 5120.61, 5139.04, 9291
and 5919.16 of the Revised Code are hereby repealed. 9292

Section 3. That sections 109.97, 120.35, 2725.19, 9293
2929.021, 2929.022, 2929.023, 2929.024, 2929.025, 2929.03, 9294

2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 2949.21, 2949.22, 9295
2949.221, 2949.222, 2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 9296
2949.29, 2949.31, and 2967.08 of the Revised Code are hereby 9297
repealed. 9298

Section 4. (A) An offender whose sentence of death has 9299
been set aside, nullified, or vacated pursuant to section 9300
2929.06 of the Revised Code as it existed immediately before the 9301
effective date of this section but who has not been resentenced 9302
under that section as of the effective date of this section 9303
shall be resentenced in accordance with that section as it 9304
existed immediately before the effective date of this section. 9305

(B) Nothing in this act is intended to nullify or mitigate 9306
the sentence of an offender who was sentenced to death before 9307
the effective date of this section. An offender who was 9308
sentenced to death before the effective date of this section has 9309
the same rights to appeal and to postconviction remedies as the 9310
offender had under the provisions of Chapter 2953. of the 9311
Revised Code as those provisions existed immediately before the 9312
effective date of this section or as those provisions may 9313
hereafter be amended, and courts have the same powers and duties 9314
with respect to those offenders under those provisions as courts 9315
had before the effective date of this section. 9316

(C) All reports and payments relating to capital cases 9317
that were required to be made under any provision of Chapter 9318
120. or section 109.97 of the Revised Code as those provisions 9319
existed immediately before the effective date of this section 9320
shall be made each calendar or fiscal year, as applicable, in 9321
accordance with those provisions as they existed immediately 9322
before the effective date of this section, and the Capital Case 9323
Attorney Fee Council created under section 120.33 of the Revised 9324

Code shall continue under the provisions of that section as it 9325
existed immediately before the effective date of this section, 9326
until each case in which a defendant was sentenced to death 9327
before the effective date of this section is finally resolved. 9328

(D) In an action in which an offender was sentenced to 9329
death before the effective date of this section, a court of 9330
common pleas shall preserve the records of the action as 9331
required by section 2301.20 of the Revised Code as it existed 9332
immediately before the effective date of this section. 9333

Section 5. Attorneys appointed to represent indigent 9334
defendants in postconviction relief proceedings in cases in 9335
which the defendant was sentenced to death before the effective 9336
date of this section shall be certified under the Rules for 9337
Appointment of Counsel in Capital Cases in the same manner as 9338
those certifications were required under Rule 20 of the Rules of 9339
Superintendence for the Courts of Ohio by sections 120.06, 9340
120.14, 120.26, and 120.33 of the Revised Code as those sections 9341
existed immediately before the effective date of this section. 9342

Section 6. The General Assembly, applying the principle 9343
stated in division (B) of section 1.52 of the Revised Code that 9344
amendments are to be harmonized if reasonably capable of 9345
simultaneous operation, finds that the following sections, 9346
presented in this act as composites of the sections as amended 9347
by the acts indicated, are the resulting versions of the 9348
sections in effect prior to the effective date of the sections 9349
as presented in this act: 9350

Section 149.43 of the Revised Code as amended by H.B. 45, 9351
H.B. 99, H.B. 254, H.B. 343, H.B. 558, and S.B. 288, all of the 9352
134th General Assembly. 9353

Section 2929.02 of the Revised Code as amended by both	9354
H.B. 136 and S.B. 256 of the 133rd General Assembly.	9355
Section 2945.38 of the Revised Code as amended by both	9356
H.B. 281 and S.B. 2 of the 134th General Assembly.	9357
Section 2953.07 of the Revised Code as amended by both	9358
S.B. 2 and S.B. 4 of the 121st General Assembly.	9359
Section 2971.03 of the Revised Code as amended by both	9360
H.B. 136 and S.B. 256 of the 133rd General Assembly.	9361