

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 528**

**Representatives Smith, R., Rezabek**

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**A BILL**

To amend sections 2927.01 and 2929.13 of the 1  
Revised Code to expand the penalties for abuse 2  
of corpse offenses. 3

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

**Section 1.** That sections 2927.01 and 2929.13 of the 4  
Revised Code be amended to read as follows: 5

**Sec. 2927.01.** (A) No person, except as authorized by law, 6  
shall treat a human corpse in a way that the person knows would 7  
outrage reasonable family sensibilities. 8

(B) No person, except as authorized by law, shall treat a 9  
human corpse in a way that would outrage reasonable community 10  
sensibilities. 11

(C) (1) Whoever violates division (A) of this section is 12  
guilty of abuse of a corpse~~7~~. Except as otherwise provided in 13  
this division, abuse of a corpse is a misdemeanor of the second 14  
degree. 15

(2) Whoever violates division (B) of this section is 16  
guilty of gross abuse of a corpse~~7~~. Except as otherwise provided 17  
in this division, gross abuse of a corpse is a felony of the 18

fifth degree.

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(3) If the offender commits a violation of this section by  
knowingly dismembering, severing, separating, dissecting, or  
mutilating any part of a human corpse, a violation of this  
section is a felony of the first degree, and notwithstanding the  
range of prison terms prescribed in section 2929.14 of the  
Revised Code, the court shall impose upon the offender a  
mandatory prison term of six, seven, eight, nine, ten, or eleven  
years.

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(4) If the offender commits a violation of this section by  
knowingly dismembering or mutilating any part of a human corpse  
as part of a ceremony, rite, initiation, observance,  
performance, or practice, a violation of this section is a  
felony of the second degree.

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(5) If the offender commits a violation of this section by  
knowingly dismembering, dissecting, mutilating, or incinerating  
any part of the human corpse of a child as part of a ceremony,  
rite, initiation, observance, performance, or practice, a  
violation of this section is a felony of the second degree, and  
notwithstanding the range of prison terms prescribed in section  
2929.14 of the Revised Code, the court shall impose upon the  
offender a mandatory prison term of four, five, six, seven, or  
eight years. If the offender previously has been convicted of or  
pleaded guilty to a violation of this division, a violation of  
this division is a felony of the first degree, and  
notwithstanding the range of prison terms prescribed in section  
2929.14 of the Revised Code, the court shall impose upon the  
offender a mandatory prison term of six, seven, eight, nine,  
ten, or eleven years.

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**Sec. 2929.13.** (A) Except as provided in division (E), (F),

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or (G) of this section and unless a specific sanction is 49  
required to be imposed or is precluded from being imposed 50  
pursuant to law, a court that imposes a sentence upon an 51  
offender for a felony may impose any sanction or combination of 52  
sanctions on the offender that are provided in sections 2929.14 53  
to 2929.18 of the Revised Code. 54

If the offender is eligible to be sentenced to community 55  
control sanctions, the court shall consider the appropriateness 56  
of imposing a financial sanction pursuant to section 2929.18 of 57  
the Revised Code or a sanction of community service pursuant to 58  
section 2929.17 of the Revised Code as the sole sanction for the 59  
offense. Except as otherwise provided in this division, if the 60  
court is required to impose a mandatory prison term for the 61  
offense for which sentence is being imposed, the court also 62  
shall impose any financial sanction pursuant to section 2929.18 63  
of the Revised Code that is required for the offense and may 64  
impose any other financial sanction pursuant to that section but 65  
may not impose any additional sanction or combination of 66  
sanctions under section 2929.16 or 2929.17 of the Revised Code. 67

If the offender is being sentenced for a fourth degree 68  
felony OVI offense or for a third degree felony OVI offense, in 69  
addition to the mandatory term of local incarceration or the 70  
mandatory prison term required for the offense by division (G) 71  
(1) or (2) of this section, the court shall impose upon the 72  
offender a mandatory fine in accordance with division (B) (3) of 73  
section 2929.18 of the Revised Code and may impose whichever of 74  
the following is applicable: 75

(1) For a fourth degree felony OVI offense for which 76  
sentence is imposed under division (G) (1) of this section, an 77  
additional community control sanction or combination of 78

community control sanctions under section 2929.16 or 2929.17 of 79  
the Revised Code. If the court imposes upon the offender a 80  
community control sanction and the offender violates any 81  
condition of the community control sanction, the court may take 82  
any action prescribed in division (B) of section 2929.15 of the 83  
Revised Code relative to the offender, including imposing a 84  
prison term on the offender pursuant to that division. 85

(2) For a third or fourth degree felony OVI offense for 86  
which sentence is imposed under division (G) (2) of this section, 87  
an additional prison term as described in division (B) (4) of 88  
section 2929.14 of the Revised Code or a community control 89  
sanction as described in division (G) (2) of this section. 90

(B) (1) (a) Except as provided in division (B) (1) (b) of this 91  
section, if an offender is convicted of or pleads guilty to a 92  
felony of the fourth or fifth degree that is not an offense of 93  
violence or that is a qualifying assault offense, the court 94  
shall sentence the offender to a community control sanction of 95  
at least one year's duration if all of the following apply: 96

(i) The offender previously has not been convicted of or 97  
pleaded guilty to a felony offense. 98

(ii) The most serious charge against the offender at the 99  
time of sentencing is a felony of the fourth or fifth degree. 100

(iii) If the court made a request of the department of 101  
rehabilitation and correction pursuant to division (B) (1) (c) of 102  
this section, the department, within the forty-five-day period 103  
specified in that division, provided the court with the names 104  
of, contact information for, and program details of one or more 105  
community control sanctions of at least one year's duration that 106  
are available for persons sentenced by the court. 107

(iv) The offender previously has not been convicted of or 108  
pleaded guilty to a misdemeanor offense of violence that the 109  
offender committed within two years prior to the offense for 110  
which sentence is being imposed. 111

(b) The court has discretion to impose a prison term upon 112  
an offender who is convicted of or pleads guilty to a felony of 113  
the fourth or fifth degree that is not an offense of violence or 114  
that is a qualifying assault offense if any of the following 115  
apply: 116

(i) The offender committed the offense while having a 117  
firearm on or about the offender's person or under the 118  
offender's control. 119

(ii) If the offense is a qualifying assault offense, the 120  
offender caused serious physical harm to another person while 121  
committing the offense, and, if the offense is not a qualifying 122  
assault offense, the offender caused physical harm to another 123  
person while committing the offense. 124

(iii) The offender violated a term of the conditions of 125  
bond as set by the court. 126

(iv) The court made a request of the department of 127  
rehabilitation and correction pursuant to division (B)(1)(c) of 128  
this section, and the department, within the forty-five-day 129  
period specified in that division, did not provide the court 130  
with the name of, contact information for, and program details 131  
of any community control sanction of at least one year's 132  
duration that is available for persons sentenced by the court. 133

(v) The offense is a sex offense that is a fourth or fifth 134  
degree felony violation of any provision of Chapter 2907. of the 135  
Revised Code. 136

(vi) In committing the offense, the offender attempted to 137  
cause or made an actual threat of physical harm to a person with 138  
a deadly weapon. 139

(vii) In committing the offense, the offender attempted to 140  
cause or made an actual threat of physical harm to a person, and 141  
the offender previously was convicted of an offense that caused 142  
physical harm to a person. 143

(viii) The offender held a public office or position of 144  
trust, and the offense related to that office or position; the 145  
offender's position obliged the offender to prevent the offense 146  
or to bring those committing it to justice; or the offender's 147  
professional reputation or position facilitated the offense or 148  
was likely to influence the future conduct of others. 149

(ix) The offender committed the offense for hire or as 150  
part of an organized criminal activity. 151

(x) The offender at the time of the offense was serving, 152  
or the offender previously had served, a prison term. 153

(xi) The offender committed the offense while under a 154  
community control sanction, while on probation, or while 155  
released from custody on a bond or personal recognizance. 156

(c) If a court that is sentencing an offender who is 157  
convicted of or pleads guilty to a felony of the fourth or fifth 158  
degree that is not an offense of violence or that is a 159  
qualifying assault offense believes that no community control 160  
sanctions are available for its use that, if imposed on the 161  
offender, will adequately fulfill the overriding principles and 162  
purposes of sentencing, the court shall contact the department 163  
of rehabilitation and correction and ask the department to 164  
provide the court with the names of, contact information for, 165

and program details of one or more community control sanctions 166  
of at least one year's duration that are available for persons 167  
sentenced by the court. Not later than forty-five days after 168  
receipt of a request from a court under this division, the 169  
department shall provide the court with the names of, contact 170  
information for, and program details of one or more community 171  
control sanctions of at least one year's duration that are 172  
available for persons sentenced by the court, if any. Upon 173  
making a request under this division that relates to a 174  
particular offender, a court shall defer sentencing of that 175  
offender until it receives from the department the names of, 176  
contact information for, and program details of one or more 177  
community control sanctions of at least one year's duration that 178  
are available for persons sentenced by the court or for forty- 179  
five days, whichever is the earlier. 180

If the department provides the court with the names of, 181  
contact information for, and program details of one or more 182  
community control sanctions of at least one year's duration that 183  
are available for persons sentenced by the court within the 184  
forty-five-day period specified in this division, the court 185  
shall impose upon the offender a community control sanction 186  
under division (B) (1) (a) of this section, except that the court 187  
may impose a prison term under division (B) (1) (b) of this 188  
section if a factor described in division (B) (1) (b) (i) or (ii) 189  
of this section applies. If the department does not provide the 190  
court with the names of, contact information for, and program 191  
details of one or more community control sanctions of at least 192  
one year's duration that are available for persons sentenced by 193  
the court within the forty-five-day period specified in this 194  
division, the court may impose upon the offender a prison term 195  
under division (B) (1) (b) (iv) of this section. 196

(d) A sentencing court may impose an additional penalty 197  
under division (B) of section 2929.15 of the Revised Code upon 198  
an offender sentenced to a community control sanction under 199  
division (B) (1) (a) of this section if the offender violates the 200  
conditions of the community control sanction, violates a law, or 201  
leaves the state without the permission of the court or the 202  
offender's probation officer. 203

(2) If division (B) (1) of this section does not apply, 204  
except as provided in division (E), (F), or (G) of this section, 205  
in determining whether to impose a prison term as a sanction for 206  
a felony of the fourth or fifth degree, the sentencing court 207  
shall comply with the purposes and principles of sentencing 208  
under section 2929.11 of the Revised Code and with section 209  
2929.12 of the Revised Code. 210

(C) Except as provided in division (D), (E), (F), or (G) 211  
of this section, in determining whether to impose a prison term 212  
as a sanction for a felony of the third degree or a felony drug 213  
offense that is a violation of a provision of Chapter 2925. of 214  
the Revised Code and that is specified as being subject to this 215  
division for purposes of sentencing, the sentencing court shall 216  
comply with the purposes and principles of sentencing under 217  
section 2929.11 of the Revised Code and with section 2929.12 of 218  
the Revised Code. 219

(D) (1) Except as provided in division (E) or (F) of this 220  
section, for a felony of the first or second degree, for a 221  
felony drug offense that is a violation of any provision of 222  
Chapter 2925., 3719., or 4729. of the Revised Code for which a 223  
presumption in favor of a prison term is specified as being 224  
applicable, and for a violation of division (A) (4) or (B) of 225  
section 2907.05 of the Revised Code for which a presumption in 226



favor of a prison term is specified as being applicable, it is 227  
presumed that a prison term is necessary in order to comply with 228  
the purposes and principles of sentencing under section 2929.11 229  
of the Revised Code. Division (D) (2) of this section does not 230  
apply to a presumption established under this division for a 231  
violation of division (A) (4) of section 2907.05 of the Revised 232  
Code. 233

(2) Notwithstanding the presumption established under 234  
division (D) (1) of this section for the offenses listed in that 235  
division other than a violation of division (A) (4) or (B) of 236  
section 2907.05 of the Revised Code, the sentencing court may 237  
impose a community control sanction or a combination of 238  
community control sanctions instead of a prison term on an 239  
offender for a felony of the first or second degree or for a 240  
felony drug offense that is a violation of any provision of 241  
Chapter 2925., 3719., or 4729. of the Revised Code for which a 242  
presumption in favor of a prison term is specified as being 243  
applicable if it makes both of the following findings: 244

(a) A community control sanction or a combination of 245  
community control sanctions would adequately punish the offender 246  
and protect the public from future crime, because the applicable 247  
factors under section 2929.12 of the Revised Code indicating a 248  
lesser likelihood of recidivism outweigh the applicable factors 249  
under that section indicating a greater likelihood of 250  
recidivism. 251

(b) A community control sanction or a combination of 252  
community control sanctions would not demean the seriousness of 253  
the offense, because one or more factors under section 2929.12 254  
of the Revised Code that indicate that the offender's conduct 255  
was less serious than conduct normally constituting the offense 256

are applicable, and they outweigh the applicable factors under 257  
that section that indicate that the offender's conduct was more 258  
serious than conduct normally constituting the offense. 259

(E) (1) Except as provided in division (F) of this section, 260  
for any drug offense that is a violation of any provision of 261  
Chapter 2925. of the Revised Code and that is a felony of the 262  
third, fourth, or fifth degree, the applicability of a 263  
presumption under division (D) of this section in favor of a 264  
prison term or of division (B) or (C) of this section in 265  
determining whether to impose a prison term for the offense 266  
shall be determined as specified in section 2925.02, 2925.03, 267  
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 268  
2925.36, or 2925.37 of the Revised Code, whichever is applicable 269  
regarding the violation. 270

(2) If an offender who was convicted of or pleaded guilty 271  
to a felony violates the conditions of a community control 272  
sanction imposed for the offense solely by reason of producing 273  
positive results on a drug test or by acting pursuant to 274  
division (B) (2) (b) of section 2925.11 of the Revised Code with 275  
respect to a minor drug possession offense, the court, as 276  
punishment for the violation of the sanction, shall not order 277  
that the offender be imprisoned unless the court determines on 278  
the record either of the following: 279

(a) The offender had been ordered as a sanction for the 280  
felony to participate in a drug treatment program, in a drug 281  
education program, or in narcotics anonymous or a similar 282  
program, and the offender continued to use illegal drugs after a 283  
reasonable period of participation in the program. 284

(b) The imprisonment of the offender for the violation is 285  
consistent with the purposes and principles of sentencing set 286

forth in section 2929.11 of the Revised Code. 287

(3) A court that sentences an offender for a drug abuse 288  
offense that is a felony of the third, fourth, or fifth degree 289  
may require that the offender be assessed by a properly 290  
credentialed professional within a specified period of time. The 291  
court shall require the professional to file a written 292  
assessment of the offender with the court. If the offender is 293  
eligible for a community control sanction and after considering 294  
the written assessment, the court may impose a community control 295  
sanction that includes addiction services and recovery supports 296  
included in a community-based continuum of care established 297  
under section 340.032 of the Revised Code. If the court imposes 298  
addiction services and recovery supports as a community control 299  
sanction, the court shall direct the level and type of addiction 300  
services and recovery supports after considering the assessment 301  
and recommendation of community addiction services providers. 302

(F) Notwithstanding divisions (A) to (E) of this section, 303  
the court shall impose a prison term or terms under sections 304  
2929.02 to 2929.06, section 2929.14, section 2929.142, or 305  
section 2971.03 of the Revised Code and except as specifically 306  
provided in section 2929.20, divisions (C) to (I) of section 307  
2967.19, or section 2967.191 of the Revised Code or when parole 308  
is authorized for the offense under section 2967.13 of the 309  
Revised Code shall not reduce the term or terms pursuant to 310  
section 2929.20, section 2967.19, section 2967.193, or any other 311  
provision of Chapter 2967. or Chapter 5120. of the Revised Code 312  
for any of the following offenses: 313

(1) Aggravated murder when death is not imposed or murder; 314

(2) Any rape, regardless of whether force was involved and 315  
regardless of the age of the victim, or an attempt to commit 316

rape if, had the offender completed the rape that was attempted, 317  
the offender would have been guilty of a violation of division 318  
(A) (1) (b) of section 2907.02 of the Revised Code and would be 319  
sentenced under section 2971.03 of the Revised Code; 320

(3) Gross sexual imposition or sexual battery, if the 321  
victim is less than thirteen years of age and if any of the 322  
following applies: 323

(a) Regarding gross sexual imposition, the offender 324  
previously was convicted of or pleaded guilty to rape, the 325  
former offense of felonious sexual penetration, gross sexual 326  
imposition, or sexual battery, and the victim of the previous 327  
offense was less than thirteen years of age; 328

(b) Regarding gross sexual imposition, the offense was 329  
committed on or after August 3, 2006, and evidence other than 330  
the testimony of the victim was admitted in the case 331  
corroborating the violation. 332

(c) Regarding sexual battery, either of the following 333  
applies: 334

(i) The offense was committed prior to August 3, 2006, the 335  
offender previously was convicted of or pleaded guilty to rape, 336  
the former offense of felonious sexual penetration, or sexual 337  
battery, and the victim of the previous offense was less than 338  
thirteen years of age. 339

(ii) The offense was committed on or after August 3, 2006. 340

(4) A felony violation of section 2903.04, 2903.06, 341  
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 342  
or 2923.132 of the Revised Code if the section requires the 343  
imposition of a prison term; 344

(5) A first, second, or third degree felony drug offense 345  
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 346  
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 347  
or 4729.99 of the Revised Code, whichever is applicable 348  
regarding the violation, requires the imposition of a mandatory 349  
prison term; 350

(6) Any offense that is a first or second degree felony 351  
and that is not set forth in division (F) (1), (2), (3), or (4) 352  
of this section, if the offender previously was convicted of or 353  
pleaded guilty to aggravated murder, murder, any first or second 354  
degree felony, or an offense under an existing or former law of 355  
this state, another state, or the United States that is or was 356  
substantially equivalent to one of those offenses; 357

(7) Any offense that is a third degree felony and either 358  
is a violation of section 2903.04 of the Revised Code or an 359  
attempt to commit a felony of the second degree that is an 360  
offense of violence and involved an attempt to cause serious 361  
physical harm to a person or that resulted in serious physical 362  
harm to a person if the offender previously was convicted of or 363  
pleaded guilty to any of the following offenses: 364

(a) Aggravated murder, murder, involuntary manslaughter, 365  
rape, felonious sexual penetration as it existed under section 366  
2907.12 of the Revised Code prior to September 3, 1996, a felony 367  
of the first or second degree that resulted in the death of a 368  
person or in physical harm to a person, or complicity in or an 369  
attempt to commit any of those offenses; 370

(b) An offense under an existing or former law of this 371  
state, another state, or the United States that is or was 372  
substantially equivalent to an offense listed in division (F) (7) 373  
(a) of this section that resulted in the death of a person or in 374

physical harm to a person.	375
(8) Any offense, other than a violation of section 2923.12	376
of the Revised Code, that is a felony, if the offender had a	377
firearm on or about the offender's person or under the	378
offender's control while committing the felony, with respect to	379
a portion of the sentence imposed pursuant to division (B)(1)(a)	380
of section 2929.14 of the Revised Code for having the firearm;	381
(9) Any offense of violence that is a felony, if the	382
offender wore or carried body armor while committing the felony	383
offense of violence, with respect to the portion of the sentence	384
imposed pursuant to division (B)(1)(d) of section 2929.14 of the	385
Revised Code for wearing or carrying the body armor;	386
(10) Corrupt activity in violation of section 2923.32 of	387
the Revised Code when the most serious offense in the pattern of	388
corrupt activity that is the basis of the offense is a felony of	389
the first degree;	390
(11) Any violent sex offense or designated homicide,	391
assault, or kidnapping offense if, in relation to that offense,	392
the offender is adjudicated a sexually violent predator;	393
(12) A violation of division (A)(1) or (2) of section	394
2921.36 of the Revised Code, or a violation of division (C) of	395
that section involving an item listed in division (A)(1) or (2)	396
of that section, if the offender is an officer or employee of	397
the department of rehabilitation and correction;	398
(13) A violation of division (A)(1) or (2) of section	399
2903.06 of the Revised Code if the victim of the offense is a	400
peace officer, as defined in section 2935.01 of the Revised	401
Code, or an investigator of the bureau of criminal	402
identification and investigation, as defined in section 2903.11	403

of the Revised Code, with respect to the portion of the sentence 404  
imposed pursuant to division (B) (5) of section 2929.14 of the 405  
Revised Code; 406

(14) A violation of division (A) (1) or (2) of section 407  
2903.06 of the Revised Code if the offender has been convicted 408  
of or pleaded guilty to three or more violations of division (A) 409  
or (B) of section 4511.19 of the Revised Code or an equivalent 410  
offense, as defined in section 2941.1415 of the Revised Code, or 411  
three or more violations of any combination of those divisions 412  
and offenses, with respect to the portion of the sentence 413  
imposed pursuant to division (B) (6) of section 2929.14 of the 414  
Revised Code; 415

(15) Kidnapping, in the circumstances specified in section 416  
2971.03 of the Revised Code and when no other provision of 417  
division (F) of this section applies; 418

(16) Kidnapping, abduction, compelling prostitution, 419  
promoting prostitution, engaging in a pattern of corrupt 420  
activity, illegal use of a minor in a nudity-oriented material 421  
or performance in violation of division (A) (1) or (2) of section 422  
2907.323 of the Revised Code, or endangering children in 423  
violation of division (B) (1), (2), (3), (4), or (5) of section 424  
2919.22 of the Revised Code, if the offender is convicted of or 425  
pleads guilty to a specification as described in section 426  
2941.1422 of the Revised Code that was included in the 427  
indictment, count in the indictment, or information charging the 428  
offense; 429

(17) A felony violation of division (A) or (B) of section 430  
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 431  
that section, and division (D) (6) of that section, require the 432  
imposition of a prison term; 433

(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 woman that the offender knew was pregnant at the time of the violation, with respect to a portion of the sentence imposed pursuant to division (B) (8) of section 2929.14 of the Revised Code;

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

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

(20) Any violation of division (A) (1) of section 2903.11 of the Revised Code if the offender used an accelerant in committing the violation and the serious physical harm to another or another's unborn caused by the violation resulted in a permanent, serious disfigurement or permanent, substantial incapacity or any violation of division (A) (2) of that section if the offender used an accelerant in committing the violation, the violation caused physical harm to another or another's unborn, and the physical harm resulted in a permanent, serious disfigurement or permanent, substantial incapacity, with respect to a portion of the sentence imposed pursuant to division (B) (9) of section 2929.14 of the Revised Code. The provisions of this division and of division (D) (2) of section 2903.11, divisions



(B) (9) and (C) (6) of section 2929.14, and section 2941.1425 of 464  
the Revised Code shall be known as "Judy's Law." 465

(21) A violation of division (C) (3) or (5) of section 466  
2927.01 of the Revised Code. 467

(G) Notwithstanding divisions (A) to (E) of this section, 468  
if an offender is being sentenced for a fourth degree felony OVI 469  
offense or for a third degree felony OVI offense, the court 470  
shall impose upon the offender a mandatory term of local 471  
incarceration or a mandatory prison term in accordance with the 472  
following: 473

(1) If the offender is being sentenced for a fourth degree 474  
felony OVI offense and if the offender has not been convicted of 475  
and has not pleaded guilty to a specification of the type 476  
described in section 2941.1413 of the Revised Code, the court 477  
may impose upon the offender a mandatory term of local 478  
incarceration of sixty days or one hundred twenty days as 479  
specified in division (G) (1) (d) of section 4511.19 of the 480  
Revised Code. The court shall not reduce the term pursuant to 481  
section 2929.20, 2967.193, or any other provision of the Revised 482  
Code. The court that imposes a mandatory term of local 483  
incarceration under this division shall specify whether the term 484  
is to be served in a jail, a community-based correctional 485  
facility, a halfway house, or an alternative residential 486  
facility, and the offender shall serve the term in the type of 487  
facility specified by the court. A mandatory term of local 488  
incarceration imposed under division (G) (1) of this section is 489  
not subject to any other Revised Code provision that pertains to 490  
a prison term except as provided in division (A) (1) of this 491  
section. 492

(2) If the offender is being sentenced for a third degree 493

felony OVI offense, or if the offender is being sentenced for a 494  
fourth degree felony OVI offense and the court does not impose a 495  
mandatory term of local incarceration under division (G) (1) of 496  
this section, the court shall impose upon the offender a 497  
mandatory prison term of one, two, three, four, or five years if 498  
the offender also is convicted of or also pleads guilty to a 499  
specification of the type described in section 2941.1413 of the 500  
Revised Code or shall impose upon the offender a mandatory 501  
prison term of sixty days or one hundred twenty days as 502  
specified in division (G) (1) (d) or (e) of section 4511.19 of the 503  
Revised Code if the offender has not been convicted of and has 504  
not pleaded guilty to a specification of that type. Subject to 505  
divisions (C) to (I) of section 2967.19 of the Revised Code, the 506  
court shall not reduce the term pursuant to section 2929.20, 507  
2967.19, 2967.193, or any other provision of the Revised Code. 508  
The offender shall serve the one-, two-, three-, four-, or five- 509  
year mandatory prison term consecutively to and prior to the 510  
prison term imposed for the underlying offense and consecutively 511  
to any other mandatory prison term imposed in relation to the 512  
offense. In no case shall an offender who once has been 513  
sentenced to a mandatory term of local incarceration pursuant to 514  
division (G) (1) of this section for a fourth degree felony OVI 515  
offense be sentenced to another mandatory term of local 516  
incarceration under that division for any violation of division 517  
(A) of section 4511.19 of the Revised Code. In addition to the 518  
mandatory prison term described in division (G) (2) of this 519  
section, the court may sentence the offender to a community 520  
control sanction under section 2929.16 or 2929.17 of the Revised 521  
Code, but the offender shall serve the prison term prior to 522  
serving the community control sanction. The department of 523  
rehabilitation and correction may place an offender sentenced to 524  
a mandatory prison term under this division in an intensive 525

program prison established pursuant to section 5120.033 of the Revised Code if the department gave the sentencing judge prior notice of its intent to place the offender in an intensive program prison established under that section and if the judge did not notify the department that the judge disapproved the placement. Upon the establishment of the initial intensive program prison pursuant to section 5120.033 of the Revised Code that is privately operated and managed by a contractor pursuant to a contract entered into under section 9.06 of the Revised Code, both of the following apply:

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

(b) Unless the privately operated and managed prison has full occupancy, the department of rehabilitation and correction shall not place any offender sentenced to a mandatory prison term under this division in any intensive program prison established pursuant to section 5120.033 of the Revised Code other than the privately operated and managed prison.

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

(I) If an offender is being sentenced for a sexually oriented offense or a child-victim oriented offense committed on or after January 1, 1997, the judge shall include in the

sentence a summary of the offender's duties imposed under 556  
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 557  
Code and the duration of the duties. The judge shall inform the 558  
offender, at the time of sentencing, of those duties and of 559  
their duration. If required under division (A)(2) of section 560  
2950.03 of the Revised Code, the judge shall perform the duties 561  
specified in that section, or, if required under division (A)(6) 562  
of section 2950.03 of the Revised Code, the judge shall perform 563  
the duties specified in that division. 564

(J)(1) Except as provided in division (J)(2) of this 565  
section, when considering sentencing factors under this section 566  
in relation to an offender who is convicted of or pleads guilty 567  
to an attempt to commit an offense in violation of section 568  
2923.02 of the Revised Code, the sentencing court shall consider 569  
the factors applicable to the felony category of the violation 570  
of section 2923.02 of the Revised Code instead of the factors 571  
applicable to the felony category of the offense attempted. 572

(2) When considering sentencing factors under this section 573  
in relation to an offender who is convicted of or pleads guilty 574  
to an attempt to commit a drug abuse offense for which the 575  
penalty is determined by the amount or number of unit doses of 576  
the controlled substance involved in the drug abuse offense, the 577  
sentencing court shall consider the factors applicable to the 578  
felony category that the drug abuse offense attempted would be 579  
if that drug abuse offense had been committed and had involved 580  
an amount or number of unit doses of the controlled substance 581  
that is within the next lower range of controlled substance 582  
amounts than was involved in the attempt. 583

(K) As used in this section: 584

(1) "Community addiction services provider" has the same 585

meaning as in section 5119.01 of the Revised Code. 586

(2) "Drug abuse offense" has the same meaning as in 587  
section 2925.01 of the Revised Code. 588

(3) "Minor drug possession offense" has the same meaning 589  
as in section 2925.11 of the Revised Code. 590

(4) "Qualifying assault offense" means a violation of 591  
section 2903.13 of the Revised Code for which the penalty 592  
provision in division (C) (8) (b) or (C) (9) (b) of that section 593  
applies. 594

(L) At the time of sentencing an offender for any sexually 595  
oriented offense, if the offender is a tier III sex 596  
offender/child-victim offender relative to that offense and the 597  
offender does not serve a prison term or jail term, the court 598  
may require that the offender be monitored by means of a global 599  
positioning device. If the court requires such monitoring, the 600  
cost of monitoring shall be borne by the offender. If the 601  
offender is indigent, the cost of compliance shall be paid by 602  
the crime victims reparations fund. 603

**Section 2.** That existing sections 2927.01 and 2929.13 of 604  
the Revised Code are hereby repealed. 605