

## As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 94

Senator Brown

Cosponsors: Senators Thomas, Yuko, Skindell, Williams, Tavares

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### A BILL

To amend sections 9.07, 120.03, 120.06, 120.14, 1  
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 2  
120.34, 149.43, 1901.183, 2152.13, 2152.67, 3  
2301.20, 2307.60, 2317.02, 2701.07, 2743.51, 4  
2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 5  
2929.20, 2929.61, 2930.03, 2930.06, 2930.16, 6  
2930.19, 2937.222, 2941.021, 2941.14, 2941.148, 7  
2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 8  
2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 9  
2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 10  
2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 11  
2953.72, 2953.73, 2953.81, 2967.03, 2967.05, 12  
2967.12, 2967.13, 2967.19, 2967.193, 2967.26, 13  
2967.28, 2971.03, 2971.07, 5120.113, 5120.53, 14  
5120.61, 5139.04, 5149.101, and 5919.16 and to 15  
repeal sections 109.97, 120.35, 2725.19, 16  
2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 17  
2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 18  
2949.21, 2949.22, 2949.221, 2949.222, 2949.24, 19  
2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 20  
2949.31, and 2967.08 of the Revised Code to 21  
abolish the death penalty and to declare an 22  
emergency. 23

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

**Section 1.** That sections 9.07, 120.03, 120.06, 120.14, 24  
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 149.43, 25  
1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 2701.07, 26  
2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 2929.20, 27  
2929.61, 2930.03, 2930.06, 2930.16, 2930.19, 2937.222, 2941.021, 28  
2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 29  
2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 30  
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 31  
2953.71, 2953.72, 2953.73, 2953.81, 2967.03, 2967.05, 2967.12, 32  
2967.13, 2967.19, 2967.193, 2967.26, 2967.28, 2971.03, 2971.07, 33  
5120.113, 5120.53, 5120.61, 5139.04, 5149.101, and 5919.16 of 34  
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) "Private contractor" 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.

(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.

(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.

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.

(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 local public entity and the out-of-state jurisdiction with which the local public entity intends to contract jointly submit to

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 securityclassification 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 590  
costs of legal representation that is provided by public 591  
defenders or appointed counsel; 592

(7) Standards and guidelines for determining whether a 593  
client is able to make an up-front contribution toward the cost 594  
of ~~his~~ the client's legal representation; 595

(8) Procedures for the collection of up-front 596  
contributions from clients who are able to contribute toward the 597  
cost of their legal representation, as determined pursuant to 598  
the standards and guidelines developed under division (B) (7) of 599  
this section. All of such up-front contributions shall be paid 600  
into the appropriate county fund. 601

(9) Standards for contracts between a board of county 602  
commissioners, a county public defender commission, or a joint 603  
county public defender commission and a municipal corporation 604  
for the legal representation of indigent persons charged with 605  
violations of the ordinances of the municipal corporation. 606

(C) The Ohio public defender commission shall adopt rules 607  
prescribing minimum qualifications of counsel appointed pursuant 608  
to this chapter or appointed by the courts. ~~Without limiting its~~ 609  
~~general authority to prescribe different qualifications for~~ 610  
~~different categories of appointed counsel, the commission shall~~ 611  
~~prescribe, by rule, special qualifications for counsel and co-~~ 612  
~~counsel appointed in capital cases.~~ 613

(D) In administering the office of the Ohio public 614  
defender commission: 615

(1) The commission shall do the following: 616

(a) Approve an annual operating budget; 617

(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. 618  
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(2) The commission may do the following: 623

(a) Accept the services of volunteer workers and consultants at no compensation other than reimbursement of actual and necessary expenses; 624  
625  
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(b) Prepare and publish statistical and case studies and other data pertinent to the legal representation of indigent persons; 627  
628  
629

(c) Conduct programs having a general objective of training and educating attorneys and others in the legal representation of indigent persons. 630  
631  
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(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. 633  
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(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 public defender commission, the state public defender, assistant state public defenders, and other employees of the commission or the state public defender. 640  
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(2) Subject to division (E) of section 120.06 of the Revised Code, the attorney general shall represent or provide for the representation of attorneys described in division (C) of section 120.41 of the Revised Code in malpractice or other civil actions or proceedings that arise from alleged actions or omissions related to responsibilities derived pursuant to this chapter, or in civil actions that are based upon alleged violations of the constitution or statutes of the United States, including section 1983 of Title 42 of the United States Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise from alleged actions or omissions related to responsibilities derived pursuant to this chapter. For purposes of the representation, sections 109.361 to 109.366 of the Revised Code shall apply to an attorney described in division (C) of section 120.41 of the Revised Code as if ~~he~~ the attorney were an officer or employee, as defined in section 109.36 of the Revised Code, and the Ohio public defender commission or the state public defender, whichever contracted with the attorney, shall be considered ~~his~~ the attorney's employer.

**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 may be imposed by a court upon conviction includes the potential

loss of liberty. 678

(3) The state public defender may provide legal 679  
representation to any person incarcerated in any correctional 680  
institution of the state, in any matter in which the person 681  
asserts the person is unlawfully imprisoned or detained. 682

(4) The state public defender, in any case in which the 683  
state public defender has provided legal representation or is 684  
requested to do so by a county public defender or joint county 685  
public defender, may provide legal representation on appeal. 686

(5) The state public defender, when designated by the 687  
court or requested by a county public defender, joint county 688  
public defender, or the director of rehabilitation and 689  
correction, shall provide legal representation in parole and 690  
probation revocation matters or matters relating to the 691  
revocation of community control or post-release control under a 692  
community control sanction or post-release control sanction, 693  
unless the state public defender finds that the alleged parole 694  
or probation violator or alleged violator of a community control 695  
sanction or post-release control sanction has the financial 696  
capacity to retain the alleged violator's own counsel. 697

(6) If the state public defender contracts with a county 698  
public defender commission, a joint county public defender 699  
commission, or a board of county commissioners for the provision 700  
of services, under authority of division (C)(7) of section 701  
120.04 of the Revised Code, the state public defender shall 702  
provide legal representation in accordance with the contract. 703

(B) The state public defender shall not be required to 704  
prosecute any appeal, postconviction remedy, or other proceeding 705  
pursuant to division (A)(3), (4), or (5) of this section, unless 706



the state public defender first is satisfied that there is 707  
arguable merit to the proceeding. 708

(C) A court may appoint counsel or allow an indigent 709  
person to select the indigent's own personal counsel to assist 710  
the state public defender as co-counsel when the interests of 711  
justice so require. When co-counsel is appointed to assist the 712  
state public defender, the co-counsel shall receive any 713  
compensation that the court may approve, not to exceed the 714  
amounts provided for in section 2941.51 of the Revised Code. 715

(D) (1) When the state public defender is designated by the 716  
court or requested by a county public defender or joint county 717  
public defender to provide legal representation for an indigent 718  
person in any case, other than pursuant to a contract entered 719  
into under authority of division (C) (7) of section 120.04 of the 720  
Revised Code, the state public defender shall send to the county 721  
in which the case is filed a bill detailing the actual cost of 722  
the representation that separately itemizes legal fees and 723  
expenses. The county, upon receipt of an itemized bill from the 724  
state public defender pursuant to this division, shall pay the 725  
state public defender each of the following amounts: 726

(a) For the amount identified as legal fees in the 727  
itemized bill, one hundred per cent of the amount identified as 728  
legal fees less the state reimbursement rate as calculated by 729  
the state public defender pursuant to section 120.34 of the 730  
Revised Code for the month the case terminated, as set forth in 731  
the itemized bill; 732

(b) For the amount identified as expenses in the itemized 733  
bill, one hundred per cent. 734

(2) Upon payment of the itemized bill under division (D) 735

(1) of this section, the county may submit the cost of the 736  
expenses, excluding legal fees, to the state public defender for 737  
reimbursement pursuant to section 120.33 of the Revised Code. 738

(3) When the state public defender provides investigation 739  
or mitigation services to private appointed counsel or to a 740  
county or joint county public defender as approved by the 741  
appointing court, other than pursuant to a contract entered into 742  
under authority of division (C) (7) of section 120.04 of the 743  
Revised Code, the state public defender shall send to the county 744  
in which the case is filed a bill itemizing the actual cost of 745  
the services provided. The county, upon receipt of an itemized 746  
bill from the state public defender pursuant to this division, 747  
shall pay one hundred per cent of the amount as set forth in the 748  
itemized bill. Upon payment of the itemized bill received 749  
pursuant to this division, the county may submit the cost of the 750  
investigation and mitigation services to the state public 751  
defender for reimbursement pursuant to section 120.33 of the 752  
Revised Code. 753

(4) There is hereby created in the state treasury the 754  
county representation fund for the deposit of moneys received 755  
from counties under this division. All moneys credited to the 756  
fund shall be used by the state public defender to provide legal 757  
representation for indigent persons when designated by the court 758  
or requested by a county or joint county public defender or to 759  
provide investigation or mitigation services, including 760  
investigation or mitigation services to private appointed 761  
counsel or a county or joint county public defender, as approved 762  
by the court. 763

(E) (1) Notwithstanding any contrary provision of sections 764  
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised 765

Code that pertains to representation by the attorney general, an 766  
assistant attorney general, or special counsel of an officer or 767  
employee, as defined in section 109.36 of the Revised Code, or 768  
of an entity of state government, the state public defender may 769  
elect to contract with, and to have the state pay pursuant to 770  
division (E) (2) of this section for the services of, private 771  
legal counsel to represent the Ohio public defender commission, 772  
the state public defender, assistant state public defenders, 773  
other employees of the commission or the state public defender, 774  
and attorneys described in division (C) of section 120.41 of the 775  
Revised Code in a malpractice or other civil action or 776  
proceeding that arises from alleged actions or omissions related 777  
to responsibilities derived pursuant to this chapter, or in a 778  
civil action that is based upon alleged violations of the 779  
constitution or statutes of the United States, including section 780  
1983 of Title 42 of the United States Code, 93 Stat. 1284 781  
(1979), 42 U.S.C.A. 1983, as amended, and that arises from 782  
alleged actions or omissions related to responsibilities derived 783  
pursuant to this chapter, if the state public defender 784  
determines, in good faith, that the defendant in the civil 785  
action or proceeding did not act manifestly outside the scope of 786  
the defendant's employment or official responsibilities, with 787  
malicious purpose, in bad faith, or in a wanton or reckless 788  
manner. If the state public defender elects not to contract 789  
pursuant to this division for private legal counsel in a civil 790  
action or proceeding, then, in accordance with sections 109.02, 791  
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 792  
attorney general shall represent or provide for the 793  
representation of the Ohio public defender commission, the state 794  
public defender, assistant state public defenders, other 795  
employees of the commission or the state public defender, or 796  
attorneys described in division (C) of section 120.41 of the 797

Revised Code in the civil action or proceeding. 798

(2) (a) Subject to division (E) (2) (b) of this section, 799  
payment from the state treasury for the services of private 800  
legal counsel with whom the state public defender has contracted 801  
pursuant to division (E) (1) of this section shall be 802  
accomplished only through the following procedure: 803

(i) The private legal counsel shall file with the attorney 804  
general a copy of the contract; a request for an award of legal 805  
fees, court costs, and expenses earned or incurred in connection 806  
with the defense of the Ohio public defender commission, the 807  
state public defender, an assistant state public defender, an 808  
employee, or an attorney in a specified civil action or 809  
proceeding; a written itemization of those fees, costs, and 810  
expenses, including the signature of the state public defender 811  
and the state public defender's attestation that the fees, 812  
costs, and expenses were earned or incurred pursuant to division 813  
(E) (1) of this section to the best of the state public 814  
defender's knowledge and information; a written statement 815  
whether the fees, costs, and expenses are for all legal services 816  
to be rendered in connection with that defense, are only for 817  
legal services rendered to the date of the request and 818  
additional legal services likely will have to be provided in 819  
connection with that defense, or are for the final legal 820  
services rendered in connection with that defense; a written 821  
statement indicating whether the private legal counsel 822  
previously submitted a request for an award under division (E) 823  
(2) of this section in connection with that defense and, if so, 824  
the date and the amount of each award granted; and, if the fees, 825  
costs, and expenses are for all legal services to be rendered in 826  
connection with that defense or are for the final legal services 827  
rendered in connection with that defense, a certified copy of 828

any judgment entry in the civil action or proceeding or a signed 829  
copy of any settlement agreement entered into between the 830  
parties to the civil action or proceeding. 831

(ii) Upon receipt of a request for an award of legal fees, 832  
court costs, and expenses and the requisite supportive 833  
documentation described in division (E) (2) (a) (i) of this 834  
section, the attorney general shall review the request and 835  
documentation; determine whether any of the limitations 836  
specified in division (E) (2) (b) of this section apply to the 837  
request; and, if an award of legal fees, court costs, or 838  
expenses is permissible after applying the limitations, prepare 839  
a document awarding legal fees, court costs, or expenses to the 840  
private legal counsel. The document shall name the private legal 841  
counsel as the recipient of the award; specify the total amount 842  
of the award as determined by the attorney general; itemize the 843  
portions of the award that represent legal fees, court costs, 844  
and expenses; specify any limitation applied pursuant to 845  
division (E) (2) (b) of this section to reduce the amount of the 846  
award sought by the private legal counsel; state that the award 847  
is payable from the state treasury pursuant to division (E) (2) 848  
(a) (iii) of this section; and be approved by the inclusion of 849  
the signatures of the attorney general, the state public 850  
defender, and the private legal counsel. 851

(iii) The attorney general shall forward a copy of the 852  
document prepared pursuant to division (E) (2) (a) (ii) of this 853  
section to the director of budget and management. The award of 854  
legal fees, court costs, or expenses shall be paid out of the 855  
state public defender's appropriations, to the extent there is a 856  
sufficient available balance in those appropriations. If the 857  
state public defender does not have a sufficient available 858  
balance in the state public defender's appropriations to pay the 859

entire award of legal fees, court costs, or expenses, the 860  
director shall make application for a transfer of appropriations 861  
out of the emergency purposes account or any other appropriation 862  
for emergencies or contingencies in an amount equal to the 863  
portion of the award that exceeds the sufficient available 864  
balance in the state public defender's appropriations. A 865  
transfer of appropriations out of the emergency purposes account 866  
or any other appropriation for emergencies or contingencies 867  
shall be authorized if there are sufficient moneys greater than 868  
the sum total of then pending emergency purposes account 869  
requests, or requests for releases from the other appropriation. 870  
If a transfer of appropriations out of the emergency purposes 871  
account or other appropriation for emergencies or contingencies 872  
is made to pay an amount equal to the portion of the award that 873  
exceeds the sufficient available balance in the state public 874  
defender's appropriations, the director shall cause the payment 875  
to be made to the private legal counsel. If sufficient moneys do 876  
not exist in the emergency purposes account or other 877  
appropriation for emergencies or contingencies to pay an amount 878  
equal to the portion of the award that exceeds the sufficient 879  
available balance in the state public defender's appropriations, 880  
the private legal counsel shall request the general assembly to 881  
make an appropriation sufficient to pay an amount equal to the 882  
portion of the award that exceeds the sufficient available 883  
balance in the state public defender's appropriations, and no 884  
payment in that amount shall be made until the appropriation has 885  
been made. The private legal counsel shall make the request 886  
during the current biennium and during each succeeding biennium 887  
until a sufficient appropriation is made. 888

(b) An award of legal fees, court costs, and expenses 889  
pursuant to division (E) of this section is subject to the 890

following limitations: 891

(i) The maximum award or maximum aggregate of a series of 892  
awards of legal fees, court costs, and expenses to the private 893  
legal counsel in connection with the defense of the Ohio public 894  
defender commission, the state public defender, an assistant 895  
state public defender, an employee, or an attorney in a 896  
specified civil action or proceeding shall not exceed fifty 897  
thousand dollars. 898

(ii) The private legal counsel shall not be awarded legal 899  
fees, court costs, or expenses to the extent the fees, costs, or 900  
expenses are covered by a policy of malpractice or other 901  
insurance. 902

(iii) The private legal counsel shall be awarded legal 903  
fees and expenses only to the extent that the fees and expenses 904  
are reasonable in light of the legal services rendered by the 905  
private legal counsel in connection with the defense of the Ohio 906  
public defender commission, the state public defender, an 907  
assistant state public defender, an employee, or an attorney in 908  
a specified civil action or proceeding. 909

(c) If, pursuant to division (E) (2) (a) of this section, 910  
the attorney general denies a request for an award of legal 911  
fees, court costs, or expenses to private legal counsel because 912  
of the application of a limitation specified in division (E) (2) 913  
(b) of this section, the attorney general shall notify the 914  
private legal counsel in writing of the denial and of the 915  
limitation applied. 916

(d) If, pursuant to division (E) (2) (c) of this section, a 917  
private legal counsel receives a denial of an award notification 918  
or if a private legal counsel refuses to approve a document 919

under division (E) (2) (a) (ii) of this section because of the 920  
proposed application of a limitation specified in division (E) 921  
(2) (b) of this section, the private legal counsel may commence a 922  
civil action against the attorney general in the court of claims 923  
to prove the private legal counsel's entitlement to the award 924  
sought, to prove that division (E) (2) (b) of this section does 925  
not prohibit or otherwise limit the award sought, and to recover 926  
a judgment for the amount of the award sought. A civil action 927  
under division (E) (2) (d) of this section shall be commenced no 928  
later than two years after receipt of a denial of award 929  
notification or, if the private legal counsel refused to approve 930  
a document under division (E) (2) (a) (ii) of this section because 931  
of the proposed application of a limitation specified in 932  
division (E) (2) (b) of this section, no later than two years 933  
after the refusal. Any judgment of the court of claims in favor 934  
of the private legal counsel shall be paid from the state 935  
treasury in accordance with division (E) (2) (a) of this section. 936

~~(F) If a court appoints the office of the state public- 937  
defender to represent a petitioner in a postconviction relief- 938  
proceeding under section 2953.21 of the Revised Code, the- 939  
petitioner has received a sentence of death, and the proceeding- 940  
relates to that sentence, all of the attorneys who represent the- 941  
petitioner in the proceeding pursuant to the appointment,- 942  
whether an assistant state public defender, the state public- 943  
defender, or another attorney, shall be certified under Rule 20- 944  
of the Rules of Superintendence for the Courts of Ohio to- 945  
represent indigent defendants charged with or convicted of an- 946  
offense for which the death penalty can be or has been imposed.- 947~~

~~(G)~~(1) The state public defender may conduct a legal 948  
assistance referral service for children committed to the 949  
department of youth services relative to conditions of 950



confinement claims. If the legal assistance referral service 951  
receives a request for assistance from a child confined in a 952  
facility operated, or contracted for, by the department of youth 953  
services and the state public defender determines that the child 954  
has a conditions of confinement claim that has merit, the state 955  
public defender may refer the child to a private attorney. If no 956  
private attorney who the child has been referred to by the state 957  
public defender accepts the case within a reasonable time, the 958  
state public defender may prepare, as appropriate, pro se 959  
pleadings in the form of a complaint regarding the conditions of 960  
confinement at the facility where the child is confined with a 961  
motion for appointment of counsel and other applicable pleadings 962  
necessary for sufficient pro se representation. 963

(2) Division ~~(G)~~(F) (1) of this section does not authorize 964  
the state public defender to represent a child committed to the 965  
department of youth services in general civil matters arising 966  
solely out of state law. 967

(3) The state public defender shall not undertake the 968  
representation of a child in court based on a conditions of 969  
confinement claim arising under this division. 970

~~(H)~~(G) A child's right to representation or services 971  
under this section is not affected by the child, or another 972  
person on behalf of the child, previously having paid for 973  
similar representation or services or having waived legal 974  
representation. 975

~~(I)~~(H) The state public defender shall have reasonable 976  
access to any child committed to the department of youth 977  
services, department of youth services institution, and 978  
department of youth services record as needed to implement this 979  
section. 980

<del>(J)</del> —(I) As used in this section:	981
(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	982 983
(2) "Conditions of confinement" means any issue involving a constitutional right or other civil right related to a child's incarceration, including, but not limited to, actions cognizable under 42 U.S.C. 1983.	984 985 986 987
(3) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	988 989
<b>Sec. 120.14.</b> (A) (1) Except as provided in division (A) (2) of this section, the county public defender commission shall appoint the county public defender and may remove <del>him</del> <u>the county public defender</u> from office only for good cause.	990 991 992 993
(2) If a county public defender commission contracts with the state public defender or with one or more nonprofit organizations for the state public defender or the organizations to provide all of the services that the county public defender is required or permitted to provide by this chapter, the commission shall not appoint a county public defender.	994 995 996 997 998 999
(B) The commission shall determine the qualifications and size of the supporting staff and facilities and other requirements needed to maintain and operate the office of the county public defender.	1000 1001 1002 1003
(C) In administering the office of county public defender, the commission shall:	1004 1005
(1) Recommend to the county commissioners an annual operating budget which is subject to the review, amendment, and approval of the board of county commissioners;	1006 1007 1008

(2) (a) Make an annual report to the county commissioners 1009  
and the Ohio public defender commission on the operation of the 1010  
county public defender's office, ~~including complete and detailed~~ 1011  
~~information on finances and costs that separately states costs~~ 1012  
~~and expenses that are reimbursable under section 120.35 of the~~ 1013  
~~Revised Code~~, and any other data and information requested by 1014  
the state public defender; 1015

(b) Make monthly reports relating to reimbursement and 1016  
associated case data pursuant to the rules of the Ohio public 1017  
defender commission to the board of county commissioners and the 1018  
Ohio public defender commission on the total costs of the public 1019  
defender's office. 1020

(3) Cooperate with the Ohio public defender commission in 1021  
maintaining the standards established by rules of the Ohio 1022  
public defender commission pursuant to divisions (B) and (C) of 1023  
section 120.03 of the Revised Code, and cooperate with the state 1024  
public defender in ~~his~~ the state public defender's programs 1025  
providing technical aid and assistance to county systems. 1026

(D) The commission may accept the services of volunteer 1027  
workers and consultants at no compensation except reimbursement 1028  
for actual and necessary expenses. 1029

(E) The commission may contract with any municipal 1030  
corporation, within the county served by the county public 1031  
defender, for the county public defender to provide legal 1032  
representation for indigent persons who are charged with a 1033  
violation of the ordinances of the municipal corporation. 1034

(F) A county public defender commission, with the approval 1035  
of the board of county commissioners regarding all provisions 1036  
that pertain to the financing of defense counsel for indigent 1037

persons, may contract with the state public defender or with any 1038  
nonprofit organization, the primary purpose of which is to 1039  
provide legal representation to indigent persons, for the state 1040  
public defender or the organization to provide all or any part 1041  
of the services that a county public defender is required or 1042  
permitted to provide by this chapter. A contract entered into 1043  
pursuant to this division may provide for payment for the 1044  
services provided on a per case, hourly, or fixed contract 1045  
basis. The state public defender and any nonprofit organization 1046  
that contracts with a county public defender commission pursuant 1047  
to this division shall do all of the following: 1048

(1) Comply with all standards established by the rules of 1049  
the Ohio public defender commission; 1050

(2) Comply with all standards established by the state 1051  
public defender; 1052

(3) Comply with all statutory duties and other laws 1053  
applicable to county public defenders. 1054

**Sec. 120.16.** (A) (1) The county public defender shall 1055  
provide legal representation to indigent adults and juveniles 1056  
who are charged with the commission of an offense or act that is 1057  
a violation of a state statute and for which the penalty or any 1058  
possible adjudication includes the potential loss of liberty and 1059  
in postconviction proceedings as defined in this section. 1060

(2) The county public defender may provide legal 1061  
representation to indigent adults and juveniles charged with the 1062  
violation of an ordinance of a municipal corporation for which 1063  
the penalty or any possible adjudication includes the potential 1064  
loss of liberty, if the county public defender commission has 1065  
contracted with the municipal corporation to provide legal 1066

representation for indigent persons charged with a violation of 1067  
an ordinance of the municipal corporation. 1068

(B) The county public defender shall provide the legal 1069  
representation authorized by division (A) of this section at 1070  
every stage of the proceedings following arrest, detention, 1071  
service of summons, or indictment. 1072

(C) The county public defender may request the state 1073  
public defender to prosecute any appeal or other remedy before 1074  
or after conviction that the county public defender decides is 1075  
in the interests of justice, and may provide legal 1076  
representation in parole and probation revocation matters and 1077  
matters relating to the revocation of community control or post- 1078  
release control under a community control sanction or post- 1079  
release control sanction. 1080

(D) The county public defender shall not be required to 1081  
prosecute any appeal, postconviction remedy, or other 1082  
proceeding, unless the county public defender is first satisfied 1083  
there is arguable merit to the proceeding. 1084

(E) Nothing in this section shall prevent a court from 1085  
appointing counsel other than the county public defender or from 1086  
allowing an indigent person to select the indigent person's own 1087  
personal counsel to represent the indigent person. A court may 1088  
also appoint counsel or allow an indigent person to select the 1089  
indigent person's own personal counsel to assist the county 1090  
public defender as co-counsel when the interests of justice so 1091  
require. 1092

(F) Information as to the right to legal representation by 1093  
the county public defender or assigned counsel shall be afforded 1094  
to an accused person immediately upon arrest, when brought 1095

before a magistrate, or when formally charged, whichever occurs 1096  
first. 1097

~~(G) If a court appoints the office of the county public 1098  
defender to represent a petitioner in a postconviction relief 1099  
proceeding under section 2953.21 of the Revised Code, the 1100  
petitioner has received a sentence of death, and the proceeding 1101  
relates to that sentence, all of the attorneys who represent the 1102  
petitioner in the proceeding pursuant to the appointment, 1103  
whether an assistant county public defender or the county public 1104  
defender, shall be certified under Rule 20 of the Rules of 1105  
Superintendence for the Courts of Ohio to represent indigent 1106  
defendants charged with or convicted of an offense for which the 1107  
death penalty can be or has been imposed. 1108~~

~~(H) As used in this section: 1109~~

(1) "Community control sanction" has the same meaning as 1110  
in section 2929.01 of the Revised Code. 1111

(2) "Post-release control sanction" has the same meaning 1112  
as in section 2967.01 of the Revised Code. 1113

**Sec. 120.18.** (A) The county public defender commission's 1114  
report to the board of county commissioners shall be audited by 1115  
the county auditor. The board of county commissioners, after 1116  
review and approval of the audited report, may then certify it 1117  
to the state public defender for reimbursement. If a request for 1118  
the reimbursement of any operating expenditure incurred by a 1119  
county public defender office is not received by the state 1120  
public defender within sixty days after the end of the calendar 1121  
month in which the expenditure is incurred, the state public 1122  
defender shall not pay the requested reimbursement, unless the 1123  
county has requested, and the state public defender has granted, 1124

an extension of the sixty-day time limit. Each request for 1125  
reimbursement shall include a certification by the county public 1126  
defender that the persons provided representation by the county 1127  
public defender's office during the period covered by the report 1128  
were indigent and, for each person provided representation 1129  
during that period, a financial disclosure form completed by the 1130  
person on a form prescribed by the state public defender. The 1131  
state public defender shall also review the report and, in 1132  
accordance with the standards, guidelines, and maximums 1133  
established pursuant to divisions (B) (7) and (8) of section 1134  
120.04 of the Revised Code, prepare a voucher for fifty per cent 1135  
of the total cost of each county public defender's office for 1136  
the period of time covered by the certified report ~~and a voucher~~ 1137  
~~for fifty per cent of the costs and expenses that are~~ 1138  
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 1139  
or, if the amount of money appropriated by the general assembly 1140  
to reimburse counties for the operation of county public 1141  
defender offices, joint county public defender offices, and 1142  
county appointed counsel systems is not sufficient to pay fifty 1143  
per cent of the total cost of all of the offices and systems, 1144  
for the lesser amount required by section 120.34 of the Revised 1145  
Code. For the purposes of this section, "total cost" means total 1146  
expenses minus ~~costs and expenses reimbursable under section~~ 1147  
~~120.35 of the Revised Code and any funds received by the county~~ 1148  
public defender commission pursuant to a contract, except a 1149  
contract entered into with a municipal corporation pursuant to 1150  
division (E) of section 120.14 of the Revised Code, gift, or 1151  
grant. 1152

(B) If the county public defender fails to maintain the 1153  
standards for the conduct of the office established by rules of 1154  
the Ohio public defender commission pursuant to divisions (B) 1155

and (C) of section 120.03 or the standards established by the 1156  
state public defender pursuant to division (B)(7) of section 1157  
120.04 of the Revised Code, the Ohio public defender commission 1158  
shall notify the county public defender commission and the board 1159  
of county commissioners of the county that the county public 1160  
defender has failed to comply with its rules or the standards of 1161  
the state public defender. Unless the county public defender 1162  
commission or the county public defender corrects the conduct of 1163  
the county public defender's office to comply with the rules and 1164  
standards within ninety days after the date of the notice, the 1165  
state public defender may deny payment of all or part of the 1166  
county's reimbursement from the state provided for in division 1167  
(A) of this section. 1168

**Sec. 120.24.** (A)(1) Except as provided in division (A)(2) 1169  
of this section, the joint county public defender commission 1170  
shall appoint the joint county public defender and may remove 1171  
~~him~~ the joint county public defender from office only for good 1172  
cause. 1173

(2) If a joint county public defender commission contracts 1174  
with the state public defender or with one or more nonprofit 1175  
organizations for the state public defender or the organizations 1176  
to provide all of the services that the joint county public 1177  
defender is required or permitted to provide by this chapter, 1178  
the commission shall not appoint a joint county public defender. 1179

(B) The commission shall determine the qualifications and 1180  
size of the supporting staff and facilities and other 1181  
requirements needed to maintain and operate the office. 1182

(C) In administering the office of joint county public 1183  
defender, the commission shall: 1184



(1) Recommend to the boards of county commissioners in the 1185  
district an annual operating budget which is subject to the 1186  
review, amendment, and approval of the boards of county 1187  
commissioners in the district; 1188

(2) (a) Make an annual report to the boards of county 1189  
commissioners in the district and the Ohio public defender 1190  
commission on the operation of the public defender's office, ~~and~~ 1191  
~~including complete and detailed information on finances and~~ 1192  
~~costs that separately states costs and expenses that are~~ 1193  
~~reimbursable under section 120.35 of the Revised Code,~~ and such 1194  
other data and information requested by the state public 1195  
defender; 1196

(b) Make monthly reports relating to reimbursement and 1197  
associated case data pursuant to the rules of the Ohio public 1198  
defender commission to the boards of county commissioners in the 1199  
district and the Ohio public defender commission on the total 1200  
costs of the public defender's office. 1201

(3) Cooperate with the Ohio public defender commission in 1202  
maintaining the standards established by rules of the Ohio 1203  
public defender commission pursuant to divisions (B) and (C) of 1204  
section 120.03 of the Revised Code, and cooperate with the state 1205  
public defender in ~~his~~ the state public defender's programs 1206  
providing technical aid and assistance to county systems. 1207

(D) The commission may accept the services of volunteer 1208  
workers and consultants at no compensation except reimbursement 1209  
for actual and necessary expenses. 1210

(E) The commission may contract with any municipal 1211  
corporation, within the counties served by the joint county 1212  
public defender, for the joint county public defender to provide 1213

legal representation for indigent persons who are charged with a 1214  
violation of the ordinances of the municipal corporation. 1215

(F) A joint county public defender commission, with the 1216  
approval of each participating board of county commissioners 1217  
regarding all provisions that pertain to the financing of 1218  
defense counsel for indigent persons, may contract with the 1219  
state public defender or with any nonprofit organization, the 1220  
primary purpose of which is to provide legal representation to 1221  
indigent persons, for the state public defender or the 1222  
organization to provide all or any part of the services that a 1223  
joint county public defender is required or permitted to provide 1224  
by this chapter. A contract entered into pursuant to this 1225  
division may provide for payment for the services provided on a 1226  
per case, hourly, or fixed contract basis. The state public 1227  
defender and any nonprofit organization that contracts with a 1228  
joint county public defender commission pursuant to this 1229  
division shall do all of the following: 1230

(1) Comply with all standards established by the rules of 1231  
the Ohio public defender commission; 1232

(2) Comply with all standards established by the Ohio 1233  
public defender; 1234

(3) Comply with all statutory duties and other laws 1235  
applicable to joint county public defenders. 1236

**Sec. 120.26.** (A) (1) The joint county public defender shall 1237  
provide legal representation to indigent adults and juveniles 1238  
who are charged with the commission of an offense or act that is 1239  
a violation of a state statute and for which the penalty or any 1240  
possible adjudication includes the potential loss of liberty and 1241  
in postconviction proceedings as defined in this section. 1242

(2) The joint county public defender may provide legal 1243  
representation to indigent adults and juveniles charged with the 1244  
violation of an ordinance of a municipal corporation for which 1245  
the penalty or any possible adjudication includes the potential 1246  
loss of liberty, if the joint county public defender commission 1247  
has contracted with the municipal corporation to provide legal 1248  
representation for indigent persons charged with a violation of 1249  
an ordinance of the municipal corporation. 1250

(B) The joint county public defender shall provide the 1251  
legal representation authorized by division (A) of this section 1252  
at every stage of the proceedings following arrest, detention, 1253  
service of summons, or indictment. 1254

(C) The joint county public defender may request the Ohio 1255  
public defender to prosecute any appeal or other remedy before 1256  
or after conviction that the joint county public defender 1257  
decides is in the interests of justice and may provide legal 1258  
representation in parole and probation revocation matters and 1259  
matters relating to the revocation of community control or post- 1260  
release control under a community control sanction or post- 1261  
release control sanction. 1262

(D) The joint county public defender shall not be required 1263  
to prosecute any appeal, postconviction remedy, or other 1264  
proceeding, unless the joint county public defender is first 1265  
satisfied that there is arguable merit to the proceeding. 1266

(E) Nothing in this section shall prevent a court from 1267  
appointing counsel other than the joint county public defender 1268  
or from allowing an indigent person to select the indigent 1269  
person's own personal counsel to represent the indigent person. 1270  
A court may also appoint counsel or allow an indigent person to 1271  
select the indigent person's own personal counsel to assist the 1272

joint county public defender as co-counsel when the interests of 1273  
justice so require. 1274

(F) Information as to the right to legal representation by 1275  
the joint county public defender or assigned counsel shall be 1276  
afforded to an accused person immediately upon arrest, when 1277  
brought before a magistrate, or when formally charged, whichever 1278  
occurs first. 1279

~~(G) If a court appoints the office of the joint county 1280  
public defender to represent a petitioner in a postconviction- 1281  
relief proceeding under section 2953.21 of the Revised Code, the 1282  
petitioner has received a sentence of death, and the proceeding- 1283  
relates to that sentence, all of the attorneys who represent the 1284  
petitioner in the proceeding pursuant to the appointment, 1285  
whether an assistant joint county defender or the joint county 1286  
public defender, shall be certified under Rule 20 of the Rules- 1287  
of Superintendence for the Courts of Ohio to represent indigent 1288  
defendants charged with or convicted of an offense for which the 1289  
death penalty can be or has been imposed. 1290~~

~~(H) As used in this section: 1291~~

(1) "Community control sanction" has the same meaning as 1292  
in section 2929.01 of the Revised Code. 1293

(2) "Post-release control sanction" has the same meaning 1294  
as in section 2967.01 of the Revised Code. 1295

**Sec. 120.28.** (A) The joint county public defender 1296  
commission's report to the joint board of county commissioners 1297  
shall be audited by the fiscal officer of the district. The 1298  
joint board of county commissioners, after review and approval 1299  
of the audited report, may then certify it to the state public 1300  
defender for reimbursement. If a request for the reimbursement 1301

of any operating expenditure incurred by a joint county public 1302  
defender office is not received by the state public defender 1303  
within sixty days after the end of the calendar month in which 1304  
the expenditure is incurred, the state public defender shall not 1305  
pay the requested reimbursement, unless the joint board of 1306  
county commissioners has requested, and the state public 1307  
defender has granted, an extension of the sixty-day time limit. 1308  
Each request for reimbursement shall include a certification by 1309  
the joint county public defender that all persons provided 1310  
representation by the joint county public defender's office 1311  
during the period covered by the request were indigent and, for 1312  
each person provided representation during that period, a 1313  
financial disclosure form completed by the person on a form 1314  
prescribed by the state public defender. The state public 1315  
defender shall also review the report and, in accordance with 1316  
the standards, guidelines, and maximums established pursuant to 1317  
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1318  
prepare a voucher for fifty per cent of the total cost of each 1319  
joint county public defender's office for the period of time 1320  
covered by the certified report ~~and a voucher for fifty per cent~~ 1321  
~~of the costs and expenses that are reimbursable under section~~ 1322  
~~120.35 of the Revised Code, if any, or, if the amount of money~~ 1323  
appropriated by the general assembly to reimburse counties for 1324  
the operation of county public defender offices, joint county 1325  
public defender offices, and county appointed counsel systems is 1326  
not sufficient to pay fifty per cent of the total cost of all of 1327  
the offices and systems, for the lesser amount required by 1328  
section 120.34 of the Revised Code. For purposes of this 1329  
section, "total cost" means total expenses minus ~~costs and~~ 1330  
~~expenses reimbursable under section 120.35 of the Revised Code~~ 1331  
~~and~~ any funds received by the joint county public defender 1332  
commission pursuant to a contract, except a contract entered 1333

into with a municipal corporation pursuant to division (E) of 1334  
section 120.24 of the Revised Code, gift, or grant. Each county 1335  
in the district shall be entitled to a share of such state 1336  
reimbursement in proportion to the percentage of the total cost 1337  
it has agreed to pay. 1338

(B) If the joint county public defender fails to maintain 1339  
the standards for the conduct of the office established by the 1340  
rules of the Ohio public defender commission pursuant to 1341  
divisions (B) and (C) of section 120.03 or the standards 1342  
established by the state public defender pursuant to division 1343  
(B)(7) of section 120.04 of the Revised Code, the Ohio public 1344  
defender commission shall notify the joint county public 1345  
defender commission and the board of county commissioners of 1346  
each county in the district that the joint county public 1347  
defender has failed to comply with its rules or the standards of 1348  
the state public defender. Unless the joint public defender 1349  
commission or the joint county public defender corrects the 1350  
conduct of the joint county public defender's office to comply 1351  
with the rules and standards within ninety days after the date 1352  
of the notice, the state public defender may deny all or part of 1353  
the counties' reimbursement from the state provided for in 1354  
division (A) of this section. 1355

**Sec. 120.33.** (A) In lieu of using a county public defender 1356  
or joint county public defender to represent indigent persons in 1357  
the proceedings set forth in division (A) of section 120.16 of 1358  
the Revised Code, the board of county commissioners of any 1359  
county may adopt a resolution to pay counsel who are either 1360  
personally selected by the indigent person or appointed by the 1361  
court. The resolution shall include those provisions the board 1362  
of county commissioners considers necessary to provide effective 1363  
representation of indigent persons in any proceeding for which 1364

counsel is provided under this section. The resolution shall 1365  
include provisions for contracts with any municipal corporation 1366  
under which the municipal corporation shall reimburse the county 1367  
for counsel appointed to represent indigent persons charged with 1368  
violations of the ordinances of the municipal corporation. 1369

(1) In a county that adopts a resolution to pay counsel, 1370  
an indigent person shall have the right to do either of the 1371  
following: 1372

(a) To select the person's own personal counsel to 1373  
represent the person in any proceeding included within the 1374  
provisions of the resolution; 1375

(b) To request the court to appoint counsel to represent 1376  
the person in such a proceeding. 1377

(2) The court having jurisdiction over the proceeding in a 1378  
county that adopts a resolution to pay counsel shall, after 1379  
determining that the person is indigent and entitled to legal 1380  
representation under this section, do either of the following: 1381

(a) By signed journal entry recorded on its docket, enter 1382  
the name of the lawyer selected by the indigent person as 1383  
counsel of record; 1384

(b) Appoint counsel for the indigent person if the person 1385  
has requested the court to appoint counsel and, by signed 1386  
journal entry recorded on its dockets, enter the name of the 1387  
lawyer appointed for the indigent person as counsel of record. 1388

(3) The board of county commissioners shall establish a 1389  
schedule of fees by case or on an hourly basis to be paid to 1390  
counsel for legal services provided pursuant to a resolution 1391  
adopted under this section. Prior to establishing the schedule, 1392  
the board of county commissioners shall request the bar 1393

association or associations of the county to submit a proposed 1394  
~~schedule for cases other than capital cases.~~ The schedule 1395  
submitted shall be subject to the review, amendment, and 1396  
approval of the board of county commissioners, ~~except with~~ 1397  
~~respect to capital cases. With respect to capital cases, the~~ 1398  
~~schedule shall provide for fees by case or on an hourly basis to~~ 1399  
~~be paid to counsel in the amount or at the rate set by the~~ 1400  
~~capital case attorney fee council pursuant to division (D) of~~ 1401  
~~this section, and the board of county commissioners shall~~ 1402  
~~approve that amount or rate.~~ 1403

(4) Counsel selected by the indigent person or appointed 1404  
by the court at the request of an indigent person in a county 1405  
that adopts a resolution to pay counsel, except for counsel 1406  
appointed to represent a person charged with any violation of an 1407  
ordinance of a municipal corporation that has not contracted 1408  
with the county commissioners for the payment of appointed 1409  
counsel, shall be paid by the county and shall receive the 1410  
compensation and expenses the court approves. ~~With respect to~~ 1411  
~~capital cases, the court shall approve compensation and expenses~~ 1412  
~~in accordance with the amount or at the rate set by the capital~~ 1413  
~~case attorney fee council pursuant to division (D) of this~~ 1414  
~~section.~~ Each request for payment shall be accompanied by a 1415  
financial disclosure form and an affidavit of indigency that are 1416  
completed by the indigent person on forms prescribed by the 1417  
state public defender. Compensation and expenses shall not 1418  
exceed the amounts fixed by the board of county commissioners in 1419  
the schedule adopted pursuant to division (A) (3) of this 1420  
section. No court shall approve compensation and expenses that 1421  
exceed the amount fixed pursuant to division (A) (3) of this 1422  
section. 1423

The fees and expenses approved by the court shall not be 1424



taxed as part of the costs and shall be paid by the county. 1425  
However, if the person represented has, or may reasonably be 1426  
expected to have, the means to meet some part of the cost of the 1427  
services rendered to the person, the person shall pay the county 1428  
an amount that the person reasonably can be expected to pay. 1429  
Pursuant to section 120.04 of the Revised Code, the county shall 1430  
pay to the state public defender a percentage of the payment 1431  
received from the person in an amount proportionate to the 1432  
percentage of the costs of the person's case that were paid to 1433  
the county by the state public defender pursuant to this 1434  
section. The money paid to the state public defender shall be 1435  
credited to the client payment fund created pursuant to division 1436  
(B) (5) of section 120.04 of the Revised Code. 1437

The county auditor shall draw a warrant on the county 1438  
treasurer for the payment of counsel in the amount fixed by the 1439  
court, plus the expenses the court fixes and certifies to the 1440  
auditor. The county auditor shall report periodically, but not 1441  
less than annually, to the board of county commissioners and to 1442  
the state public defender the amounts paid out pursuant to the 1443  
approval of the court. The board of county commissioners, after 1444  
review and approval of the auditor's report, or the county 1445  
auditor, with permission from and notice to the board of county 1446  
commissioners, may then certify it to the state public defender 1447  
for reimbursement. The state public defender may pay a requested 1448  
reimbursement only if the request for reimbursement is 1449  
accompanied by a financial disclosure form and an affidavit of 1450  
indigency completed by the indigent person on forms prescribed 1451  
by the state public defender or if the court certifies by 1452  
electronic signature as prescribed by the state public defender 1453  
that a financial disclosure form and affidavit of indigency have 1454  
been completed by the indigent person and are available for 1455

inspection. If a request for the reimbursement of the cost of 1456  
counsel in any case is not received by the state public defender 1457  
within ninety days after the end of the calendar month in which 1458  
the case is finally disposed of by the court, unless the county 1459  
has requested and the state public defender has granted an 1460  
extension of the ninety-day limit, the state public defender 1461  
shall not pay the requested reimbursement. The state public 1462  
defender shall also review the report and, in accordance with 1463  
the standards, guidelines, and maximums established pursuant to 1464  
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1465  
prepare a voucher for fifty per cent of the total cost of each 1466  
county appointed counsel system in the period of time covered by 1467  
the certified report ~~and a voucher for fifty per cent of the~~ 1468  
~~costs and expenses that are reimbursable under section 120.35 of~~ 1469  
~~the Revised Code, if any, or, if the amount of money~~ 1470  
appropriated by the general assembly to reimburse counties for 1471  
the operation of county public defender offices, joint county 1472  
public defender offices, and county appointed counsel systems is 1473  
not sufficient to pay fifty per cent of the total cost of all of 1474  
the offices and systems ~~other than costs and expenses that are~~ 1475  
~~reimbursable under section 120.35 of the Revised Code~~, for the 1476  
lesser amount required by section 120.34 of the Revised Code. 1477

(5) If any county appointed counsel system fails to 1478  
maintain the standards for the conduct of the system established 1479  
by the rules of the Ohio public defender commission pursuant to 1480  
divisions (B) and (C) of section 120.03 or the standards 1481  
established by the state public defender pursuant to division 1482  
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1483  
defender commission shall notify the board of county 1484  
commissioners of the county that the county appointed counsel 1485  
system has failed to comply with its rules or the standards of 1486

the state public defender. Unless the board of county 1487  
commissioners corrects the conduct of its appointed counsel 1488  
system to comply with the rules and standards within ninety days 1489  
after the date of the notice, the state public defender may deny 1490  
all or part of the county's reimbursement from the state 1491  
provided for in division (A) (4) of this section. 1492

(B) In lieu of using a county public defender or joint 1493  
county public defender to represent indigent persons in the 1494  
proceedings set forth in division (A) of section 120.16 of the 1495  
Revised Code, and in lieu of adopting the resolution and 1496  
following the procedure described in division (A) of this 1497  
section, the board of county commissioners of any county may 1498  
contract with the state public defender for the state public 1499  
defender's legal representation of indigent persons. A contract 1500  
entered into pursuant to this division may provide for payment 1501  
for the services provided on a per case, hourly, or fixed 1502  
contract basis. 1503

~~(C) If a court appoints an attorney pursuant to this 1504  
section to represent a petitioner in a postconviction relief- 1505  
proceeding under section 2953.21 of the Revised Code, the 1506  
petitioner has received a sentence of death, and the proceeding- 1507  
relates to that sentence, the attorney who represents the 1508  
petitioner in the proceeding pursuant to the appointment shall 1509  
be certified under Rule 20 of the Rules of Superintendence for 1510  
the Courts of Ohio to represent indigent defendants charged with 1511  
or convicted of an offense for which the death penalty can be or 1512  
has been imposed. 1513~~

~~(D) (1) There is hereby created the capital case attorney- 1514  
fee council, appointed as described in division (D) (2) of this 1515  
section. The council shall set an amount by case, or a rate on- 1516~~

~~an hourly basis, to be paid under this section to counsel in a  
capital case.~~ 1517  
1518

~~(2) The capital case attorney fee council shall consist of  
five members, all of whom shall be active judges serving on one  
of the district courts of appeals in this state. Terms for  
council members shall be the lesser of three years or until the  
member ceases to be an active judge of a district court of  
appeals. The initial terms shall commence ninety days after the  
effective date of this amendment. The chief justice of the  
supreme court shall appoint the members of the council, and  
shall make all of the appointments not later than sixty days  
after the effective date of this amendment. When any vacancy  
occurs, the chief justice shall appoint an active judge of a  
district court of appeals in this state to fill the vacancy for  
the unexpired term, in the same manner as prescribed in this  
division. The chief justice shall designate a chairperson from  
the appointed members of the council. Members of the council  
shall receive no additional compensation for their service as a  
member, but may be reimbursed for expenses reasonably incurred  
in service to the council, to be paid by the supreme court. The  
supreme court may provide administrative support to the council.~~ 1519  
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~~(3) The capital case attorney fee council initially shall  
meet not later than one hundred twenty days after the effective  
date of this amendment. Thereafter, the council shall meet not  
less than annually.~~ 1538  
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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~~ 1542  
1543  
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~~the date on which the chairperson provides that written notice~~ 1547  
~~to the state public defender. The council shall specify that~~ 1548  
~~effective date in the written notice provided to the state~~ 1549  
~~public defender. All amounts or rates set by the council shall~~ 1550  
~~be final, subject to modification as described in division (D)~~ 1551  
~~(5) of this section, and not subject to appeal.~~ 1552

~~(5) The capital case attorney fee council may modify an~~ 1553  
~~amount or rate set as described in division (D) (4) of this~~ 1554  
~~section. The provisions of that division apply with respect to~~ 1555  
~~any such modification of an amount or rate.~~ 1556

**Sec. 120.34.** The total amount of money paid to all 1557  
counties in any fiscal year pursuant to sections 120.18, 120.28, 1558  
and 120.33 of the Revised Code for the reimbursement of a 1559  
percentage of the counties' cost of operating county public 1560  
defender offices, joint county public defender offices, and 1561  
county appointed counsel systems shall not exceed the total 1562  
amount appropriated for that fiscal year by the general assembly 1563  
for the reimbursement of the counties for the operation of the 1564  
offices and systems. If the amount appropriated by the general 1565  
assembly in any fiscal year is insufficient to pay fifty per 1566  
cent of the total cost in the fiscal year of all county public 1567  
defender offices, all joint county public defender offices, and 1568  
all county appointed counsel systems, the amount of money paid 1569  
in that fiscal year pursuant to sections 120.18, 120.28, and 1570  
120.33 of the Revised Code to each county for the fiscal year 1571  
shall be reduced proportionately so that each county is paid an 1572  
equal percentage of its total cost in the fiscal year for 1573  
operating its county public defender system, its joint county 1574  
public defender system, and its county appointed counsel system. 1575

~~The total amount of money paid to all counties in any~~ 1576

~~fiscal year pursuant to section 120.35 of the Revised Code for~~ 1577  
~~the reimbursement of a percentage of the counties' costs and~~ 1578  
~~expenses of conducting the defense in capital cases shall not~~ 1579  
~~exceed the total amount appropriated for that fiscal year by the~~ 1580  
~~general assembly for the reimbursement of the counties for~~ 1581  
~~conducting the defense in capital cases. If the amount~~ 1582  
~~appropriated by the general assembly in any fiscal year is~~ 1583  
~~insufficient to pay fifty per cent of the counties' total costs~~ 1584  
~~and expenses of conducting the defense in capital cases in the~~ 1585  
~~fiscal year, the amount of money paid in that fiscal year~~ 1586  
~~pursuant to section 120.35 of the Revised Code to each county~~ 1587  
~~for the fiscal year shall be reduced proportionately so that~~ 1588  
~~each county is paid an equal percentage of its costs and~~ 1589  
~~expenses of conducting the defense in capital cases in the~~ 1590  
~~fiscal year.~~ 1591

If any county receives an amount of money pursuant to 1592  
section 120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code 1593  
that is in excess of the amount of reimbursement it is entitled 1594  
to receive pursuant to this section, the state public defender 1595  
shall request the board of county commissioners to return the 1596  
excess payment and the board of county commissioners, upon 1597  
receipt of the request, shall direct the appropriate county 1598  
officer to return the excess payment to the state. 1599

Within thirty days of the end of each fiscal quarter, the 1600  
state public defender shall provide to the office of budget and 1601  
management and the ~~legislative budget office of the~~ legislative 1602  
service commission an estimate of the amount of money that will 1603  
be required for the balance of the fiscal year to make the 1604  
payments required by sections 120.18, 120.28, and 120.33, ~~and~~ 1605  
~~120.35~~ of the Revised Code. 1606

**Sec. 149.43.** (A) As used in this section: 1607

(1) "Public record" means records kept by any public 1608  
office, including, but not limited to, state, county, city, 1609  
village, township, and school district units, and records 1610  
pertaining to the delivery of educational services by an 1611  
alternative school in this state kept by the nonprofit or for- 1612  
profit entity operating the alternative school pursuant to 1613  
section 3313.533 of the Revised Code. "Public record" does not 1614  
mean any of the following: 1615

(a) Medical records; 1616

(b) Records pertaining to probation and parole proceedings 1617  
or to proceedings related to the imposition of community control 1618  
sanctions and post-release control sanctions; 1619

(c) Records pertaining to actions under section 2151.85 1620  
and division (C) of section 2919.121 of the Revised Code and to 1621  
appeals of actions arising under those sections; 1622

(d) Records pertaining to adoption proceedings, including 1623  
the contents of an adoption file maintained by the department of 1624  
health under sections 3705.12 to 3705.124 of the Revised Code; 1625

(e) Information in a record contained in the putative 1626  
father registry established by section 3107.062 of the Revised 1627  
Code, regardless of whether the information is held by the 1628  
department of job and family services or, pursuant to section 1629  
3111.69 of the Revised Code, the office of child support in the 1630  
department or a child support enforcement agency; 1631

(f) Records specified in division (A) of section 3107.52 1632  
of the Revised Code; 1633

(g) Trial preparation records; 1634

(h) Confidential law enforcement investigatory records;	1635
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	1636 1637
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	1638 1639
(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;	1640 1641 1642 1643
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	1644 1645 1646 1647
(m) Intellectual property records;	1648
(n) Donor profile records;	1649
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	1650 1651
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information;	1652 1653 1654 1655 1656 1657 1658
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in	1659 1660 1661 1662



section 1333.61 of the Revised Code;	1663
(r) Information pertaining to the recreational activities	1664
of a person under the age of eighteen;	1665
(s) In the case of a child fatality review board acting	1666
under sections 307.621 to 307.629 of the Revised Code or a	1667
review conducted pursuant to guidelines established by the	1668
director of health under section 3701.70 of the Revised Code,	1669
records provided to the board or director, statements made by	1670
board members during meetings of the board or by persons	1671
participating in the director's review, and all work products of	1672
the board or director, and in the case of a child fatality	1673
review board, child fatality review data submitted by the board	1674
to the department of health or a national child death review	1675
database, other than the report prepared pursuant to division	1676
(A) of section 307.626 of the Revised Code;	1677
(t) Records provided to and statements made by the	1678
executive director of a public children services agency or a	1679
prosecuting attorney acting pursuant to section 5153.171 of the	1680
Revised Code other than the information released under that	1681
section;	1682
(u) Test materials, examinations, or evaluation tools used	1683
in an examination for licensure as a nursing home administrator	1684
that the board of executives of long-term services and supports	1685
administers under section 4751.04 of the Revised Code or	1686
contracts under that section with a private or government entity	1687
to administer;	1688
(v) Records the release of which is prohibited by state or	1689
federal law;	1690
(w) Proprietary information of or relating to any person	1691

that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;	1692 1693
(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;	1694 1695 1696 1697 1698 1699
(y) Records listed in section 5101.29 of the Revised Code;	1700
(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B) (2) of that section;	1701 1702 1703
(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	1704 1705 1706
(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;	1707 1708 1709
<del>(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code;</del>	1710 1711 1712
<del>(dd)</del> Personal information, as defined in section 149.45 of the Revised Code;	1713 1714
<del>(ee)</del> <u>(dd)</u> The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's	1715 1716 1717 1718 1719

ballot identification envelope statement of voter, or 1720  
provisional ballot affirmation completed by a program 1721  
participant who has a confidential voter registration record, 1722  
and records or portions of records pertaining to that program 1723  
that identify the number of program participants that reside 1724  
within a precinct, ward, township, municipal corporation, 1725  
county, or any other geographic area smaller than the state. As 1726  
used in this division, "confidential address" and "program 1727  
participant" have the meaning defined in section 111.41 of the 1728  
Revised Code. 1729

~~(ff)~~ (ee) Orders for active military service of an 1730  
individual serving or with previous service in the armed forces 1731  
of the United States, including a reserve component, or the Ohio 1732  
organized militia, except that, such order becomes a public 1733  
record on the day that is fifteen years after the published date 1734  
or effective date of the call to order. 1735

(2) "Confidential law enforcement investigatory record" 1736  
means any record that pertains to a law enforcement matter of a 1737  
criminal, quasi-criminal, civil, or administrative nature, but 1738  
only to the extent that the release of the record would create a 1739  
high probability of disclosure of any of the following: 1740

(a) The identity of a suspect who has not been charged 1741  
with the offense to which the record pertains, or of an 1742  
information source or witness to whom confidentiality has been 1743  
reasonably promised; 1744

(b) Information provided by an information source or 1745  
witness to whom confidentiality has been reasonably promised, 1746  
which information would reasonably tend to disclose the source's 1747  
or witness's identity; 1748

- (c) Specific confidential investigatory techniques or 1749  
procedures or specific investigatory work product; 1750
- (d) Information that would endanger the life or physical 1751  
safety of law enforcement personnel, a crime victim, a witness, 1752  
or a confidential information source. 1753
- (3) "Medical record" means any document or combination of 1754  
documents, except births, deaths, and the fact of admission to 1755  
or discharge from a hospital, that pertains to the medical 1756  
history, diagnosis, prognosis, or medical condition of a patient 1757  
and that is generated and maintained in the process of medical 1758  
treatment. 1759
- (4) "Trial preparation record" means any record that 1760  
contains information that is specifically compiled in reasonable 1761  
anticipation of, or in defense of, a civil or criminal action or 1762  
proceeding, including the independent thought processes and 1763  
personal trial preparation of an attorney. 1764
- (5) "Intellectual property record" means a record, other 1765  
than a financial or administrative record, that is produced or 1766  
collected by or for faculty or staff of a state institution of 1767  
higher learning in the conduct of or as a result of study or 1768  
research on an educational, commercial, scientific, artistic, 1769  
technical, or scholarly issue, regardless of whether the study 1770  
or research was sponsored by the institution alone or in 1771  
conjunction with a governmental body or private concern, and 1772  
that has not been publicly released, published, or patented. 1773
- (6) "Donor profile record" means all records about donors 1774  
or potential donors to a public institution of higher education 1775  
except the names and reported addresses of the actual donors and 1776  
the date, amount, and conditions of the actual donation. 1777

(7) "Peace officer, parole officer, probation officer, 1778  
bailiff, prosecuting attorney, assistant prosecuting attorney, 1779  
correctional employee, community-based correctional facility 1780  
employee, youth services employee, firefighter, EMT, 1781  
investigator of the bureau of criminal identification and 1782  
investigation, or federal law enforcement officer residential 1783  
and familial information" means any information that discloses 1784  
any of the following about a peace officer, parole officer, 1785  
probation officer, bailiff, prosecuting attorney, assistant 1786  
prosecuting attorney, correctional employee, community-based 1787  
correctional facility employee, youth services employee, 1788  
firefighter, EMT, investigator of the bureau of criminal 1789  
identification and investigation, or federal law enforcement 1790  
officer: 1791

(a) The address of the actual personal residence of a 1792  
peace officer, parole officer, probation officer, bailiff, 1793  
assistant prosecuting attorney, correctional employee, 1794  
community-based correctional facility employee, youth services 1795  
employee, firefighter, EMT, an investigator of the bureau of 1796  
criminal identification and investigation, or federal law 1797  
enforcement officer, except for the state or political 1798  
subdivision in which the peace officer, parole officer, 1799  
probation officer, bailiff, assistant prosecuting attorney, 1800  
correctional employee, community-based correctional facility 1801  
employee, youth services employee, firefighter, EMT, 1802  
investigator of the bureau of criminal identification and 1803  
investigation, or federal law enforcement officer resides; 1804

(b) Information compiled from referral to or participation 1805  
in an employee assistance program; 1806

(c) The social security number, the residential telephone 1807

number, any bank account, debit card, charge card, or credit 1808  
card number, or the emergency telephone number of, or any 1809  
medical information pertaining to, a peace officer, parole 1810  
officer, probation officer, bailiff, prosecuting attorney, 1811  
assistant prosecuting attorney, correctional employee, 1812  
community-based correctional facility employee, youth services 1813  
employee, firefighter, EMT, investigator of the bureau of 1814  
criminal identification and investigation, or federal law 1815  
enforcement officer; 1816

(d) The name of any beneficiary of employment benefits, 1817  
including, but not limited to, life insurance benefits, provided 1818  
to a peace officer, parole officer, probation officer, bailiff, 1819  
prosecuting attorney, assistant prosecuting attorney, 1820  
correctional employee, community-based correctional facility 1821  
employee, youth services employee, firefighter, EMT, 1822  
investigator of the bureau of criminal identification and 1823  
investigation, or federal law enforcement officer by the peace 1824  
officer's, parole officer's, probation officer's, bailiff's, 1825  
prosecuting attorney's, assistant prosecuting attorney's, 1826  
correctional employee's, community-based correctional facility 1827  
employee's, youth services employee's, firefighter's, EMT's, 1828  
investigator of the bureau of criminal identification and 1829  
investigation's, or federal law enforcement officer's employer; 1830

(e) The identity and amount of any charitable or 1831  
employment benefit deduction made by the peace officer's, parole 1832  
officer's, probation officer's, bailiff's, prosecuting 1833  
attorney's, assistant prosecuting attorney's, correctional 1834  
employee's, community-based correctional facility employee's, 1835  
youth services employee's, firefighter's, EMT's, investigator of 1836  
the bureau of criminal identification and investigation's, or 1837  
federal law enforcement officer's employer from the peace 1838

officer's, parole officer's, probation officer's, bailiff's, 1839  
prosecuting attorney's, assistant prosecuting attorney's, 1840  
correctional employee's, community-based correctional facility 1841  
employee's, youth services employee's, firefighter's, EMT's, 1842  
investigator of the bureau of criminal identification and 1843  
investigation's, or federal law enforcement officer's 1844  
compensation unless the amount of the deduction is required by 1845  
state or federal law; 1846

(f) The name, the residential address, the name of the 1847  
employer, the address of the employer, the social security 1848  
number, the residential telephone number, any bank account, 1849  
debit card, charge card, or credit card number, or the emergency 1850  
telephone number of the spouse, a former spouse, or any child of 1851  
a peace officer, parole officer, probation officer, bailiff, 1852  
prosecuting attorney, assistant prosecuting attorney, 1853  
correctional employee, community-based correctional facility 1854  
employee, youth services employee, firefighter, EMT, 1855  
investigator of the bureau of criminal identification and 1856  
investigation, or federal law enforcement officer; 1857

(g) A photograph of a peace officer who holds a position 1858  
or has an assignment that may include undercover or plain 1859  
clothes positions or assignments as determined by the peace 1860  
officer's appointing authority. 1861

As used in divisions (A) (7) and (B) (9) of this section, 1862  
"peace officer" has the same meaning as in section 109.71 of the 1863  
Revised Code and also includes the superintendent and troopers 1864  
of the state highway patrol; it does not include the sheriff of 1865  
a county or a supervisory employee who, in the absence of the 1866  
sheriff, is authorized to stand in for, exercise the authority 1867  
of, and perform the duties of the sheriff. 1868

As used in divisions (A) (7) and (B) (9) of this section, 1869  
"correctional employee" means any employee of the department of 1870  
rehabilitation and correction who in the course of performing 1871  
the employee's job duties has or has had contact with inmates 1872  
and persons under supervision. 1873

As used in divisions (A) (7) and (B) (9) of this section, 1874  
"youth services employee" means any employee of the department 1875  
of youth services who in the course of performing the employee's 1876  
job duties has or has had contact with children committed to the 1877  
custody of the department of youth services. 1878

As used in divisions (A) (7) and (B) (9) of this section, 1879  
"firefighter" means any regular, paid or volunteer, member of a 1880  
lawfully constituted fire department of a municipal corporation, 1881  
township, fire district, or village. 1882

As used in divisions (A) (7) and (B) (9) of this section, 1883  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 1884  
emergency medical services for a public emergency medical 1885  
service organization. "Emergency medical service organization," 1886  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 1887  
in section 4765.01 of the Revised Code. 1888

As used in divisions (A) (7) and (B) (9) of this section, 1889  
"investigator of the bureau of criminal identification and 1890  
investigation" has the meaning defined in section 2903.11 of the 1891  
Revised Code. 1892

As used in divisions (A) (7) and (B) (9) of this section, 1893  
"federal law enforcement officer" has the meaning defined in 1894  
section 9.88 of the Revised Code. 1895

(8) "Information pertaining to the recreational activities 1896  
of a person under the age of eighteen" means information that is 1897



kept in the ordinary course of business by a public office, that 1898  
pertains to the recreational activities of a person under the 1899  
age of eighteen years, and that discloses any of the following: 1900

(a) The address or telephone number of a person under the 1901  
age of eighteen or the address or telephone number of that 1902  
person's parent, guardian, custodian, or emergency contact 1903  
person; 1904

(b) The social security number, birth date, or 1905  
photographic image of a person under the age of eighteen; 1906

(c) Any medical record, history, or information pertaining 1907  
to a person under the age of eighteen; 1908

(d) Any additional information sought or required about a 1909  
person under the age of eighteen for the purpose of allowing 1910  
that person to participate in any recreational activity 1911  
conducted or sponsored by a public office or to use or obtain 1912  
admission privileges to any recreational facility owned or 1913  
operated by a public office. 1914

(9) "Community control sanction" has the same meaning as 1915  
in section 2929.01 of the Revised Code. 1916

(10) "Post-release control sanction" has the same meaning 1917  
as in section 2967.01 of the Revised Code. 1918

(11) "Redaction" means obscuring or deleting any 1919  
information that is exempt from the duty to permit public 1920  
inspection or copying from an item that otherwise meets the 1921  
definition of a "record" in section 149.011 of the Revised Code. 1922

(12) "Designee" and "elected official" have the same 1923  
meanings as in section 109.43 of the Revised Code. 1924

(B) (1) Upon request and subject to division (B) (8) of this 1925

section, all public records responsive to the request shall be 1926  
promptly prepared and made available for inspection to any 1927  
person at all reasonable times during regular business hours. 1928  
Subject to division (B) (8) of this section, upon request, a 1929  
public office or person responsible for public records shall 1930  
make copies of the requested public record available at cost and 1931  
within a reasonable period of time. If a public record contains 1932  
information that is exempt from the duty to permit public 1933  
inspection or to copy the public record, the public office or 1934  
the person responsible for the public record shall make 1935  
available all of the information within the public record that 1936  
is not exempt. When making that public record available for 1937  
public inspection or copying that public record, the public 1938  
office or the person responsible for the public record shall 1939  
notify the requester of any redaction or make the redaction 1940  
plainly visible. A redaction shall be deemed a denial of a 1941  
request to inspect or copy the redacted information, except if 1942  
federal or state law authorizes or requires a public office to 1943  
make the redaction. 1944

(2) To facilitate broader access to public records, a 1945  
public office or the person responsible for public records shall 1946  
organize and maintain public records in a manner that they can 1947  
be made available for inspection or copying in accordance with 1948  
division (B) of this section. A public office also shall have 1949  
available a copy of its current records retention schedule at a 1950  
location readily available to the public. If a requester makes 1951  
an ambiguous or overly broad request or has difficulty in making 1952  
a request for copies or inspection of public records under this 1953  
section such that the public office or the person responsible 1954  
for the requested public record cannot reasonably identify what 1955  
public records are being requested, the public office or the 1956

person responsible for the requested public record may deny the 1957  
request but shall provide the requester with an opportunity to 1958  
revise the request by informing the requester of the manner in 1959  
which records are maintained by the public office and accessed 1960  
in the ordinary course of the public office's or person's 1961  
duties. 1962

(3) If a request is ultimately denied, in part or in 1963  
whole, the public office or the person responsible for the 1964  
requested public record shall provide the requester with an 1965  
explanation, including legal authority, setting forth why the 1966  
request was denied. If the initial request was provided in 1967  
writing, the explanation also shall be provided to the requester 1968  
in writing. The explanation shall not preclude the public office 1969  
or the person responsible for the requested public record from 1970  
relying upon additional reasons or legal authority in defending 1971  
an action commenced under division (C) of this section. 1972

(4) Unless specifically required or authorized by state or 1973  
federal law or in accordance with division (B) of this section, 1974  
no public office or person responsible for public records may 1975  
limit or condition the availability of public records by 1976  
requiring disclosure of the requester's identity or the intended 1977  
use of the requested public record. Any requirement that the 1978  
requester disclose the requester's identity or the intended use 1979  
of the requested public record constitutes a denial of the 1980  
request. 1981

(5) A public office or person responsible for public 1982  
records may ask a requester to make the request in writing, may 1983  
ask for the requester's identity, and may inquire about the 1984  
intended use of the information requested, but may do so only 1985  
after disclosing to the requester that a written request is not 1986

mandatory and that the requester may decline to reveal the 1987  
requester's identity or the intended use and when a written 1988  
request or disclosure of the identity or intended use would 1989  
benefit the requester by enhancing the ability of the public 1990  
office or person responsible for public records to identify, 1991  
locate, or deliver the public records sought by the requester. 1992

(6) If any person chooses to obtain a copy of a public 1993  
record in accordance with division (B) of this section, the 1994  
public office or person responsible for the public record may 1995  
require that person to pay in advance the cost involved in 1996  
providing the copy of the public record in accordance with the 1997  
choice made by the person seeking the copy under this division. 1998  
The public office or the person responsible for the public 1999  
record shall permit that person to choose to have the public 2000  
record duplicated upon paper, upon the same medium upon which 2001  
the public office or person responsible for the public record 2002  
keeps it, or upon any other medium upon which the public office 2003  
or person responsible for the public record determines that it 2004  
reasonably can be duplicated as an integral part of the normal 2005  
operations of the public office or person responsible for the 2006  
public record. When the person seeking the copy makes a choice 2007  
under this division, the public office or person responsible for 2008  
the public record shall provide a copy of it in accordance with 2009  
the choice made by the person seeking the copy. Nothing in this 2010  
section requires a public office or person responsible for the 2011  
public record to allow the person seeking a copy of the public 2012  
record to make the copies of the public record. 2013

(7) (a) Upon a request made in accordance with division (B) 2014  
of this section and subject to division (B) (6) of this section, 2015  
a public office or person responsible for public records shall 2016  
transmit a copy of a public record to any person by United 2017

States mail or by any other means of delivery or transmission 2018  
within a reasonable period of time after receiving the request 2019  
for the copy. The public office or person responsible for the 2020  
public record may require the person making the request to pay 2021  
in advance the cost of postage if the copy is transmitted by 2022  
United States mail or the cost of delivery if the copy is 2023  
transmitted other than by United States mail, and to pay in 2024  
advance the costs incurred for other supplies used in the 2025  
mailing, delivery, or transmission. 2026

(b) Any public office may adopt a policy and procedures 2027  
that it will follow in transmitting, within a reasonable period 2028  
of time after receiving a request, copies of public records by 2029  
United States mail or by any other means of delivery or 2030  
transmission pursuant to division (B) (7) of this section. A 2031  
public office that adopts a policy and procedures under division 2032  
(B) (7) of this section shall comply with them in performing its 2033  
duties under that division. 2034

(c) In any policy and procedures adopted under division 2035  
(B) (7) of this section: 2036

(i) A public office may limit the number of records 2037  
requested by a person that the office will physically deliver by 2038  
United States mail or by another delivery service to ten per 2039  
month, unless the person certifies to the office in writing that 2040  
the person does not intend to use or forward the requested 2041  
records, or the information contained in them, for commercial 2042  
purposes; 2043

(ii) A public office that chooses to provide some or all 2044  
of its public records on a web site that is fully accessible to 2045  
and searchable by members of the public at all times, other than 2046  
during acts of God outside the public office's control or 2047

maintenance, and that charges no fee to search, access, 2048  
download, or otherwise receive records provided on the web site, 2049  
may limit to ten per month the number of records requested by a 2050  
person that the office will deliver in a digital format, unless 2051  
the requested records are not provided on the web site and 2052  
unless the person certifies to the office in writing that the 2053  
person does not intend to use or forward the requested records, 2054  
or the information contained in them, for commercial purposes. 2055

(iii) For purposes of division (B)(7) of this section, 2056  
"commercial" shall be narrowly construed and does not include 2057  
reporting or gathering news, reporting or gathering information 2058  
to assist citizen oversight or understanding of the operation or 2059  
activities of government, or nonprofit educational research. 2060

(8) A public office or person responsible for public 2061  
records is not required to permit a person who is incarcerated 2062  
pursuant to a criminal conviction or a juvenile adjudication to 2063  
inspect or to obtain a copy of any public record concerning a 2064  
criminal investigation or prosecution or concerning what would 2065  
be a criminal investigation or prosecution if the subject of the 2066  
investigation or prosecution were an adult, unless the request 2067  
to inspect or to obtain a copy of the record is for the purpose 2068  
of acquiring information that is subject to release as a public 2069  
record under this section and the judge who imposed the sentence 2070  
or made the adjudication with respect to the person, or the 2071  
judge's successor in office, finds that the information sought 2072  
in the public record is necessary to support what appears to be 2073  
a justiciable claim of the person. 2074

(9) (a) Upon written request made and signed by a 2075  
journalist on or after December 16, 1999, a public office, or 2076  
person responsible for public records, having custody of the 2077

records of the agency employing a specified peace officer, 2078  
parole officer, probation officer, bailiff, prosecuting 2079  
attorney, assistant prosecuting attorney, correctional employee, 2080  
community-based correctional facility employee, youth services 2081  
employee, firefighter, EMT, investigator of the bureau of 2082  
criminal identification and investigation, or federal law 2083  
enforcement officer shall disclose to the journalist the address 2084  
of the actual personal residence of the peace officer, parole 2085  
officer, probation officer, bailiff, prosecuting attorney, 2086  
assistant prosecuting attorney, correctional employee, 2087  
community-based correctional facility employee, youth services 2088  
employee, firefighter, EMT, investigator of the bureau of 2089  
criminal identification and investigation, or federal law 2090  
enforcement officer and, if the peace officer's, parole 2091  
officer's, probation officer's, bailiff's, prosecuting 2092  
attorney's, assistant prosecuting attorney's, correctional 2093  
employee's, community-based correctional facility employee's, 2094  
youth services employee's, firefighter's, EMT's, investigator of 2095  
the bureau of criminal identification and investigation's, or 2096  
federal law enforcement officer's spouse, former spouse, or 2097  
child is employed by a public office, the name and address of 2098  
the employer of the peace officer's, parole officer's, probation 2099  
officer's, bailiff's, prosecuting attorney's, assistant 2100  
prosecuting attorney's, correctional employee's, community-based 2101  
correctional facility employee's, youth services employee's, 2102  
firefighter's, EMT's, investigator of the bureau of criminal 2103  
identification and investigation's, or federal law enforcement 2104  
officer's spouse, former spouse, or child. The request shall 2105  
include the journalist's name and title and the name and address 2106  
of the journalist's employer and shall state that disclosure of 2107  
the information sought would be in the public interest. 2108

(b) Division (B) (9) (a) of this section also applies to 2109  
journalist requests for customer information maintained by a 2110  
municipally owned or operated public utility, other than social 2111  
security numbers and any private financial information such as 2112  
credit reports, payment methods, credit card numbers, and bank 2113  
account information. 2114

(c) As used in division (B) (9) of this section, 2115  
"journalist" means a person engaged in, connected with, or 2116  
employed by any news medium, including a newspaper, magazine, 2117  
press association, news agency, or wire service, a radio or 2118  
television station, or a similar medium, for the purpose of 2119  
gathering, processing, transmitting, compiling, editing, or 2120  
disseminating information for the general public. 2121

(C) (1) If a person allegedly is aggrieved by the failure 2122  
of a public office or the person responsible for public records 2123  
to promptly prepare a public record and to make it available to 2124  
the person for inspection in accordance with division (B) of 2125  
this section or by any other failure of a public office or the 2126  
person responsible for public records to comply with an 2127  
obligation in accordance with division (B) of this section, the 2128  
person allegedly aggrieved may do only one of the following, and 2129  
not both: 2130

(a) File a complaint with the clerk of the court of claims 2131  
or the clerk of the court of common pleas under section 2743.75 2132  
of the Revised Code; 2133

(b) Commence a mandamus action to obtain a judgment that 2134  
orders the public office or the person responsible for the 2135  
public record to comply with division (B) of this section, that 2136  
awards court costs and reasonable attorney's fees to the person 2137  
that instituted the mandamus action, and, if applicable, that 2138



includes an order fixing statutory damages under division (C) (2) 2139  
of this section. The mandamus action may be commenced in the 2140  
court of common pleas of the county in which division (B) of 2141  
this section allegedly was not complied with, in the supreme 2142  
court pursuant to its original jurisdiction under Section 2 of 2143  
Article IV, Ohio Constitution, or in the court of appeals for 2144  
the appellate district in which division (B) of this section 2145  
allegedly was not complied with pursuant to its original 2146  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 2147

(2) If a requester transmits a written request by hand 2148  
delivery or certified mail to inspect or receive copies of any 2149  
public record in a manner that fairly describes the public 2150  
record or class of public records to the public office or person 2151  
responsible for the requested public records, except as 2152  
otherwise provided in this section, the requester shall be 2153  
entitled to recover the amount of statutory damages set forth in 2154  
this division if a court determines that the public office or 2155  
the person responsible for public records failed to comply with 2156  
an obligation in accordance with division (B) of this section. 2157

The amount of statutory damages shall be fixed at one 2158  
hundred dollars for each business day during which the public 2159  
office or person responsible for the requested public records 2160  
failed to comply with an obligation in accordance with division 2161  
(B) of this section, beginning with the day on which the 2162  
requester files a mandamus action to recover statutory damages, 2163  
up to a maximum of one thousand dollars. The award of statutory 2164  
damages shall not be construed as a penalty, but as compensation 2165  
for injury arising from lost use of the requested information. 2166  
The existence of this injury shall be conclusively presumed. The 2167  
award of statutory damages shall be in addition to all other 2168  
remedies authorized by this section. 2169

The court may reduce an award of statutory damages or not 2170  
award statutory damages if the court determines both of the 2171  
following: 2172

(a) That, based on the ordinary application of statutory 2173  
law and case law as it existed at the time of the conduct or 2174  
threatened conduct of the public office or person responsible 2175  
for the requested public records that allegedly constitutes a 2176  
failure to comply with an obligation in accordance with division 2177  
(B) of this section and that was the basis of the mandamus 2178  
action, a well-informed public office or person responsible for 2179  
the requested public records reasonably would believe that the 2180  
conduct or threatened conduct of the public office or person 2181  
responsible for the requested public records did not constitute 2182  
a failure to comply with an obligation in accordance with 2183  
division (B) of this section; 2184

(b) That a well-informed public office or person 2185  
responsible for the requested public records reasonably would 2186  
believe that the conduct or threatened conduct of the public 2187  
office or person responsible for the requested public records 2188  
would serve the public policy that underlies the authority that 2189  
is asserted as permitting that conduct or threatened conduct. 2190

(3) In a mandamus action filed under division (C) (1) of 2191  
this section, the following apply: 2192

(a) (i) If the court orders the public office or the person 2193  
responsible for the public record to comply with division (B) of 2194  
this section, the court shall determine and award to the relator 2195  
all court costs, which shall be construed as remedial and not 2196  
punitive. 2197

(ii) If the court makes a determination described in 2198

division (C) (3) (b) (iii) of this section, the court shall 2199  
determine and award to the relator all court costs, which shall 2200  
be construed as remedial and not punitive. 2201

(b) If the court renders a judgment that orders the public 2202  
office or the person responsible for the public record to comply 2203  
with division (B) of this section or if the court determines any 2204  
of the following, the court may award reasonable attorney's fees 2205  
to the relator, subject to the provisions of division (C) (4) of 2206  
this section: 2207

(i) The public office or the person responsible for the 2208  
public records failed to respond affirmatively or negatively to 2209  
the public records request in accordance with the time allowed 2210  
under division (B) of this section. 2211

(ii) The public office or the person responsible for the 2212  
public records promised to permit the relator to inspect or 2213  
receive copies of the public records requested within a 2214  
specified period of time but failed to fulfill that promise 2215  
within that specified period of time. 2216

(iii) The public office or the person responsible for the 2217  
public records acted in bad faith when the office or person 2218  
voluntarily made the public records available to the relator for 2219  
the first time after the relator commenced the mandamus action, 2220  
but before the court issued any order concluding whether or not 2221  
the public office or person was required to comply with division 2222  
(B) of this section. No discovery may be conducted on the issue 2223  
of the alleged bad faith of the public office or person 2224  
responsible for the public records. This division shall not be 2225  
construed as creating a presumption that the public office or 2226  
the person responsible for the public records acted in bad faith 2227  
when the office or person voluntarily made the public records 2228

available to the relator for the first time after the relator 2229  
commenced the mandamus action, but before the court issued any 2230  
order described in this division. 2231

(c) The court shall not award attorney's fees to the 2232  
relator if the court determines both of the following: 2233

(i) That, based on the ordinary application of statutory 2234  
law and case law as it existed at the time of the conduct or 2235  
threatened conduct of the public office or person responsible 2236  
for the requested public records that allegedly constitutes a 2237  
failure to comply with an obligation in accordance with division 2238  
(B) of this section and that was the basis of the mandamus 2239  
action, a well-informed public office or person responsible for 2240  
the requested public records reasonably would believe that the 2241  
conduct or threatened conduct of the public office or person 2242  
responsible for the requested public records did not constitute 2243  
a failure to comply with an obligation in accordance with 2244  
division (B) of this section; 2245

(ii) That a well-informed public office or person 2246  
responsible for the requested public records reasonably would 2247  
believe that the conduct or threatened conduct of the public 2248  
office or person responsible for the requested public records 2249  
would serve the public policy that underlies the authority that 2250  
is asserted as permitting that conduct or threatened conduct. 2251

(4) All of the following apply to any award of reasonable 2252  
attorney's fees awarded under division (C) (3) (b) of this 2253  
section: 2254

(a) The fees shall be construed as remedial and not 2255  
punitive. 2256

(b) The fees awarded shall not exceed the total of the 2257

reasonable attorney's fees incurred before the public record was 2258  
made available to the relator and the fees described in division 2259  
(C) (4) (c) of this section. 2260

(c) Reasonable attorney's fees shall include reasonable 2261  
fees incurred to produce proof of the reasonableness and amount 2262  
of the fees and to otherwise litigate entitlement to the fees. 2263

(d) The court may reduce the amount of fees awarded if the 2264  
court determines that, given the factual circumstances involved 2265  
with the specific public records request, an alternative means 2266  
should have been pursued to more effectively and efficiently 2267  
resolve the dispute that was subject to the mandamus action 2268  
filed under division (C) (1) of this section. 2269

(5) If the court does not issue a writ of mandamus under 2270  
division (C) of this section and the court determines at that 2271  
time that the bringing of the mandamus action was frivolous 2272  
conduct as defined in division (A) of section 2323.51 of the 2273  
Revised Code, the court may award to the public office all court 2274  
costs, expenses, and reasonable attorney's fees, as determined 2275  
by the court. 2276

(D) Chapter 1347. of the Revised Code does not limit the 2277  
provisions of this section. 2278

(E) (1) To ensure that all employees of public offices are 2279  
appropriately educated about a public office's obligations under 2280  
division (B) of this section, all elected officials or their 2281  
appropriate designees shall attend training approved by the 2282  
attorney general as provided in section 109.43 of the Revised 2283  
Code. In addition, all public offices shall adopt a public 2284  
records policy in compliance with this section for responding to 2285  
public records requests. In adopting a public records policy 2286

under this division, a public office may obtain guidance from 2287  
the model public records policy developed and provided to the 2288  
public office by the attorney general under section 109.43 of 2289  
the Revised Code. Except as otherwise provided in this section, 2290  
the policy may not limit the number of public records that the 2291  
public office will make available to a single person, may not 2292  
limit the number of public records that it will make available 2293  
during a fixed period of time, and may not establish a fixed 2294  
period of time before it will respond to a request for 2295  
inspection or copying of public records, unless that period is 2296  
less than eight hours. 2297

(2) The public office shall distribute the public records 2298  
policy adopted by the public office under division (E)(1) of 2299  
this section to the employee of the public office who is the 2300  
records custodian or records manager or otherwise has custody of 2301  
the records of that office. The public office shall require that 2302  
employee to acknowledge receipt of the copy of the public 2303  
records policy. The public office shall create a poster that 2304  
describes its public records policy and shall post the poster in 2305  
a conspicuous place in the public office and in all locations 2306  
where the public office has branch offices. The public office 2307  
may post its public records policy on the internet web site of 2308  
the public office if the public office maintains an internet web 2309  
site. A public office that has established a manual or handbook 2310  
of its general policies and procedures for all employees of the 2311  
public office shall include the public records policy of the 2312  
public office in the manual or handbook. 2313

(F)(1) The bureau of motor vehicles may adopt rules 2314  
pursuant to Chapter 119. of the Revised Code to reasonably limit 2315  
the number of bulk commercial special extraction requests made 2316  
by a person for the same records or for updated records during a 2317

calendar year. The rules may include provisions for charges to 2318  
be made for bulk commercial special extraction requests for the 2319  
actual cost of the bureau, plus special extraction costs, plus 2320  
ten per cent. The bureau may charge for expenses for redacting 2321  
information, the release of which is prohibited by law. 2322

(2) As used in division (F) (1) of this section: 2323

(a) "Actual cost" means the cost of depleted supplies, 2324  
records storage media costs, actual mailing and alternative 2325  
delivery costs, or other transmitting costs, and any direct 2326  
equipment operating and maintenance costs, including actual 2327  
costs paid to private contractors for copying services. 2328

(b) "Bulk commercial special extraction request" means a 2329  
request for copies of a record for information in a format other 2330  
than the format already available, or information that cannot be 2331  
extracted without examination of all items in a records series, 2332  
class of records, or database by a person who intends to use or 2333  
forward the copies for surveys, marketing, solicitation, or 2334  
resale for commercial purposes. "Bulk commercial special 2335  
extraction request" does not include a request by a person who 2336  
gives assurance to the bureau that the person making the request 2337  
does not intend to use or forward the requested copies for 2338  
surveys, marketing, solicitation, or resale for commercial 2339  
purposes. 2340

(c) "Commercial" means profit-seeking production, buying, 2341  
or selling of any good, service, or other product. 2342

(d) "Special extraction costs" means the cost of the time 2343  
spent by the lowest paid employee competent to perform the task, 2344  
the actual amount paid to outside private contractors employed 2345  
by the bureau, or the actual cost incurred to create computer 2346

programs to make the special extraction. "Special extraction 2347  
costs" include any charges paid to a public agency for computer 2348  
or records services. 2349

(3) For purposes of divisions (F)(1) and (2) of this 2350  
section, "surveys, marketing, solicitation, or resale for 2351  
commercial purposes" shall be narrowly construed and does not 2352  
include reporting or gathering news, reporting or gathering 2353  
information to assist citizen oversight or understanding of the 2354  
operation or activities of government, or nonprofit educational 2355  
research. 2356

(G) A request by a defendant, counsel of a defendant, or 2357  
any agent of a defendant in a criminal action that public 2358  
records related to that action be made available under this 2359  
section shall be considered a demand for discovery pursuant to 2360  
the Criminal Rules, except to the extent that the Criminal Rules 2361  
plainly indicate a contrary intent. The defendant, counsel of 2362  
the defendant, or agent of the defendant making a request under 2363  
this division shall serve a copy of the request on the 2364  
prosecuting attorney, director of law, or other chief legal 2365  
officer responsible for prosecuting the action. 2366

**Sec. 1901.183.** In addition to jurisdiction otherwise 2367  
granted in this chapter, the environmental division of a 2368  
municipal court shall have jurisdiction within its territory in 2369  
all of the following actions or proceedings and to perform all 2370  
of the following functions: 2371

(A) Notwithstanding any monetary limitations in section 2372  
1901.17 of the Revised Code, in all actions and proceedings for 2373  
the sale of real or personal property under lien of a judgment 2374  
of the environmental division of the municipal court, or a lien 2375  
for machinery, material, fuel furnished, or labor performed, 2376



irrespective of amount, and, in those cases, the environmental 2377  
division may proceed to foreclose and marshal all liens and all 2378  
vested or contingent rights, to appoint a receiver, and to 2379  
render personal judgment irrespective of amount in favor of any 2380  
party; 2381

(B) When in aid of execution of a judgment of the 2382  
environmental division of the municipal court, in all actions 2383  
for the foreclosure of a mortgage on real property given to 2384  
secure the payment of money, or the enforcement of a specific 2385  
lien for money or other encumbrance or charge on real property, 2386  
when the real property is situated within the territory, and, in 2387  
those cases, the environmental division may proceed to foreclose 2388  
all liens and all vested and contingent rights and proceed to 2389  
render judgments, and make findings and orders, between the 2390  
parties, in the same manner and to the same extent as in similar 2391  
cases in the court of common pleas; 2392

(C) When in aid of execution of a judgment of the 2393  
environmental division of the municipal court, in all actions 2394  
for the recovery of real property situated within the territory 2395  
to the same extent as courts of common pleas have jurisdiction; 2396

(D) In all actions for injunction to prevent or terminate 2397  
violations of the ordinances and regulations of any municipal 2398  
corporation within its territory enacted or promulgated under 2399  
the police power of that municipal corporation pursuant to 2400  
Section 3 of Article XVIII, Ohio Constitution, over which the 2401  
court of common pleas has or may have jurisdiction, and, in 2402  
those cases, the environmental division of the municipal court 2403  
may proceed to render judgments, and make findings and orders, 2404  
in the same manner and to the same extent as in similar cases in 2405  
the court of common pleas; 2406

(E) In all actions for injunction to prevent or terminate 2407  
violations of the resolutions and regulations of any political 2408  
subdivision within its territory enacted or promulgated under 2409  
the power of that political subdivision pursuant to Article X of 2410  
the Ohio Constitution, over which the court of common pleas has 2411  
or may have jurisdiction, and, in those cases, the environmental 2412  
division of the municipal court may proceed to render judgments, 2413  
and make findings and orders, in the same manner and to the same 2414  
extent as in similar cases in the court of common pleas; 2415

(F) In any civil action to enforce any provision of 2416  
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 2417  
Revised Code over which the court of common pleas has or may 2418  
have jurisdiction, and, in those actions, the environmental 2419  
division of the municipal court may proceed to render judgments, 2420  
and make findings and orders, in the same manner and to the same 2421  
extent as in similar actions in the court of common pleas; 2422

(G) In all actions and proceedings in the nature of 2423  
creditors' bills, and in aid of execution to subject the 2424  
interests of a judgment debtor in real or personal property to 2425  
the payment of a judgment of the division, and, in those actions 2426  
and proceedings, the environmental division may proceed to 2427  
marshal and foreclose all liens on the property irrespective of 2428  
the amount of the lien, and all vested or contingent rights in 2429  
the property; 2430

(H) Concurrent jurisdiction with the court of common pleas 2431  
of all criminal actions or proceedings related to the pollution 2432  
of the air, ground, or water within the territory of the 2433  
environmental division of the municipal court, ~~for which a~~ 2434  
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 2435  
~~Revised Code;~~ 2436

(I) In any review or appeal of any final order of any administrative officer, agency, board, department, tribunal, commission, or other instrumentality that relates to a local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation, in the same manner and to the same extent as in similar appeals in the court of common pleas;

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

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

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

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

(2) The child waives the right to indictment, charging the

child in a bill of information as a serious youthful offender; 2466

(3) Until an indictment or information is obtained, 2467  
requesting a serious youthful offender dispositional sentence in 2468  
the original complaint alleging that the child is a delinquent 2469  
child; 2470

(4) Until an indictment or information is obtained, if the 2471  
original complaint does not request a serious youthful offender 2472  
dispositional sentence, filing with the juvenile court a written 2473  
notice of intent to seek a serious youthful offender 2474  
dispositional sentence within twenty days after the later of the 2475  
following, unless the time is extended by the juvenile court for 2476  
good cause shown: 2477

(a) The date of the child's first juvenile court hearing 2478  
regarding the complaint; 2479

(b) The date the juvenile court determines not to transfer 2480  
the case under section 2152.12 of the Revised Code. 2481

After a written notice is filed under division (A) (4) of 2482  
this section, the juvenile court shall serve a copy of the 2483  
notice on the child and advise the child of the prosecuting 2484  
attorney's intent to seek a serious youthful offender 2485  
dispositional sentence in the case. 2486

(B) If an alleged delinquent child is not indicted or 2487  
charged by information as described in division (A) (1) or (2) of 2488  
this section and if a notice or complaint as described in 2489  
division (A) (3) or (4) of this section indicates that the 2490  
prosecuting attorney intends to pursue a serious youthful 2491  
offender dispositional sentence in the case, the juvenile court 2492  
shall hold a preliminary hearing to determine if there is 2493  
probable cause that the child committed the act charged and is 2494

by age eligible for, or required to receive, a serious youthful 2495  
offender dispositional sentence. 2496

(C) (1) A child for whom a serious youthful offender 2497  
dispositional sentence is sought by a prosecuting attorney has 2498  
the right to a grand jury determination of probable cause that 2499  
the child committed the act charged and that the child is 2500  
eligible by age for a serious youthful offender dispositional 2501  
sentence. The grand jury may be impaneled by the court of common 2502  
pleas or the juvenile court. 2503

Once a child is indicted, or charged by information or the 2504  
juvenile court determines that the child is eligible for a 2505  
serious youthful offender dispositional sentence, the child is 2506  
entitled to an open and speedy trial by jury in juvenile court 2507  
and to be provided with a transcript of the proceedings. The 2508  
time within which the trial is to be held under Title XXIX of 2509  
the Revised Code commences on whichever of the following dates 2510  
is applicable: 2511

(a) If the child is indicted or charged by information, on 2512  
the date of the filing of the indictment or information. 2513

(b) If the child is charged by an original complaint that 2514  
requests a serious youthful offender dispositional sentence, on 2515  
the date of the filing of the complaint. 2516

(c) If the child is not charged by an original complaint 2517  
that requests a serious youthful offender dispositional 2518  
sentence, on the date that the prosecuting attorney files the 2519  
written notice of intent to seek a serious youthful offender 2520  
dispositional sentence. 2521

(2) If the child is detained awaiting adjudication, upon 2522  
indictment or being charged by information, the child has the 2523

same right to bail as an adult charged with the offense the 2524  
alleged delinquent act would be if committed by an adult. Except 2525  
as provided in division (D) of section 2152.14 of the Revised 2526  
Code, all provisions of Title XXIX of the Revised Code and the 2527  
Criminal Rules shall apply in the case and to the child. The 2528  
juvenile court shall afford the child all rights afforded a 2529  
person who is prosecuted for committing a crime including the 2530  
right to counsel and the right to raise the issue of competency. 2531  
The child may not waive the right to counsel. 2532

(D) (1) If a child is adjudicated a delinquent child for 2533  
committing an act under circumstances that require the juvenile 2534  
court to impose upon the child a serious youthful offender 2535  
dispositional sentence under section 2152.11 of the Revised 2536  
Code, all of the following apply: 2537

(a) The juvenile court shall impose upon the child a 2538  
sentence available for the violation, as if the child were an 2539  
adult, under Chapter 2929. of the Revised Code, except that the 2540  
juvenile court shall not impose on the child a sentence of ~~death-~~ 2541  
~~or~~-life imprisonment without parole. 2542

(b) The juvenile court also shall impose upon the child 2543  
one or more traditional juvenile dispositions under sections 2544  
2152.16, 2152.19, and 2152.20, and, if applicable, section 2545  
2152.17 of the Revised Code. 2546

(c) The juvenile court shall stay the adult portion of the 2547  
serious youthful offender dispositional sentence pending the 2548  
successful completion of the traditional juvenile dispositions 2549  
imposed. 2550

(2) (a) If a child is adjudicated a delinquent child for 2551  
committing an act under circumstances that allow, but do not 2552

require, the juvenile court to impose on the child a serious 2553  
youthful offender dispositional sentence under section 2152.11 2554  
of the Revised Code, all of the following apply: 2555

(i) If the juvenile court on the record makes a finding 2556  
that, given the nature and circumstances of the violation and 2557  
the history of the child, the length of time, level of security, 2558  
and types of programming and resources available in the juvenile 2559  
system alone are not adequate to provide the juvenile court with 2560  
a reasonable expectation that the purposes set forth in section 2561  
2152.01 of the Revised Code will be met, the juvenile court may 2562  
impose upon the child a sentence available for the violation, as 2563  
if the child were an adult, under Chapter 2929. of the Revised 2564  
Code, except that the juvenile court shall not impose on the 2565  
child a sentence of ~~death or~~ life imprisonment without parole. 2566

(ii) If a sentence is imposed under division (D) (2) (a) (i) 2567  
of this section, the juvenile court also shall impose upon the 2568  
child one or more traditional juvenile dispositions under 2569  
sections 2152.16, 2152.19, and 2152.20 and, if applicable, 2570  
section 2152.17 of the Revised Code. 2571

(iii) The juvenile court shall stay the adult portion of 2572  
the serious youthful offender dispositional sentence pending the 2573  
successful completion of the traditional juvenile dispositions 2574  
imposed. 2575

(b) If the juvenile court does not find that a sentence 2576  
should be imposed under division (D) (2) (a) (i) of this section, 2577  
the juvenile court may impose one or more traditional juvenile 2578  
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 2579  
applicable, section 2152.17 of the Revised Code. 2580

(3) A child upon whom a serious youthful offender 2581

dispositional sentence is imposed under division (D) (1) or (2) 2582  
of this section has a right to appeal under division (A) (1), 2583  
(3), (4), or (5) of section 2953.08 of the Revised Code the 2584  
adult portion of the serious youthful offender dispositional 2585  
sentence when any of those divisions apply. The child may appeal 2586  
the adult portion, and the court shall consider the appeal as if 2587  
the adult portion were not stayed. 2588

**Sec. 2152.67.** Any adult who is arrested or charged under 2589  
any provision in this chapter and who is charged with a crime 2590  
may demand a trial by jury, or the juvenile judge upon the 2591  
judge's own motion may call a jury. A demand for a jury trial 2592  
shall be made in writing in not less than three days before the 2593  
date set for trial, or within three days after counsel has been 2594  
retained, whichever is later. Sections 2945.17 and 2945.23 to 2595  
2945.36 of the Revised Code, relating to the drawing and 2596  
impaneling of jurors in criminal cases in the court of common 2597  
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 2598  
under this section. The compensation of jurors and costs of the 2599  
clerk and sheriff shall be taxed and paid in the same manner as 2600  
in criminal cases in the court of common pleas. 2601

**Sec. 2301.20.** All civil and criminal actions in the court 2602  
of common pleas shall be recorded. The reporter shall take 2603  
accurate notes of or electronically record the oral testimony. 2604  
The notes and electronic records shall be filed in the office of 2605  
the official reporter and carefully preserved for ~~either of the~~ 2606  
~~following periods of time:~~ 2607

~~(A) If the action is not a capital case, the notes and~~ 2608  
~~electronic records shall be preserved for the period of time~~ 2609  
specified by the court of common pleas, which period of time 2610  
shall not be longer than the period of time that the other 2611



records of the particular action are required to be kept. 2612

~~(B) If the action is a capital case, the notes and 2613  
electronic records shall be preserved for the longer of ten 2614  
years or until the final disposition of the action and 2615  
exhaustion of all appeals. 2616~~

**Sec. 2307.60.** (A) (1) Anyone injured in person or property 2617  
by a criminal act has, and may recover full damages in, a civil 2618  
action unless specifically excepted by law, may recover the 2619  
costs of maintaining the civil action and attorney's fees if 2620  
authorized by any provision of the Rules of Civil Procedure or 2621  
another section of the Revised Code or under the common law of 2622  
this state, and may recover punitive or exemplary damages if 2623  
authorized by section 2315.21 or another section of the Revised 2624  
Code. 2625

(2) A final judgment of a trial court that has not been 2626  
reversed on appeal or otherwise set aside, nullified, or 2627  
vacated, entered after a trial or upon a plea of guilty, but not 2628  
upon a plea of no contest or the equivalent plea from another 2629  
jurisdiction, that adjudges an offender guilty of an offense of 2630  
violence punishable by ~~death or~~ imprisonment in excess of one 2631  
year, when entered as evidence in any subsequent civil 2632  
proceeding based on the criminal act, shall preclude the 2633  
offender from denying in the subsequent civil proceeding any 2634  
fact essential to sustaining that judgment, unless the offender 2635  
can demonstrate that extraordinary circumstances prevented the 2636  
offender from having a full and fair opportunity to litigate the 2637  
issue in the criminal proceeding or other extraordinary 2638  
circumstances justify affording the offender an opportunity to 2639  
relitigate the issue. The offender may introduce evidence of the 2640  
offender's pending appeal of the final judgment of the trial 2641

court, if applicable, and the court may consider that evidence 2642  
in determining the liability of the offender. 2643

(B) (1) As used in division (B) of this section: 2644

(a) "Tort action" means a civil action for damages for 2645  
injury, death, or loss to person or property other than a civil 2646  
action for damages for a breach of contract or another agreement 2647  
between persons. "Tort action" includes, but is not limited to, 2648  
a product liability claim, as defined in section 2307.71 of the 2649  
Revised Code, and an asbestos claim, as defined in section 2650  
2307.91 of the Revised Code, an action for wrongful death under 2651  
Chapter 2125. of the Revised Code, and an action based on 2652  
derivative claims for relief. 2653

(b) "Residence" has the same meaning as in section 2901.05 2654  
of the Revised Code. 2655

(2) Recovery on a claim for relief in a tort action is 2656  
barred to any person or the person's legal representative if any 2657  
of the following apply: 2658

(a) The person has been convicted of or has pleaded guilty 2659  
to a felony, or to a misdemeanor that is an offense of violence, 2660  
arising out of criminal conduct that was a proximate cause of 2661  
the injury or loss for which relief is claimed in the tort 2662  
action. 2663

(b) The person engaged in conduct that, if prosecuted, 2664  
would constitute a felony, a misdemeanor that is an offense of 2665  
violence, an attempt to commit a felony, or an attempt to commit 2666  
a misdemeanor that is an offense of violence and that conduct 2667  
was a proximate cause of the injury or loss for which relief is 2668  
claimed in the tort action, regardless of whether the person has 2669  
been convicted of or pleaded guilty to or has been charged with 2670

committing the felony, the misdemeanor, or the attempt to commit 2671  
the felony or misdemeanor. 2672

(c) The person suffered the injury or loss for which 2673  
relief is claimed in the tort action as a proximate result of 2674  
the victim of conduct that, if prosecuted, would constitute a 2675  
felony, a misdemeanor that is an offense of violence, an attempt 2676  
to commit a felony, or an attempt to commit a misdemeanor that 2677  
is an offense of violence acting against the person in self- 2678  
defense, defense of another, or defense of the victim's 2679  
residence, regardless of whether the person has been convicted 2680  
of or pleaded guilty to or has been charged with committing the 2681  
felony, the misdemeanor, or the attempt to commit the felony or 2682  
misdemeanor. Division (B) (2) (c) of this section does not apply 2683  
if the person who suffered the injury or loss, at the time of 2684  
the victim's act of self-defense, defense of another, or defense 2685  
of residence, was an innocent bystander who had no connection 2686  
with the underlying conduct that prompted the victim's exercise 2687  
of self-defense, defense of another, or defense of residence. 2688

(3) Recovery against a victim of conduct that, if 2689  
prosecuted, would constitute a felony, a misdemeanor that is an 2690  
offense of violence, an attempt to commit a felony, or an 2691  
attempt to commit a misdemeanor that is an offense of violence, 2692  
on a claim for relief in a tort action is barred to any person 2693  
or the person's legal representative if conduct the person 2694  
engaged in against that victim was a proximate cause of the 2695  
injury or loss for which relief is claimed in the tort action 2696  
and that conduct, if prosecuted, would constitute a felony, a 2697  
misdemeanor that is an offense of violence, an attempt to commit 2698  
a felony, or an attempt to commit a misdemeanor that is an 2699  
offense of violence, regardless of whether the person has been 2700  
convicted of or pleaded guilty to or has been charged with 2701

committing the felony, the misdemeanor, or the attempt to commit 2702  
the felony or misdemeanor. 2703

(4) Divisions (B) (1) to (3) of this section do not apply 2704  
to civil claims based upon alleged intentionally tortious 2705  
conduct, alleged violations of the United States Constitution, 2706  
or alleged violations of statutes of the United States 2707  
pertaining to civil rights. For purposes of division (B) (4) of 2708  
this section, a person's act of self-defense, defense of 2709  
another, or defense of the person's residence does not 2710  
constitute intentionally tortious conduct. 2711

**Sec. 2317.02.** The following persons shall not testify in 2712  
certain respects: 2713

(A) (1) An attorney, concerning a communication made to the 2714  
attorney by a client in that relation or concerning the 2715  
attorney's advice to a client, except that the attorney may 2716  
testify by express consent of the client or, if the client is 2717  
deceased, by the express consent of the surviving spouse or the 2718  
executor or administrator of the estate of the deceased client. 2719  
However, if the client voluntarily reveals the substance of 2720  
attorney-client communications in a nonprivileged context or is 2721  
deemed by section 2151.421 of the Revised Code to have waived 2722  
any testimonial privilege under this division, the attorney may 2723  
be compelled to testify on the same subject. 2724

The testimonial privilege established under this division 2725  
does not apply concerning ~~either of the following:~~ 2726

~~(a) A communication between a client in a capital case, as 2727  
defined in section 2901.02 of the Revised Code, and the client's 2728  
attorney if the communication is relevant to a subsequent 2729  
ineffective assistance of counsel claim by the client alleging 2730~~

~~that the attorney did not effectively represent the client in  
the case;~~ 2731  
2732

~~(b) A~~ a communication between a client who has since died 2733  
and the deceased client's attorney if the communication is 2734  
relevant to a dispute between parties who claim through that 2735  
deceased client, regardless of whether the claims are by testate 2736  
or intestate succession or by inter vivos transaction, and the 2737  
dispute addresses the competency of the deceased client when the 2738  
deceased client executed a document that is the basis of the 2739  
dispute or whether the deceased client was a victim of fraud, 2740  
undue influence, or duress when the deceased client executed a 2741  
document that is the basis of the dispute. 2742

(2) An attorney, concerning a communication made to the 2743  
attorney by a client in that relationship or the attorney's 2744  
advice to a client, except that if the client is an insurance 2745  
company, the attorney may be compelled to testify, subject to an 2746  
in camera inspection by a court, about communications made by 2747  
the client to the attorney or by the attorney to the client that 2748  
are related to the attorney's aiding or furthering an ongoing or 2749  
future commission of bad faith by the client, if the party 2750  
seeking disclosure of the communications has made a prima-facie 2751  
showing of bad faith, fraud, or criminal misconduct by the 2752  
client. 2753

(B) (1) A physician, advanced practice registered nurse, or 2754  
dentist concerning a communication made to the physician, 2755  
advanced practice registered nurse, or dentist by a patient in 2756  
that relation or the advice of a physician, advanced practice 2757  
registered nurse, or dentist given to a patient, except as 2758  
otherwise provided in this division, division (B) (2), and 2759  
division (B) (3) of this section, and except that, if the patient 2760

is deemed by section 2151.421 of the Revised Code to have waived 2761  
any testimonial privilege under this division, the physician or 2762  
advanced practice registered nurse may be compelled to testify 2763  
on the same subject. 2764

The testimonial privilege established under this division 2765  
does not apply, and a physician, advanced practice registered 2766  
nurse, or dentist may testify or may be compelled to testify, in 2767  
any of the following circumstances: 2768

(a) In any civil action, in accordance with the discovery 2769  
provisions of the Rules of Civil Procedure in connection with a 2770  
civil action, or in connection with a claim under Chapter 4123. 2771  
of the Revised Code, under any of the following circumstances: 2772

(i) If the patient or the guardian or other legal 2773  
representative of the patient gives express consent; 2774

(ii) If the patient is deceased, the spouse of the patient 2775  
or the executor or administrator of the patient's estate gives 2776  
express consent; 2777

(iii) If a medical claim, dental claim, chiropractic 2778  
claim, or optometric claim, as defined in section 2305.113 of 2779  
the Revised Code, an action for wrongful death, any other type 2780  
of civil action, or a claim under Chapter 4123. of the Revised 2781  
Code is filed by the patient, the personal representative of the 2782  
estate of the patient if deceased, or the patient's guardian or 2783  
other legal representative. 2784

(b) In any civil action concerning court-ordered treatment 2785  
or services received by a patient, if the court-ordered 2786  
treatment or services were ordered as part of a case plan 2787  
journalized under section 2151.412 of the Revised Code or the 2788  
court-ordered treatment or services are necessary or relevant to 2789

dependency, neglect, or abuse or temporary or permanent custody 2790  
proceedings under Chapter 2151. of the Revised Code. 2791

(c) In any criminal action concerning any test or the 2792  
results of any test that determines the presence or 2793  
concentration of alcohol, a drug of abuse, a combination of 2794  
them, a controlled substance, or a metabolite of a controlled 2795  
substance in the patient's whole blood, blood serum or plasma, 2796  
breath, urine, or other bodily substance at any time relevant to 2797  
the criminal offense in question. 2798

(d) In any criminal action against a physician, advanced 2799  
practice registered nurse, or dentist. In such an action, the 2800  
testimonial privilege established under this division does not 2801  
prohibit the admission into evidence, in accordance with the 2802  
Rules of Evidence, of a patient's medical or dental records or 2803  
other communications between a patient and the physician, 2804  
advanced practice registered nurse, or dentist that are related 2805  
to the action and obtained by subpoena, search warrant, or other 2806  
lawful means. A court that permits or compels a physician, 2807  
advanced practice registered nurse, or dentist to testify in 2808  
such an action or permits the introduction into evidence of 2809  
patient records or other communications in such an action shall 2810  
require that appropriate measures be taken to ensure that the 2811  
confidentiality of any patient named or otherwise identified in 2812  
the records is maintained. Measures to ensure confidentiality 2813  
that may be taken by the court include sealing its records or 2814  
deleting specific information from its records. 2815

(e) (i) If the communication was between a patient who has 2816  
since died and the deceased patient's physician, advanced 2817  
practice registered nurse, or dentist, the communication is 2818  
relevant to a dispute between parties who claim through that 2819

deceased patient, regardless of whether the claims are by 2820  
testate or intestate succession or by inter vivos transaction, 2821  
and the dispute addresses the competency of the deceased patient 2822  
when the deceased patient executed a document that is the basis 2823  
of the dispute or whether the deceased patient was a victim of 2824  
fraud, undue influence, or duress when the deceased patient 2825  
executed a document that is the basis of the dispute. 2826

(ii) If neither the spouse of a patient nor the executor 2827  
or administrator of that patient's estate gives consent under 2828  
division (B) (1) (a) (ii) of this section, testimony or the 2829  
disclosure of the patient's medical records by a physician, 2830  
advanced practice registered nurse, dentist, or other health 2831  
care provider under division (B) (1) (e) (i) of this section is a 2832  
permitted use or disclosure of protected health information, as 2833  
defined in 45 C.F.R. 160.103, and an authorization or 2834  
opportunity to be heard shall not be required. 2835

(iii) Division (B) (1) (e) (i) of this section does not 2836  
require a mental health professional to disclose psychotherapy 2837  
notes, as defined in 45 C.F.R. 164.501. 2838

(iv) An interested person who objects to testimony or 2839  
disclosure under division (B) (1) (e) (i) of this section may seek 2840  
a protective order pursuant to Civil Rule 26. 2841

(v) A person to whom protected health information is 2842  
disclosed under division (B) (1) (e) (i) of this section shall not 2843  
use or disclose the protected health information for any purpose 2844  
other than the litigation or proceeding for which the 2845  
information was requested and shall return the protected health 2846  
information to the covered entity or destroy the protected 2847  
health information, including all copies made, at the conclusion 2848  
of the litigation or proceeding. 2849



(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 2881  
call as a witness the person who administered the test to which 2882  
the records pertain, the person under whose supervision the test 2883  
was administered, the custodian of the records, the person who 2884  
made the records, or the person under whose supervision the 2885  
records were made. 2886

(3) (a) If the testimonial privilege described in division 2887  
(B) (1) of this section does not apply as provided in division 2888  
(B) (1) (a) (iii) of this section, a physician, advanced practice 2889  
registered nurse, or dentist may be compelled to testify or to 2890  
submit to discovery under the Rules of Civil Procedure only as 2891  
to a communication made to the physician, advanced practice 2892  
registered nurse, or dentist by the patient in question in that 2893  
relation, or the advice of the physician, advanced practice 2894  
registered nurse, or dentist given to the patient in question, 2895  
that related causally or historically to physical or mental 2896  
injuries that are relevant to issues in the medical claim, 2897  
dental claim, chiropractic claim, or optometric claim, action 2898  
for wrongful death, other civil action, or claim under Chapter 2899  
4123. of the Revised Code. 2900

(b) If the testimonial privilege described in division (B) 2901  
(1) of this section does not apply to a physician, advanced 2902  
practice registered nurse, or dentist as provided in division 2903  
(B) (1) (c) of this section, the physician, advanced practice 2904  
registered nurse, or dentist, in lieu of personally testifying 2905  
as to the results of the test in question, may submit a 2906  
certified copy of those results, and, upon its submission, the 2907  
certified copy is qualified as authentic evidence and may be 2908  
admitted as evidence in accordance with the Rules of Evidence. 2909  
Division (A) of section 2317.422 of the Revised Code does not 2910  
apply to any certified copy of results submitted in accordance 2911

with this division. Nothing in this division shall be construed 2912  
to limit the right of any party to call as a witness the person 2913  
who administered the test in question, the person under whose 2914  
supervision the test was administered, the custodian of the 2915  
results of the test, the person who compiled the results, or the 2916  
person under whose supervision the results were compiled. 2917

(4) The testimonial privilege described in division (B) (1) 2918  
of this section is not waived when a communication is made by a 2919  
physician or advanced practice registered nurse to a pharmacist 2920  
or when there is communication between a patient and a 2921  
pharmacist in furtherance of the physician-patient or advanced 2922  
practice registered nurse-patient relation. 2923

(5) (a) As used in divisions (B) (1) to (4) of this section, 2924  
"communication" means acquiring, recording, or transmitting any 2925  
information, in any manner, concerning any facts, opinions, or 2926  
statements necessary to enable a physician, advanced practice 2927  
registered nurse, or dentist to diagnose, treat, prescribe, or 2928  
act for a patient. A "communication" may include, but is not 2929  
limited to, any medical or dental, office, or hospital 2930  
communication such as a record, chart, letter, memorandum, 2931  
laboratory test and results, x-ray, photograph, financial 2932  
statement, diagnosis, or prognosis. 2933

(b) As used in division (B) (2) of this section, "health 2934  
care provider" means a hospital, ambulatory care facility, long- 2935  
term care facility, pharmacy, emergency facility, or health care 2936  
practitioner. 2937

(c) As used in division (B) (5) (b) of this section: 2938

(i) "Ambulatory care facility" means a facility that 2939  
provides medical, diagnostic, or surgical treatment to patients 2940

who do not require hospitalization, including a dialysis center, 2941  
ambulatory surgical facility, cardiac catheterization facility, 2942  
diagnostic imaging center, extracorporeal shock wave lithotripsy 2943  
center, home health agency, inpatient hospice, birthing center, 2944  
radiation therapy center, emergency facility, and an urgent care 2945  
center. "Ambulatory health care facility" does not include the 2946  
private office of a physician, advanced practice registered 2947  
nurse, or dentist, whether the office is for an individual or 2948  
group practice. 2949

(ii) "Emergency facility" means a hospital emergency 2950  
department or any other facility that provides emergency medical 2951  
services. 2952

(iii) "Health care practitioner" has the same meaning as 2953  
in section 4769.01 of the Revised Code. 2954

(iv) "Hospital" has the same meaning as in section 3727.01 2955  
of the Revised Code. 2956

(v) "Long-term care facility" means a nursing home, 2957  
residential care facility, or home for the aging, as those terms 2958  
are defined in section 3721.01 of the Revised Code; a 2959  
residential facility licensed under section 5119.34 of the 2960  
Revised Code that provides accommodations, supervision, and 2961  
personal care services for three to sixteen unrelated adults; a 2962  
nursing facility, as defined in section 5165.01 of the Revised 2963  
Code; a skilled nursing facility, as defined in section 5165.01 2964  
of the Revised Code; and an intermediate care facility for 2965  
individuals with intellectual disabilities, as defined in 2966  
section 5124.01 of the Revised Code. 2967

(vi) "Pharmacy" has the same meaning as in section 4729.01 2968  
of the Revised Code. 2969

(d) As used in divisions (B) (1) and (2) of this section, 2970  
"drug of abuse" has the same meaning as in section 4506.01 of 2971  
the Revised Code. 2972

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 2973  
section apply to doctors of medicine, doctors of osteopathic 2974  
medicine, doctors of podiatry, advanced practice registered 2975  
nurses, and dentists. 2976

(7) Nothing in divisions (B) (1) to (6) of this section 2977  
affects, or shall be construed as affecting, the immunity from 2978  
civil liability conferred by section 307.628 of the Revised Code 2979  
or the immunity from civil liability conferred by section 2980  
2305.33 of the Revised Code upon physicians or advanced practice 2981  
registered nurses who report an employee's use of a drug of 2982  
abuse, or a condition of an employee other than one involving 2983  
the use of a drug of abuse, to the employer of the employee in 2984  
accordance with division (B) of that section. As used in 2985  
division (B) (7) of this section, "employee," "employer," and 2986  
"physician" have the same meanings as in section 2305.33 of the 2987  
Revised Code and "advanced practice registered nurse" has the 2988  
same meaning as in section 4723.01 of the Revised Code. 2989

(C) (1) A cleric, when the cleric remains accountable to 2990  
the authority of that cleric's church, denomination, or sect, 2991  
concerning a confession made, or any information confidentially 2992  
communicated, to the cleric for a religious counseling purpose 2993  
in the cleric's professional character. The cleric may testify 2994  
by express consent of the person making the communication, 2995  
except when the disclosure of the information is in violation of 2996  
a sacred trust and except that, if the person voluntarily 2997  
testifies or is deemed by division (A) (4) (c) of section 2151.421 2998  
of the Revised Code to have waived any testimonial privilege 2999

under this division, the cleric may be compelled to testify on 3000  
the same subject except when disclosure of the information is in 3001  
violation of a sacred trust. 3002

(2) As used in division (C) of this section: 3003

(a) "Cleric" means a member of the clergy, rabbi, priest, 3004  
Christian Science practitioner, or regularly ordained, 3005  
accredited, or licensed minister of an established and legally 3006  
cognizable church, denomination, or sect. 3007

(b) "Sacred trust" means a confession or confidential 3008  
communication made to a cleric in the cleric's ecclesiastical 3009  
capacity in the course of discipline enjoined by the church to 3010  
which the cleric belongs, including, but not limited to, the 3011  
Catholic Church, if both of the following apply: 3012

(i) The confession or confidential communication was made 3013  
directly to the cleric. 3014

(ii) The confession or confidential communication was made 3015  
in the manner and context that places the cleric specifically 3016  
and strictly under a level of confidentiality that is considered 3017  
inviolable by canon law or church doctrine. 3018

(D) Husband or wife, concerning any communication made by 3019  
one to the other, or an act done by either in the presence of 3020  
the other, during coverture, unless the communication was made, 3021  
or act done, in the known presence or hearing of a third person 3022  
competent to be a witness; and such rule is the same if the 3023  
marital relation has ceased to exist; 3024

(E) A person who assigns a claim or interest, concerning 3025  
any matter in respect to which the person would not, if a party, 3026  
be permitted to testify; 3027

(F) A person who, if a party, would be restricted under 3028  
section 2317.03 of the Revised Code, when the property or thing 3029  
is sold or transferred by an executor, administrator, guardian, 3030  
trustee, heir, devisee, or legatee, shall be restricted in the 3031  
same manner in any action or proceeding concerning the property 3032  
or thing. 3033

(G) (1) A school guidance counselor who holds a valid 3034  
educator license from the state board of education as provided 3035  
for in section 3319.22 of the Revised Code, a person licensed 3036  
under Chapter 4757. of the Revised Code as a licensed 3037  
professional clinical counselor, licensed professional 3038  
counselor, social worker, independent social worker, marriage 3039  
and family therapist or independent marriage and family 3040  
therapist, or registered under Chapter 4757. of the Revised Code 3041  
as a social work assistant concerning a confidential 3042  
communication received from a client in that relation or the 3043  
person's advice to a client unless any of the following applies: 3044

(a) The communication or advice indicates clear and 3045  
present danger to the client or other persons. For the purposes 3046  
of this division, cases in which there are indications of 3047  
present or past child abuse or neglect of the client constitute 3048  
a clear and present danger. 3049

(b) The client gives express consent to the testimony. 3050

(c) If the client is deceased, the surviving spouse or the 3051  
executor or administrator of the estate of the deceased client 3052  
gives express consent. 3053

(d) The client voluntarily testifies, in which case the 3054  
school guidance counselor or person licensed or registered under 3055  
Chapter 4757. of the Revised Code may be compelled to testify on 3056

the same subject. 3057

(e) The court in camera determines that the information 3058  
communicated by the client is not germane to the counselor- 3059  
client, marriage and family therapist-client, or social worker- 3060  
client relationship. 3061

(f) A court, in an action brought against a school, its 3062  
administration, or any of its personnel by the client, rules 3063  
after an in-camera inspection that the testimony of the school 3064  
guidance counselor is relevant to that action. 3065

(g) The testimony is sought in a civil action and concerns 3066  
court-ordered treatment or services received by a patient as 3067  
part of a case plan journalized under section 2151.412 of the 3068  
Revised Code or the court-ordered treatment or services are 3069  
necessary or relevant to dependency, neglect, or abuse or 3070  
temporary or permanent custody proceedings under Chapter 2151. 3071  
of the Revised Code. 3072

(2) Nothing in division (G) (1) of this section shall 3073  
relieve a school guidance counselor or a person licensed or 3074  
registered under Chapter 4757. of the Revised Code from the 3075  
requirement to report information concerning child abuse or 3076  
neglect under section 2151.421 of the Revised Code. 3077

(H) A mediator acting under a mediation order issued under 3078  
division (A) of section 3109.052 of the Revised Code or 3079  
otherwise issued in any proceeding for divorce, dissolution, 3080  
legal separation, annulment, or the allocation of parental 3081  
rights and responsibilities for the care of children, in any 3082  
action or proceeding, other than a criminal, delinquency, child 3083  
abuse, child neglect, or dependent child action or proceeding, 3084  
that is brought by or against either parent who takes part in 3085



mediation in accordance with the order and that pertains to the 3086  
mediation process, to any information discussed or presented in 3087  
the mediation process, to the allocation of parental rights and 3088  
responsibilities for the care of the parents' children, or to 3089  
the awarding of parenting time rights in relation to their 3090  
children; 3091

(I) A communications assistant, acting within the scope of 3092  
the communication assistant's authority, when providing 3093  
telecommunications relay service pursuant to section 4931.06 of 3094  
the Revised Code or Title II of the "Communications Act of 3095  
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 3096  
communication made through a telecommunications relay service. 3097  
Nothing in this section shall limit the obligation of a 3098  
communications assistant to divulge information or testify when 3099  
mandated by federal law or regulation or pursuant to subpoena in 3100  
a criminal proceeding. 3101

Nothing in this section shall limit any immunity or 3102  
privilege granted under federal law or regulation. 3103

(J) (1) A chiropractor in a civil proceeding concerning a 3104  
communication made to the chiropractor by a patient in that 3105  
relation or the chiropractor's advice to a patient, except as 3106  
otherwise provided in this division. The testimonial privilege 3107  
established under this division does not apply, and a 3108  
chiropractor may testify or may be compelled to testify, in any 3109  
civil action, in accordance with the discovery provisions of the 3110  
Rules of Civil Procedure in connection with a civil action, or 3111  
in connection with a claim under Chapter 4123. of the Revised 3112  
Code, under any of the following circumstances: 3113

(a) If the patient or the guardian or other legal 3114  
representative of the patient gives express consent. 3115

(b) If the patient is deceased, the spouse of the patient 3116  
or the executor or administrator of the patient's estate gives 3117  
express consent. 3118

(c) If a medical claim, dental claim, chiropractic claim, 3119  
or optometric claim, as defined in section 2305.113 of the 3120  
Revised Code, an action for wrongful death, any other type of 3121  
civil action, or a claim under Chapter 4123. of the Revised Code 3122  
is filed by the patient, the personal representative of the 3123  
estate of the patient if deceased, or the patient's guardian or 3124  
other legal representative. 3125

(2) If the testimonial privilege described in division (J) 3126  
(1) of this section does not apply as provided in division (J) 3127  
(1)(c) of this section, a chiropractor may be compelled to 3128  
testify or to submit to discovery under the Rules of Civil 3129  
Procedure only as to a communication made to the chiropractor by 3130  
the patient in question in that relation, or the chiropractor's 3131  
advice to the patient in question, that related causally or 3132  
historically to physical or mental injuries that are relevant to 3133  
issues in the medical claim, dental claim, chiropractic claim, 3134  
or optometric claim, action for wrongful death, other civil 3135  
action, or claim under Chapter 4123. of the Revised Code. 3136

(3) The testimonial privilege established under this 3137  
division does not apply, and a chiropractor may testify or be 3138  
compelled to testify, in any criminal action or administrative 3139  
proceeding. 3140

(4) As used in this division, "communication" means 3141  
acquiring, recording, or transmitting any information, in any 3142  
manner, concerning any facts, opinions, or statements necessary 3143  
to enable a chiropractor to diagnose, treat, or act for a 3144  
patient. A communication may include, but is not limited to, any 3145

chiropractic, office, or hospital communication such as a 3146  
record, chart, letter, memorandum, laboratory test and results, 3147  
x-ray, photograph, financial statement, diagnosis, or prognosis. 3148

(K) (1) Except as provided under division (K) (2) of this 3149  
section, a critical incident stress management team member 3150  
concerning a communication received from an individual who 3151  
receives crisis response services from the team member, or the 3152  
team member's advice to the individual, during a debriefing 3153  
session. 3154

(2) The testimonial privilege established under division 3155  
(K) (1) of this section does not apply if any of the following 3156  
are true: 3157

(a) The communication or advice indicates clear and 3158  
present danger to the individual who receives crisis response 3159  
services or to other persons. For purposes of this division, 3160  
cases in which there are indications of present or past child 3161  
abuse or neglect of the individual constitute a clear and 3162  
present danger. 3163

(b) The individual who received crisis response services 3164  
gives express consent to the testimony. 3165

(c) If the individual who received crisis response 3166  
services is deceased, the surviving spouse or the executor or 3167  
administrator of the estate of the deceased individual gives 3168  
express consent. 3169

(d) The individual who received crisis response services 3170  
voluntarily testifies, in which case the team member may be 3171  
compelled to testify on the same subject. 3172

(e) The court in camera determines that the information 3173  
communicated by the individual who received crisis response 3174

services is not germane to the relationship between the 3175  
individual and the team member. 3176

(f) The communication or advice pertains or is related to 3177  
any criminal act. 3178

(3) As used in division (K) of this section: 3179

(a) "Crisis response services" means consultation, risk 3180  
assessment, referral, and on-site crisis intervention services 3181  
provided by a critical incident stress management team to 3182  
individuals affected by crisis or disaster. 3183

(b) "Critical incident stress management team member" or 3184  
"team member" means an individual specially trained to provide 3185  
crisis response services as a member of an organized community 3186  
or local crisis response team that holds membership in the Ohio 3187  
critical incident stress management network. 3188

(c) "Debriefing session" means a session at which crisis 3189  
response services are rendered by a critical incident stress 3190  
management team member during or after a crisis or disaster. 3191

(L) (1) Subject to division (L) (2) of this section and 3192  
except as provided in division (L) (3) of this section, an 3193  
employee assistance professional, concerning a communication 3194  
made to the employee assistance professional by a client in the 3195  
employee assistance professional's official capacity as an 3196  
employee assistance professional. 3197

(2) Division (L) (1) of this section applies to an employee 3198  
assistance professional who meets either or both of the 3199  
following requirements: 3200

(a) Is certified by the employee assistance certification 3201  
commission to engage in the employee assistance profession; 3202

(b) Has education, training, and experience in all of the following:	3203 3204
(i) Providing workplace-based services designed to address employer and employee productivity issues;	3205 3206
(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;	3207 3208 3209 3210
(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;	3211 3212 3213 3214
(iv) Selecting and evaluating available community resources;	3215 3216
(v) Making appropriate referrals;	3217
(vi) Local and national employee assistance agreements;	3218
(vii) Client confidentiality.	3219
(3) Division (L) (1) of this section does not apply to any of the following:	3220 3221
(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;	3222 3223 3224 3225 3226
(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;	3227 3228 3229

(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 3259  
reparations under sections 2743.51 to 2743.72 of the Revised 3260  
Code: 3261

(a) A victim who was one of the following at the time of 3262  
the criminally injurious conduct: 3263

(i) A resident of the United States; 3264

(ii) A resident of a foreign country the laws of which 3265  
permit residents of this state to recover compensation as 3266  
victims of offenses committed in that country. 3267

(b) A dependent of a deceased victim who is described in 3268  
division (A) (1) (a) of this section; 3269

(c) A third person, other than a collateral source, who 3270  
legally assumes or voluntarily pays the obligations of a victim, 3271  
or of a dependent of a victim, who is described in division (A) 3272  
(1) (a) of this section, which obligations are incurred as a 3273  
result of the criminally injurious conduct that is the subject 3274  
of the claim and may include, but are not limited to, medical or 3275  
burial expenses; 3276

(d) A person who is authorized to act on behalf of any 3277  
person who is described in division (A) (1) (a), (b), or (c) of 3278  
this section; 3279

(e) The estate of a deceased victim who is described in 3280  
division (A) (1) (a) of this section. 3281

(2) Any of the following persons who claim an award of 3282  
reparations under sections 2743.51 to 2743.72 of the Revised 3283  
Code: 3284

(a) A victim who had a permanent place of residence within 3285  
this state at the time of the criminally injurious conduct and 3286

who, at the time of the criminally injurious conduct, complied	3287
with any one of the following:	3288
(i) Had a permanent place of employment in this state;	3289
(ii) Was a member of the regular armed forces of the	3290
United States or of the United States coast guard or was a full-	3291
time member of the Ohio organized militia or of the United	3292
States army reserve, naval reserve, or air force reserve;	3293
(iii) Was retired and receiving social security or any	3294
other retirement income;	3295
(iv) Was sixty years of age or older;	3296
(v) Was temporarily in another state for the purpose of	3297
receiving medical treatment;	3298
(vi) Was temporarily in another state for the purpose of	3299
performing employment-related duties required by an employer	3300
located within this state as an express condition of employment	3301
or employee benefits;	3302
(vii) Was temporarily in another state for the purpose of	3303
receiving occupational, vocational, or other job-related	3304
training or instruction required by an employer located within	3305
this state as an express condition of employment or employee	3306
benefits;	3307
(viii) Was a full-time student at an academic institution,	3308
college, or university located in another state;	3309
(ix) Had not departed the geographical boundaries of this	3310
state for a period exceeding thirty days or with the intention	3311
of becoming a citizen of another state or establishing a	3312
permanent place of residence in another state.	3313



(b) A dependent of a deceased victim who is described in 3314  
division (A) (2) (a) of this section; 3315

(c) A third person, other than a collateral source, who 3316  
legally assumes or voluntarily pays the obligations of a victim, 3317  
or of a dependent of a victim, who is described in division (A) 3318  
(2) (a) of this section, which obligations are incurred as a 3319  
result of the criminally injurious conduct that is the subject 3320  
of the claim and may include, but are not limited to, medical or 3321  
burial expenses; 3322

(d) A person who is authorized to act on behalf of any 3323  
person who is described in division (A) (2) (a), (b), or (c) of 3324  
this section; 3325

(e) The estate of a deceased victim who is described in 3326  
division (A) (2) (a) of this section. 3327

(B) "Collateral source" means a source of benefits or 3328  
advantages for economic loss otherwise reparable that the victim 3329  
or claimant has received, or that is readily available to the 3330  
victim or claimant, from any of the following sources: 3331

(1) The offender; 3332

(2) The government of the United States or any of its 3333  
agencies, a state or any of its political subdivisions, or an 3334  
instrumentality of two or more states, unless the law providing 3335  
for the benefits or advantages makes them excess or secondary to 3336  
benefits under sections 2743.51 to 2743.72 of the Revised Code; 3337

(3) Social security, medicare, and medicaid; 3338

(4) State-required, temporary, nonoccupational disability 3339  
insurance; 3340

(5) Workers' compensation; 3341

- (6) Wage continuation programs of any employer; 3342
- (7) Proceeds of a contract of insurance payable to the 3343  
victim for loss that the victim sustained because of the 3344  
criminally injurious conduct; 3345
- (8) A contract providing prepaid hospital and other health 3346  
care services, or benefits for disability; 3347
- (9) That portion of the proceeds of all contracts of 3348  
insurance payable to the claimant on account of the death of the 3349  
victim that exceeds fifty thousand dollars; 3350
- (10) Any compensation recovered or recoverable under the 3351  
laws of another state, district, territory, or foreign country 3352  
because the victim was the victim of an offense committed in 3353  
that state, district, territory, or country. 3354
- "Collateral source" does not include any money, or the 3355  
monetary value of any property, that is subject to sections 3356  
2969.01 to 2969.06 of the Revised Code or that is received as a 3357  
benefit from the Ohio public safety officers death benefit fund 3358  
created by section 742.62 of the Revised Code. 3359
- (C) "Criminally injurious conduct" means one of the 3360  
following: 3361
- (1) For the purposes of any person described in division 3362  
(A)(1) of this section, any conduct that occurs or is attempted 3363  
in this state; poses a substantial threat of personal injury or 3364  
death; and is punishable by fine, or imprisonment, ~~or death,~~ or 3365  
would be so punishable but for the fact that the person engaging 3366  
in the conduct lacked capacity to commit the crime under the 3367  
laws of this state. Criminally injurious conduct does not 3368  
include conduct arising out of the ownership, maintenance, or 3369  
use of a motor vehicle, except when any of the following 3370

applies: 3371

(a) The person engaging in the conduct intended to cause 3372  
personal injury or death; 3373

(b) The person engaging in the conduct was using the 3374  
vehicle to flee immediately after committing a felony or an act 3375  
that would constitute a felony but for the fact that the person 3376  
engaging in the conduct lacked the capacity to commit the felony 3377  
under the laws of this state; 3378

(c) The person engaging in the conduct was using the 3379  
vehicle in a manner that constitutes an OVI violation; 3380

(d) The conduct occurred on or after July 25, 1990, and 3381  
the person engaging in the conduct was using the vehicle in a 3382  
manner that constitutes a violation of section 2903.08 of the 3383  
Revised Code; 3384

(e) The person engaging in the conduct acted in a manner 3385  
that caused serious physical harm to a person and that 3386  
constituted a violation of section 4549.02 or 4549.021 of the 3387  
Revised Code. 3388

(2) For the purposes of any person described in division 3389  
(A) (2) of this section, any conduct that occurs or is attempted 3390  
in another state, district, territory, or foreign country; poses 3391  
a substantial threat of personal injury or death; and is 3392  
punishable by fine, imprisonment, or death, or would be so 3393  
punishable but for the fact that the person engaging in the 3394  
conduct lacked capacity to commit the crime under the laws of 3395  
the state, district, territory, or foreign country in which the 3396  
conduct occurred or was attempted. Criminally injurious conduct 3397  
does not include conduct arising out of the ownership, 3398  
maintenance, or use of a motor vehicle, except when any of the 3399

following applies: 3400

(a) The person engaging in the conduct intended to cause 3401  
personal injury or death; 3402

(b) The person engaging in the conduct was using the 3403  
vehicle to flee immediately after committing a felony or an act 3404  
that would constitute a felony but for the fact that the person 3405  
engaging in the conduct lacked the capacity to commit the felony 3406  
under the laws of the state, district, territory, or foreign 3407  
country in which the conduct occurred or was attempted; 3408

(c) The person engaging in the conduct was using the 3409  
vehicle in a manner that constitutes an OVI violation; 3410

(d) The conduct occurred on or after July 25, 1990, the 3411  
person engaging in the conduct was using the vehicle in a manner 3412  
that constitutes a violation of any law of the state, district, 3413  
territory, or foreign country in which the conduct occurred, and 3414  
that law is substantially similar to a violation of section 3415  
2903.08 of the Revised Code; 3416

(e) The person engaging in the conduct acted in a manner 3417  
that caused serious physical harm to a person and that 3418  
constituted a violation of any law of the state, district, 3419  
territory, or foreign country in which the conduct occurred, and 3420  
that law is substantially similar to section 4549.02 or 4549.021 3421  
of the Revised Code. 3422

(3) For the purposes of any person described in division 3423  
(A) (1) or (2) of this section, terrorism that occurs within or 3424  
outside the territorial jurisdiction of the United States. 3425

(D) "Dependent" means an individual wholly or partially 3426  
dependent upon the victim for care and support, and includes a 3427  
child of the victim born after the victim's death. 3428

(E) "Economic loss" means economic detriment consisting 3429  
only of allowable expense, work loss, funeral expense, 3430  
unemployment benefits loss, replacement services loss, cost of 3431  
crime scene cleanup, and cost of evidence replacement. If 3432  
criminally injurious conduct causes death, economic loss 3433  
includes a dependent's economic loss and a dependent's 3434  
replacement services loss. Noneconomic detriment is not economic 3435  
loss; however, economic loss may be caused by pain and suffering 3436  
or physical impairment. 3437

(F) (1) "Allowable expense" means reasonable charges 3438  
incurred for reasonably needed products, services, and 3439  
accommodations, including those for medical care, 3440  
rehabilitation, rehabilitative occupational training, and other 3441  
remedial treatment and care and including replacement costs for 3442  
hearing aids; dentures, retainers, and other dental appliances; 3443  
canes, walkers, and other mobility tools; and eyeglasses and 3444  
other corrective lenses. It does not include that portion of a 3445  
charge for a room in a hospital, clinic, convalescent home, 3446  
nursing home, or any other institution engaged in providing 3447  
nursing care and related services in excess of a reasonable and 3448  
customary charge for semiprivate accommodations, unless 3449  
accommodations other than semiprivate accommodations are 3450  
medically required. 3451

(2) An immediate family member of a victim of criminally 3452  
injurious conduct that consists of a homicide, a sexual assault, 3453  
domestic violence, or a severe and permanent incapacitating 3454  
injury resulting in paraplegia or a similar life-altering 3455  
condition, who requires psychiatric care or counseling as a 3456  
result of the criminally injurious conduct, may be reimbursed 3457  
for that care or counseling as an allowable expense through the 3458  
victim's application. The cumulative allowable expense for care 3459

or counseling of that nature shall not exceed two thousand five 3460  
hundred dollars for each immediate family member of a victim of 3461  
that type and seven thousand five hundred dollars in the 3462  
aggregate for all immediate family members of a victim of that 3463  
type. 3464

(3) A family member of a victim who died as a proximate 3465  
result of criminally injurious conduct may be reimbursed as an 3466  
allowable expense through the victim's application for wages 3467  
lost and travel expenses incurred in order to attend criminal 3468  
justice proceedings arising from the criminally injurious 3469  
conduct. The cumulative allowable expense for wages lost and 3470  
travel expenses incurred by a family member to attend criminal 3471  
justice proceedings shall not exceed five hundred dollars for 3472  
each family member of the victim and two thousand dollars in the 3473  
aggregate for all family members of the victim. 3474

(4) (a) "Allowable expense" includes reasonable expenses 3475  
and fees necessary to obtain a guardian's bond pursuant to 3476  
section 2109.04 of the Revised Code when the bond is required to 3477  
pay an award to a fiduciary on behalf of a minor or other 3478  
incompetent. 3479

(b) "Allowable expense" includes attorney's fees not 3480  
exceeding one thousand dollars, at a rate not exceeding one 3481  
hundred dollars per hour, incurred to successfully obtain a 3482  
restraining order, custody order, or other order to physically 3483  
separate a victim from an offender. Attorney's fees for the 3484  
services described in this division may include an amount for 3485  
reasonable travel time incurred to attend court hearings, not 3486  
exceeding three hours' round-trip for each court hearing, 3487  
assessed at a rate not exceeding thirty dollars per hour. 3488

(G) "Work loss" means loss of income from work that the 3489

injured person would have performed if the person had not been 3490  
injured and expenses reasonably incurred by the person to obtain 3491  
services in lieu of those the person would have performed for 3492  
income, reduced by any income from substitute work actually 3493  
performed by the person, or by income the person would have 3494  
earned in available appropriate substitute work that the person 3495  
was capable of performing but unreasonably failed to undertake. 3496

(H) "Replacement services loss" means expenses reasonably 3497  
incurred in obtaining ordinary and necessary services in lieu of 3498  
those the injured person would have performed, not for income, 3499  
but for the benefit of the person's self or family, if the 3500  
person had not been injured. 3501

(I) "Dependent's economic loss" means loss after a 3502  
victim's death of contributions of things of economic value to 3503  
the victim's dependents, not including services they would have 3504  
received from the victim if the victim had not suffered the 3505  
fatal injury, less expenses of the dependents avoided by reason 3506  
of the victim's death. If a minor child of a victim is adopted 3507  
after the victim's death, the minor child continues after the 3508  
adoption to incur a dependent's economic loss as a result of the 3509  
victim's death. If the surviving spouse of a victim remarries, 3510  
the surviving spouse continues after the remarriage to incur a 3511  
dependent's economic loss as a result of the victim's death. 3512

(J) "Dependent's replacement services loss" means loss 3513  
reasonably incurred by dependents after a victim's death in 3514  
obtaining ordinary and necessary services in lieu of those the 3515  
victim would have performed for their benefit if the victim had 3516  
not suffered the fatal injury, less expenses of the dependents 3517  
avoided by reason of the victim's death and not subtracted in 3518  
calculating the dependent's economic loss. If a minor child of a 3519

victim is adopted after the victim's death, the minor child 3520  
continues after the adoption to incur a dependent's replacement 3521  
services loss as a result of the victim's death. If the 3522  
surviving spouse of a victim remarries, the surviving spouse 3523  
continues after the remarriage to incur a dependent's 3524  
replacement services loss as a result of the victim's death. 3525

(K) "Noneconomic detriment" means pain, suffering, 3526  
inconvenience, physical impairment, or other nonpecuniary 3527  
damage. 3528

(L) "Victim" means a person who suffers personal injury or 3529  
death as a result of any of the following: 3530

(1) Criminally injurious conduct; 3531

(2) The good faith effort of any person to prevent 3532  
criminally injurious conduct; 3533

(3) The good faith effort of any person to apprehend a 3534  
person suspected of engaging in criminally injurious conduct. 3535

(M) "Contributory misconduct" means any conduct of the 3536  
claimant or of the victim through whom the claimant claims an 3537  
award of reparations that is unlawful or intentionally tortious 3538  
and that, without regard to the conduct's proximity in time or 3539  
space to the criminally injurious conduct, has a causal 3540  
relationship to the criminally injurious conduct that is the 3541  
basis of the claim. 3542

(N) (1) "Funeral expense" means any reasonable charges that 3543  
are not in excess of seven thousand five hundred dollars per 3544  
funeral and that are incurred for expenses directly related to a 3545  
victim's funeral, cremation, or burial and any wages lost or 3546  
travel expenses incurred by a family member of a victim in order 3547  
to attend the victim's funeral, cremation, or burial. 3548



(2) An award for funeral expenses shall be applied first 3549  
to expenses directly related to the victim's funeral, cremation, 3550  
or burial. An award for wages lost or travel expenses incurred 3551  
by a family member of the victim shall not exceed five hundred 3552  
dollars for each family member and shall not exceed in the 3553  
aggregate the difference between seven thousand five hundred 3554  
dollars and expenses that are reimbursed by the program and that 3555  
are directly related to the victim's funeral, cremation, or 3556  
burial. 3557

(O) "Unemployment benefits loss" means a loss of 3558  
unemployment benefits pursuant to Chapter 4141. of the Revised 3559  
Code when the loss arises solely from the inability of a victim 3560  
to meet the able to work, available for suitable work, or the 3561  
actively seeking suitable work requirements of division (A) (4) 3562  
(a) of section 4141.29 of the Revised Code. 3563

(P) "OVI violation" means any of the following: 3564

(1) A violation of section 4511.19 of the Revised Code, of 3565  
any municipal ordinance prohibiting the operation of a vehicle 3566  
while under the influence of alcohol, a drug of abuse, or a 3567  
combination of them, or of any municipal ordinance prohibiting 3568  
the operation of a vehicle with a prohibited concentration of 3569  
alcohol, a controlled substance, or a metabolite of a controlled 3570  
substance in the whole blood, blood serum or plasma, breath, or 3571  
urine; 3572

(2) A violation of division (A) (1) of section 2903.06 of 3573  
the Revised Code; 3574

(3) A violation of division (A) (2), (3), or (4) of section 3575  
2903.06 of the Revised Code or of a municipal ordinance 3576  
substantially similar to any of those divisions, if the offender 3577

was under the influence of alcohol, a drug of abuse, or a 3578  
combination of them, at the time of the commission of the 3579  
offense; 3580

(4) For purposes of any person described in division (A) 3581  
(2) of this section, a violation of any law of the state, 3582  
district, territory, or foreign country in which the criminally 3583  
injurious conduct occurred, if that law is substantially similar 3584  
to a violation described in division (P) (1) or (2) of this 3585  
section or if that law is substantially similar to a violation 3586  
described in division (P) (3) of this section and the offender 3587  
was under the influence of alcohol, a drug of abuse, or a 3588  
combination of them, at the time of the commission of the 3589  
offense. 3590

(Q) "Pendency of the claim" for an original reparations 3591  
application or supplemental reparations application means the 3592  
period of time from the date the criminally injurious conduct 3593  
upon which the application is based occurred until the date a 3594  
final decision, order, or judgment concerning that original 3595  
reparations application or supplemental reparations application 3596  
is issued. 3597

(R) "Terrorism" means any activity to which all of the 3598  
following apply: 3599

(1) The activity involves a violent act or an act that is 3600  
dangerous to human life. 3601

(2) The act described in division (R) (1) of this section 3602  
is committed within the territorial jurisdiction of the United 3603  
States and is a violation of the criminal laws of the United 3604  
States, this state, or any other state or the act described in 3605  
division (R) (1) of this section is committed outside the 3606

territorial jurisdiction of the United States and would be a 3607  
violation of the criminal laws of the United States, this state, 3608  
or any other state if committed within the territorial 3609  
jurisdiction of the United States. 3610

(3) The activity appears to be intended to do any of the 3611  
following: 3612

(a) Intimidate or coerce a civilian population; 3613

(b) Influence the policy of any government by intimidation 3614  
or coercion; 3615

(c) Affect the conduct of any government by assassination 3616  
or kidnapping. 3617

(4) The activity occurs primarily outside the territorial 3618  
jurisdiction of the United States or transcends the national 3619  
boundaries of the United States in terms of the means by which 3620  
the activity is accomplished, the person or persons that the 3621  
activity appears intended to intimidate or coerce, or the area 3622  
or locale in which the perpetrator or perpetrators of the 3623  
activity operate or seek asylum. 3624

(S) "Transcends the national boundaries of the United 3625  
States" means occurring outside the territorial jurisdiction of 3626  
the United States in addition to occurring within the 3627  
territorial jurisdiction of the United States. 3628

(T) "Cost of crime scene cleanup" means any of the 3629  
following: 3630

(1) The replacement cost for items of clothing removed 3631  
from a victim in order to make an assessment of possible 3632  
physical harm or to treat physical harm; 3633

(2) Reasonable and necessary costs of cleaning the scene 3634

and repairing, for the purpose of personal security, property 3635  
damaged at the scene where the criminally injurious conduct 3636  
occurred, not to exceed seven hundred fifty dollars in the 3637  
aggregate per claim. 3638

(U) "Cost of evidence replacement" means costs for 3639  
replacement of property confiscated for evidentiary purposes 3640  
related to the criminally injurious conduct, not to exceed seven 3641  
hundred fifty dollars in the aggregate per claim. 3642

(V) "Provider" means any person who provides a victim or 3643  
claimant with a product, service, or accommodations that are an 3644  
allowable expense or a funeral expense. 3645

(W) "Immediate family member" means an individual who 3646  
resided in the same permanent household as a victim at the time 3647  
of the criminally injurious conduct and who is related to the 3648  
victim by affinity or consanguinity. 3649

(X) "Family member" means an individual who is related to 3650  
a victim by affinity or consanguinity. 3651

**Sec. 2901.02.** As used in the Revised Code: 3652

(A) Offenses include aggravated murder, murder, felonies 3653  
of the first, second, third, fourth, and fifth degree, 3654  
misdemeanors of the first, second, third, and fourth degree, 3655  
minor misdemeanors, and offenses not specifically classified. 3656

~~(B) Aggravated murder when the indictment or the count in~~ 3657  
~~the indictment charging aggravated murder contains one or more~~ 3658  
~~specifications of aggravating circumstances listed in division~~ 3659  
~~(A) of section 2929.04 of Revised Code, and any other offense~~ 3660  
~~for which death may be imposed as a penalty, is a capital~~ 3661  
~~offense.~~ 3662

<del>(C)</del> Aggravated murder and murder are felonies.	3663
<del>(D)</del> <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.	3664 3665 3666 3667
<del>(E)</del> <u>(D)</u> Any offense not specifically classified is a felony if imprisonment for more than one year may be imposed as a penalty.	3668 3669 3670
<del>(F)</del> <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.	3671 3672 3673
<del>(G)</del> <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:	3674 3675 3676
(1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars;	3677 3678
(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.	3679 3680 3681 3682 3683
<b>Sec. 2909.24.</b> (A) No person shall commit a specified offense with purpose to do any of the following:	3684 3685
(1) Intimidate or coerce a civilian population;	3686
(2) Influence the policy of any government by intimidation or coercion;	3687 3688
(3) Affect the conduct of any government by the specified	3689

offense. 3690

(B) (1) Whoever violates this section is guilty of 3691  
terrorism. 3692

(2) Except as otherwise provided in divisions (B) (3) and 3693  
(4) of this section, terrorism is an offense one degree higher 3694  
than the most serious underlying specified offense the defendant 3695  
committed. 3696

(3) If the most serious underlying specified offense the 3697  
defendant committed is a felony of the first degree or murder, 3698  
the person shall be sentenced to life imprisonment without 3699  
parole. 3700

(4) If the most serious underlying specified offense the 3701  
defendant committed is aggravated murder, the offender shall be 3702  
sentenced to life imprisonment without parole ~~or death pursuant to~~ 3703  
~~to sections 2929.02 to 2929.06 of the Revised Code.~~ 3704

(5) Section 2909.25 of the Revised Code applies regarding 3705  
an offender who is convicted of or pleads guilty to a violation 3706  
of this section. 3707

**Sec. 2929.02.** (A) ~~Whoever~~ Except as provided in division 3708  
(C) of this section, whoever is convicted of or pleads guilty to 3709  
aggravated murder in violation of section 2903.01 of the Revised 3710  
Code shall ~~suffer death or be imprisoned for life, as determined~~ 3711  
~~pursuant to sections 2929.022, 2929.03, and 2929.04 of the~~ 3712  
~~Revised Code, except that no person who raises the matter of age~~ 3713  
~~pursuant to section 2929.023 of the Revised Code and who is not~~ 3714  
~~found to have been eighteen years of age or older at the time of~~ 3715  
~~the commission of the offense shall suffer death. In addition,~~ 3716  
~~the offender may be fined an amount fixed by the court, but not~~ 3717  
~~more than twenty five thousand dollars~~ sentenced to life 3718

imprisonment with parole eligibility after serving twenty full 3719  
years of imprisonment, life imprisonment with parole eligibility 3720  
after serving twenty-five full years of imprisonment, life 3721  
imprisonment with parole eligibility after serving thirty full 3722  
years of imprisonment, or life imprisonment without parole. 3723

~~(B)(1)~~ Except as otherwise provided in division ~~(B)(2)~~ or 3724  
~~(3)~~ (C) of this section, whoever is convicted of or pleads 3725  
guilty to murder in violation of section 2903.02 of the Revised 3726  
Code shall be imprisoned for an indefinite term of fifteen years 3727  
to life. 3728

~~(2)~~ (C)(1) Except as otherwise provided in division ~~(B)(3)~~ 3729  
(C)(2) of this section, if a person is convicted of or pleads 3730  
guilty to aggravated murder in violation of section 2903.01 of 3731  
the Revised Code or to murder in violation of section 2903.02 of 3732  
the Revised Code, the victim of the offense was less than 3733  
thirteen years of age, and the offender also is convicted of or 3734  
pleads guilty to a sexual motivation specification that was 3735  
included in the indictment, count in the indictment, or 3736  
information charging the offense, the court shall impose an 3737  
indefinite prison term of thirty years to life pursuant to 3738  
division (B)(3) of section 2971.03 of the Revised Code. 3739

~~(3)~~ (2) If a person is convicted of or pleads guilty to 3740  
aggravated murder in violation of section 2903.01 of the Revised 3741  
Code or to murder in violation of section 2903.02 of the Revised 3742  
Code and also is convicted of or pleads guilty to a sexual 3743  
motivation specification and a sexually violent predator 3744  
specification that were included in the indictment, count in the 3745  
indictment, or information that charged the murder, the court 3746  
shall impose upon the offender a term of life imprisonment 3747  
without parole that shall be served pursuant to section 2971.03 3748

of the Revised Code. 3749

~~(4)~~ (D) In addition to the prison term imposed under this 3750  
section, the offender may be fined an amount fixed by the court, 3751  
but not more than twenty-five thousand dollars for aggravated 3752  
murder or fifteen thousand dollars for murder. 3753

~~(C)~~ (E) The court shall not impose a fine or fines for 3754  
aggravated murder or murder ~~which that~~, in the aggregate and to 3755  
the extent not suspended by the court, exceeds the amount ~~which~~ 3756  
that the offender is or will be able to pay by the method and 3757  
within the time allowed without undue hardship to the offender 3758  
or to the dependents of the offender, or will prevent the 3759  
offender from making reparation for the victim's wrongful death. 3760

~~(D)~~ (F) (1) In addition to any other sanctions imposed for a 3761  
violation of section 2903.01 or 2903.02 of the Revised Code, if 3762  
the offender used a motor vehicle as the means to commit the 3763  
violation, the court shall impose upon the offender a class two 3764  
suspension of the offender's driver's license, commercial 3765  
driver's license, temporary instruction permit, probationary 3766  
license, or nonresident operating privilege as specified in 3767  
division (A) (2) of section 4510.02 of the Revised Code. 3768

(2) As used in division ~~(D)~~ (F) of this section, "motor 3769  
vehicle" has the same meaning as in section 4501.01 of the 3770  
Revised Code. 3771

(G) Capital punishment is hereby abolished. A trial court 3772  
that sentenced an offender to death prior to the effective date 3773  
of this amendment shall conduct a hearing to resentence the 3774  
offender. At the resentencing hearing, the court shall impose 3775  
upon the offender a sentence of life imprisonment without 3776  
parole. 3777



**Sec. 2929.13.** (A) Except as provided in division (E), (F), 3778  
or (G) of this section and unless a specific sanction is 3779  
required to be imposed or is precluded from being imposed 3780  
pursuant to law, a court that imposes a sentence upon an 3781  
offender for a felony may impose any sanction or combination of 3782  
sanctions on the offender that are provided in sections 2929.14 3783  
to 2929.18 of the Revised Code. 3784

If the offender is eligible to be sentenced to community 3785  
control sanctions, the court shall consider the appropriateness 3786  
of imposing a financial sanction pursuant to section 2929.18 of 3787  
the Revised Code or a sanction of community service pursuant to 3788  
section 2929.17 of the Revised Code as the sole sanction for the 3789  
offense. Except as otherwise provided in this division, if the 3790  
court is required to impose a mandatory prison term for the 3791  
offense for which sentence is being imposed, the court also 3792  
shall impose any financial sanction pursuant to section 2929.18 3793  
of the Revised Code that is required for the offense and may 3794  
impose any other financial sanction pursuant to that section but 3795  
may not impose any additional sanction or combination of 3796  
sanctions under section 2929.16 or 2929.17 of the Revised Code. 3797

If the offender is being sentenced for a fourth degree 3798  
felony OVI offense or for a third degree felony OVI offense, in 3799  
addition to the mandatory term of local incarceration or the 3800  
mandatory prison term required for the offense by division (G) 3801  
(1) or (2) of this section, the court shall impose upon the 3802  
offender a mandatory fine in accordance with division (B) (3) of 3803  
section 2929.18 of the Revised Code and may impose whichever of 3804  
the following is applicable: 3805

(1) For a fourth degree felony OVI offense for which 3806  
sentence is imposed under division (G) (1) of this section, an 3807

additional community control sanction or combination of 3808  
community control sanctions under section 2929.16 or 2929.17 of 3809  
the Revised Code. If the court imposes upon the offender a 3810  
community control sanction and the offender violates any 3811  
condition of the community control sanction, the court may take 3812  
any action prescribed in division (B) of section 2929.15 of the 3813  
Revised Code relative to the offender, including imposing a 3814  
prison term on the offender pursuant to that division. 3815

(2) For a third or fourth degree felony OVI offense for 3816  
which sentence is imposed under division (G) (2) of this section, 3817  
an additional prison term as described in division (B) (4) of 3818  
section 2929.14 of the Revised Code or a community control 3819  
sanction as described in division (G) (2) of this section. 3820

(B) (1) (a) Except as provided in division (B) (1) (b) of this 3821  
section, if an offender is convicted of or pleads guilty to a 3822  
felony of the fourth or fifth degree that is not an offense of 3823  
violence or that is a qualifying assault offense, the court 3824  
shall sentence the offender to a community control sanction of 3825  
at least one year's duration if all of the following apply: 3826

(i) The offender previously has not been convicted of or 3827  
pleaded guilty to a felony offense. 3828

(ii) The most serious charge against the offender at the 3829  
time of sentencing is a felony of the fourth or fifth degree. 3830

(iii) If the court made a request of the department of 3831  
rehabilitation and correction pursuant to division (B) (1) (c) of 3832  
this section, the department, within the forty-five-day period 3833  
specified in that division, provided the court with the names 3834  
of, contact information for, and program details of one or more 3835  
community control sanctions of at least one year's duration that 3836

are available for persons sentenced by the court. 3837

(iv) The offender previously has not been convicted of or 3838  
pleaded guilty to a misdemeanor offense of violence that the 3839  
offender committed within two years prior to the offense for 3840  
which sentence is being imposed. 3841

(b) The court has discretion to impose a prison term upon 3842  
an offender who is convicted of or pleads guilty to a felony of 3843  
the fourth or fifth degree that is not an offense of violence or 3844  
that is a qualifying assault offense if any of the following 3845  
apply: 3846

(i) The offender committed the offense while having a 3847  
firearm on or about the offender's person or under the 3848  
offender's control. 3849

(ii) If the offense is a qualifying assault offense, the 3850  
offender caused serious physical harm to another person while 3851  
committing the offense, and, if the offense is not a qualifying 3852  
assault offense, the offender caused physical harm to another 3853  
person while committing the offense. 3854

(iii) The offender violated a term of the conditions of 3855  
bond as set by the court. 3856

(iv) The court made a request of the department of 3857  
rehabilitation and correction pursuant to division (B)(1)(c) of 3858  
this section, and the department, within the forty-five-day 3859  
period specified in that division, did not provide the court 3860  
with the name of, contact information for, and program details 3861  
of any community control sanction of at least one year's 3862  
duration that is available for persons sentenced by the court. 3863

(v) The offense is a sex offense that is a fourth or fifth 3864  
degree felony violation of any provision of Chapter 2907. of the 3865

Revised Code. 3866

(vi) In committing the offense, the offender attempted to 3867  
cause or made an actual threat of physical harm to a person with 3868  
a deadly weapon. 3869

(vii) In committing the offense, the offender attempted to 3870  
cause or made an actual threat of physical harm to a person, and 3871  
the offender previously was convicted of an offense that caused 3872  
physical harm to a person. 3873

(viii) The offender held a public office or position of 3874  
trust, and the offense related to that office or position; the 3875  
offender's position obliged the offender to prevent the offense 3876  
or to bring those committing it to justice; or the offender's 3877  
professional reputation or position facilitated the offense or 3878  
was likely to influence the future conduct of others. 3879

(ix) The offender committed the offense for hire or as 3880  
part of an organized criminal activity. 3881

(x) The offender at the time of the offense was serving, 3882  
or the offender previously had served, a prison term. 3883

(xi) The offender committed the offense while under a 3884  
community control sanction, while on probation, or while 3885  
released from custody on a bond or personal recognizance. 3886

(c) If a court that is sentencing an offender who is 3887  
convicted of or pleads guilty to a felony of the fourth or fifth 3888  
degree that is not an offense of violence or that is a 3889  
qualifying assault offense believes that no community control 3890  
sanctions are available for its use that, if imposed on the 3891  
offender, will adequately fulfill the overriding principles and 3892  
purposes of sentencing, the court shall contact the department 3893  
of rehabilitation and correction and ask the department to 3894

provide the court with the names of, contact information for, 3895  
and program details of one or more community control sanctions 3896  
of at least one year's duration that are available for persons 3897  
sentenced by the court. Not later than forty-five days after 3898  
receipt of a request from a court under this division, the 3899  
department shall provide the court with the names of, contact 3900  
information for, and program details of one or more community 3901  
control sanctions of at least one year's duration that are 3902  
available for persons sentenced by the court, if any. Upon 3903  
making a request under this division that relates to a 3904  
particular offender, a court shall defer sentencing of that 3905  
offender until it receives from the department the names of, 3906  
contact information for, and program details of one or more 3907  
community control sanctions of at least one year's duration that 3908  
are available for persons sentenced by the court or for forty- 3909  
five days, whichever is the earlier. 3910

If the department provides the court with the names of, 3911  
contact information for, and program details of one or more 3912  
community control sanctions of at least one year's duration that 3913  
are available for persons sentenced by the court within the 3914  
forty-five-day period specified in this division, the court 3915  
shall impose upon the offender a community control sanction 3916  
under division (B) (1) (a) of this section, except that the court 3917  
may impose a prison term under division (B) (1) (b) of this 3918  
section if a factor described in division (B) (1) (b) (i) or (ii) 3919  
of this section applies. If the department does not provide the 3920  
court with the names of, contact information for, and program 3921  
details of one or more community control sanctions of at least 3922  
one year's duration that are available for persons sentenced by 3923  
the court within the forty-five-day period specified in this 3924  
division, the court may impose upon the offender a prison term 3925

under division (B) (1) (b) (iv) of this section. 3926

(d) A sentencing court may impose an additional penalty 3927  
under division (B) of section 2929.15 of the Revised Code upon 3928  
an offender sentenced to a community control sanction under 3929  
division (B) (1) (a) of this section if the offender violates the 3930  
conditions of the community control sanction, violates a law, or 3931  
leaves the state without the permission of the court or the 3932  
offender's probation officer. 3933

(2) If division (B) (1) of this section does not apply, 3934  
except as provided in division (E), (F), or (G) of this section, 3935  
in determining whether to impose a prison term as a sanction for 3936  
a felony of the fourth or fifth degree, the sentencing court 3937  
shall comply with the purposes and principles of sentencing 3938  
under section 2929.11 of the Revised Code and with section 3939  
2929.12 of the Revised Code. 3940

(C) Except as provided in division (D), (E), (F), or (G) 3941  
of this section, in determining whether to impose a prison term 3942  
as a sanction for a felony of the third degree or a felony drug 3943  
offense that is a violation of a provision of Chapter 2925. of 3944  
the Revised Code and that is specified as being subject to this 3945  
division for purposes of sentencing, the sentencing court shall 3946  
comply with the purposes and principles of sentencing under 3947  
section 2929.11 of the Revised Code and with section 2929.12 of 3948  
the Revised Code. 3949

(D) (1) Except as provided in division (E) or (F) of this 3950  
section, for a felony of the first or second degree, for a 3951  
felony drug offense that is a violation of any provision of 3952  
Chapter 2925., 3719., or 4729. of the Revised Code for which a 3953  
presumption in favor of a prison term is specified as being 3954  
applicable, and for a violation of division (A) (4) or (B) of 3955

section 2907.05 of the Revised Code for which a presumption in 3956  
favor of a prison term is specified as being applicable, it is 3957  
presumed that a prison term is necessary in order to comply with 3958  
the purposes and principles of sentencing under section 2929.11 3959  
of the Revised Code. Division (D) (2) of this section does not 3960  
apply to a presumption established under this division for a 3961  
violation of division (A) (4) of section 2907.05 of the Revised 3962  
Code. 3963

(2) Notwithstanding the presumption established under 3964  
division (D) (1) of this section for the offenses listed in that 3965  
division other than a violation of division (A) (4) or (B) of 3966  
section 2907.05 of the Revised Code, the sentencing court may 3967  
impose a community control sanction or a combination of 3968  
community control sanctions instead of a prison term on an 3969  
offender for a felony of the first or second degree or for a 3970  
felony drug offense that is a violation of any provision of 3971  
Chapter 2925., 3719., or 4729. of the Revised Code for which a 3972  
presumption in favor of a prison term is specified as being 3973  
applicable if it makes both of the following findings: 3974

(a) A community control sanction or a combination of 3975  
community control sanctions would adequately punish the offender 3976  
and protect the public from future crime, because the applicable 3977  
factors under section 2929.12 of the Revised Code indicating a 3978  
lesser likelihood of recidivism outweigh the applicable factors 3979  
under that section indicating a greater likelihood of 3980  
recidivism. 3981

(b) A community control sanction or a combination of 3982  
community control sanctions would not demean the seriousness of 3983  
the offense, because one or more factors under section 2929.12 3984  
of the Revised Code that indicate that the offender's conduct 3985

was less serious than conduct normally constituting the offense 3986  
are applicable, and they outweigh the applicable factors under 3987  
that section that indicate that the offender's conduct was more 3988  
serious than conduct normally constituting the offense. 3989

(E) (1) Except as provided in division (F) of this section, 3990  
for any drug offense that is a violation of any provision of 3991  
Chapter 2925. of the Revised Code and that is a felony of the 3992  
third, fourth, or fifth degree, the applicability of a 3993  
presumption under division (D) of this section in favor of a 3994  
prison term or of division (B) or (C) of this section in 3995  
determining whether to impose a prison term for the offense 3996  
shall be determined as specified in section 2925.02, 2925.03, 3997  
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 3998  
2925.36, or 2925.37 of the Revised Code, whichever is applicable 3999  
regarding the violation. 4000

(2) If an offender who was convicted of or pleaded guilty 4001  
to a felony violates the conditions of a community control 4002  
sanction imposed for the offense solely by reason of producing 4003  
positive results on a drug test or by acting pursuant to 4004  
division (B) (2) (b) of section 2925.11 of the Revised Code with 4005  
respect to a minor drug possession offense, the court, as 4006  
punishment for the violation of the sanction, shall not order 4007  
that the offender be imprisoned unless the court determines on 4008  
the record either of the following: 4009

(a) The offender had been ordered as a sanction for the 4010  
felony to participate in a drug treatment program, in a drug 4011  
education program, or in narcotics anonymous or a similar 4012  
program, and the offender continued to use illegal drugs after a 4013  
reasonable period of participation in the program. 4014

(b) The imprisonment of the offender for the violation is 4015



consistent with the purposes and principles of sentencing set 4016  
forth in section 2929.11 of the Revised Code. 4017

(3) A court that sentences an offender for a drug abuse 4018  
offense that is a felony of the third, fourth, or fifth degree 4019  
may require that the offender be assessed by a properly 4020  
credentialed professional within a specified period of time. The 4021  
court shall require the professional to file a written 4022  
assessment of the offender with the court. If the offender is 4023  
eligible for a community control sanction and after considering 4024  
the written assessment, the court may impose a community control 4025  
sanction that includes addiction services and recovery supports 4026  
included in a community-based continuum of care established 4027  
under section 340.032 of the Revised Code. If the court imposes 4028  
addiction services and recovery supports as a community control 4029  
sanction, the court shall direct the level and type of addiction 4030  
services and recovery supports after considering the assessment 4031  
and recommendation of community addiction services providers. 4032

(F) Notwithstanding divisions (A) to (E) of this section, 4033  
the court shall impose a prison term or terms under ~~sections~~ 4034  
section 2929.02 to 2929.06, section 2929.14, section 2929.142, 4035  
or ~~section~~ 2971.03 of the Revised Code and except as 4036  
specifically provided in section 2929.20, divisions (C) to (I) 4037  
of section 2967.19, or section 2967.191 of the Revised Code or 4038  
when parole is authorized for the offense under section 2967.13 4039  
of the Revised Code shall not reduce the term or terms pursuant 4040  
to section 2929.20, section 2967.19, section 2967.193, or any 4041  
other provision of Chapter 2967. or Chapter 5120. of the Revised 4042  
Code for any of the following offenses: 4043

(1) Aggravated murder ~~when death is not imposed~~ or murder; 4044

(2) Any rape, regardless of whether force was involved and 4045

regardless of the age of the victim, or an attempt to commit 4046  
rape if, had the offender completed the rape that was attempted, 4047  
the offender would have been guilty of a violation of division 4048  
(A) (1) (b) of section 2907.02 of the Revised Code and would be 4049  
sentenced under section 2971.03 of the Revised Code; 4050

(3) Gross sexual imposition or sexual battery, if the 4051  
victim is less than thirteen years of age and if any of the 4052  
following applies: 4053

(a) Regarding gross sexual imposition, the offender 4054  
previously was convicted of or pleaded guilty to rape, the 4055  
former offense of felonious sexual penetration, gross sexual 4056  
imposition, or sexual battery, and the victim of the previous 4057  
offense was less than thirteen years of age; 4058

(b) Regarding gross sexual imposition, the offense was 4059  
committed on or after August 3, 2006, and evidence other than 4060  
the testimony of the victim was admitted in the case 4061  
corroborating the violation. 4062

(c) Regarding sexual battery, either of the following 4063  
applies: 4064

(i) The offense was committed prior to August 3, 2006, the 4065  
offender previously was convicted of or pleaded guilty to rape, 4066  
the former offense of felonious sexual penetration, or sexual 4067  
battery, and the victim of the previous offense was less than 4068  
thirteen years of age. 4069

(ii) The offense was committed on or after August 3, 2006. 4070

(4) A felony violation of section 2903.04, 2903.06, 4071  
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 4072  
or 2923.132 of the Revised Code if the section requires the 4073  
imposition of a prison term; 4074

(5) A first, second, or third degree felony drug offense 4075  
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 4076  
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 4077  
or 4729.99 of the Revised Code, whichever is applicable 4078  
regarding the violation, requires the imposition of a mandatory 4079  
prison term; 4080

(6) Any offense that is a first or second degree felony 4081  
and that is not set forth in division (F) (1), (2), (3), or (4) 4082  
of this section, if the offender previously was convicted of or 4083  
pleaded guilty to aggravated murder, murder, any first or second 4084  
degree felony, or an offense under an existing or former law of 4085  
this state, another state, or the United States that is or was 4086  
substantially equivalent to one of those offenses; 4087

(7) Any offense that is a third degree felony and either 4088  
is a violation of section 2903.04 of the Revised Code or an 4089  
attempt to commit a felony of the second degree that is an 4090  
offense of violence and involved an attempt to cause serious 4091  
physical harm to a person or that resulted in serious physical 4092  
harm to a person if the offender previously was convicted of or 4093  
pleaded guilty to any of the following offenses: 4094

(a) Aggravated murder, murder, involuntary manslaughter, 4095  
rape, felonious sexual penetration as it existed under section 4096  
2907.12 of the Revised Code prior to September 3, 1996, a felony 4097  
of the first or second degree that resulted in the death of a 4098  
person or in physical harm to a person, or complicity in or an 4099  
attempt to commit any of those offenses; 4100

(b) An offense under an existing or former law of this 4101  
state, another state, or the United States that is or was 4102  
substantially equivalent to an offense listed in division (F) (7) 4103  
(a) of this section that resulted in the death of a person or in 4104

physical harm to a person. 4105

(8) Any offense, other than a violation of section 2923.12 4106  
of the Revised Code, that is a felony, if the offender had a 4107  
firearm on or about the offender's person or under the 4108  
offender's control while committing the felony, with respect to 4109  
a portion of the sentence imposed pursuant to division (B)(1)(a) 4110  
of section 2929.14 of the Revised Code for having the firearm; 4111

(9) Any offense of violence that is a felony, if the 4112  
offender wore or carried body armor while committing the felony 4113  
offense of violence, with respect to the portion of the sentence 4114  
imposed pursuant to division (B)(1)(d) of section 2929.14 of the 4115  
Revised Code for wearing or carrying the body armor; 4116

(10) Corrupt activity in violation of section 2923.32 of 4117  
the Revised Code when the most serious offense in the pattern of 4118  
corrupt activity that is the basis of the offense is a felony of 4119  
the first degree; 4120

(11) Any violent sex offense or designated homicide, 4121  
assault, or kidnapping offense if, in relation to that offense, 4122  
the offender is adjudicated a sexually violent predator; 4123

(12) A violation of division (A)(1) or (2) of section 4124  
2921.36 of the Revised Code, or a violation of division (C) of 4125  
that section involving an item listed in division (A)(1) or (2) 4126  
of that section, if the offender is an officer or employee of 4127  
the department of rehabilitation and correction; 4128

(13) A violation of division (A)(1) or (2) of section 4129  
2903.06 of the Revised Code if the victim of the offense is a 4130  
peace officer, as defined in section 2935.01 of the Revised 4131  
Code, or an investigator of the bureau of criminal 4132  
identification and investigation, as defined in section 2903.11 4133

of the Revised Code, with respect to the portion of the sentence 4134  
imposed pursuant to division (B) (5) of section 2929.14 of the 4135  
Revised Code; 4136

(14) A violation of division (A) (1) or (2) of section 4137  
2903.06 of the Revised Code if the offender has been convicted 4138  
of or pleaded guilty to three or more violations of division (A) 4139  
or (B) of section 4511.19 of the Revised Code or an equivalent 4140  
offense, as defined in section 2941.1415 of the Revised Code, or 4141  
three or more violations of any combination of those divisions 4142  
and offenses, with respect to the portion of the sentence 4143  
imposed pursuant to division (B) (6) of section 2929.14 of the 4144  
Revised Code; 4145

(15) Kidnapping, in the circumstances specified in section 4146  
2971.03 of the Revised Code and when no other provision of 4147  
division (F) of this section applies; 4148

(16) Kidnapping, abduction, compelling prostitution, 4149  
promoting prostitution, engaging in a pattern of corrupt 4150  
activity, illegal use of a minor in a nudity-oriented material 4151  
or performance in violation of division (A) (1) or (2) of section 4152  
2907.323 of the Revised Code, or endangering children in 4153  
violation of division (B) (1), (2), (3), (4), or (5) of section 4154  
2919.22 of the Revised Code, if the offender is convicted of or 4155  
pleads guilty to a specification as described in section 4156  
2941.1422 of the Revised Code that was included in the 4157  
indictment, count in the indictment, or information charging the 4158  
offense; 4159

(17) A felony violation of division (A) or (B) of section 4160  
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 4161  
that section, and division (D) (6) of that section, require the 4162  
imposition of a prison term; 4163

(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.

(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 4194  
section 2929.20, 2967.193, or any other provision of the Revised 4195  
Code. The court that imposes a mandatory term of local 4196  
incarceration under this division shall specify whether the term 4197  
is to be served in a jail, a community-based correctional 4198  
facility, a halfway house, or an alternative residential 4199  
facility, and the offender shall serve the term in the type of 4200  
facility specified by the court. A mandatory term of local 4201  
incarceration imposed under division (G) (1) of this section is 4202  
not subject to any other Revised Code provision that pertains to 4203  
a prison term except as provided in division (A) (1) of this 4204  
section. 4205

(2) If the offender is being sentenced for a third degree 4206  
felony OVI offense, or if the offender is being sentenced for a 4207  
fourth degree felony OVI offense and the court does not impose a 4208  
mandatory term of local incarceration under division (G) (1) of 4209  
this section, the court shall impose upon the offender a 4210  
mandatory prison term of one, two, three, four, or five years if 4211  
the offender also is convicted of or also pleads guilty to a 4212  
specification of the type described in section 2941.1413 of the 4213  
Revised Code or shall impose upon the offender a mandatory 4214  
prison term of sixty days or one hundred twenty days as 4215  
specified in division (G) (1) (d) or (e) of section 4511.19 of the 4216  
Revised Code if the offender has not been convicted of and has 4217  
not pleaded guilty to a specification of that type. Subject to 4218  
divisions (C) to (I) of section 2967.19 of the Revised Code, the 4219  
court shall not reduce the term pursuant to section 2929.20, 4220  
2967.19, 2967.193, or any other provision of the Revised Code. 4221  
The offender shall serve the one-, two-, three-, four-, or five- 4222  
year mandatory prison term consecutively to and prior to the 4223  
prison term imposed for the underlying offense and consecutively 4224

to any other mandatory prison term imposed in relation to the 4225  
offense. In no case shall an offender who once has been 4226  
sentenced to a mandatory term of local incarceration pursuant to 4227  
division (G) (1) of this section for a fourth degree felony OVI 4228  
offense be sentenced to another mandatory term of local 4229  
incarceration under that division for any violation of division 4230  
(A) of section 4511.19 of the Revised Code. In addition to the 4231  
mandatory prison term described in division (G) (2) of this 4232  
section, the court may sentence the offender to a community 4233  
control sanction under section 2929.16 or 2929.17 of the Revised 4234  
Code, but the offender shall serve the prison term prior to 4235  
serving the community control sanction. The department of 4236  
rehabilitation and correction may place an offender sentenced to 4237  
a mandatory prison term under this division in an intensive 4238  
program prison established pursuant to section 5120.033 of the 4239  
Revised Code if the department gave the sentencing judge prior 4240  
notice of its intent to place the offender in an intensive 4241  
program prison established under that section and if the judge 4242  
did not notify the department that the judge disapproved the 4243  
placement. Upon the establishment of the initial intensive 4244  
program prison pursuant to section 5120.033 of the Revised Code 4245  
that is privately operated and managed by a contractor pursuant 4246  
to a contract entered into under section 9.06 of the Revised 4247  
Code, both of the following apply: 4248

(a) The department of rehabilitation and correction shall 4249  
make a reasonable effort to ensure that a sufficient number of 4250  
offenders sentenced to a mandatory prison term under this 4251  
division are placed in the privately operated and managed prison 4252  
so that the privately operated and managed prison has full 4253  
occupancy. 4254

(b) Unless the privately operated and managed prison has 4255



full occupancy, the department of rehabilitation and correction 4256  
shall not place any offender sentenced to a mandatory prison 4257  
term under this division in any intensive program prison 4258  
established pursuant to section 5120.033 of the Revised Code 4259  
other than the privately operated and managed prison. 4260

(H) If an offender is being sentenced for a sexually 4261  
oriented offense or child-victim oriented offense that is a 4262  
felony committed on or after January 1, 1997, the judge shall 4263  
require the offender to submit to a DNA specimen collection 4264  
procedure pursuant to section 2901.07 of the Revised Code. 4265

(I) If an offender is being sentenced for a sexually 4266  
oriented offense or a child-victim oriented offense committed on 4267  
or after January 1, 1997, the judge shall include in the 4268  
sentence a summary of the offender's duties imposed under 4269  
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 4270  
Code and the duration of the duties. The judge shall inform the 4271  
offender, at the time of sentencing, of those duties and of 4272  
their duration. If required under division (A)(2) of section 4273  
2950.03 of the Revised Code, the judge shall perform the duties 4274  
specified in that section, or, if required under division (A)(6) 4275  
of section 2950.03 of the Revised Code, the judge shall perform 4276  
the duties specified in that division. 4277

(J)(1) Except as provided in division (J)(2) of this 4278  
section, when considering sentencing factors under this section 4279  
in relation to an offender who is convicted of or pleads guilty 4280  
to an attempt to commit an offense in violation of section 4281  
2923.02 of the Revised Code, the sentencing court shall consider 4282  
the factors applicable to the felony category of the violation 4283  
of section 2923.02 of the Revised Code instead of the factors 4284  
applicable to the felony category of the offense attempted. 4285

(2) When considering sentencing factors under this section 4286  
in relation to an offender who is convicted of or pleads guilty 4287  
to an attempt to commit a drug abuse offense for which the 4288  
penalty is determined by the amount or number of unit doses of 4289  
the controlled substance involved in the drug abuse offense, the 4290  
sentencing court shall consider the factors applicable to the 4291  
felony category that the drug abuse offense attempted would be 4292  
if that drug abuse offense had been committed and had involved 4293  
an amount or number of unit doses of the controlled substance 4294  
that is within the next lower range of controlled substance 4295  
amounts than was involved in the attempt. 4296

(K) As used in this section: 4297

(1) "Community addiction services provider" has the same 4298  
meaning as in section 5119.01 of the Revised Code. 4299

(2) "Drug abuse offense" has the same meaning as in 4300  
section 2925.01 of the Revised Code. 4301

(3) "Minor drug possession offense" has the same meaning 4302  
as in section 2925.11 of the Revised Code. 4303

(4) "Qualifying assault offense" means a violation of 4304  
section 2903.13 of the Revised Code for which the penalty 4305  
provision in division (C) (8) (b) or (C) (9) (b) of that section 4306  
applies. 4307

(L) At the time of sentencing an offender for any sexually 4308  
oriented offense, if the offender is a tier III sex 4309  
offender/child-victim offender relative to that offense and the 4310  
offender does not serve a prison term or jail term, the court 4311  
may require that the offender be monitored by means of a global 4312  
positioning device. If the court requires such monitoring, the 4313  
cost of monitoring shall be borne by the offender. If the 4314

offender is indigent, the cost of compliance shall be paid by 4315  
the crime victims reparations fund. 4316

**Sec. 2929.14.** (A) Except as provided in division (B) (1), 4317  
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (E), 4318  
(G), (H), (J), or (K) of this section or in division (D) (6) of 4319  
section 2919.25 of the Revised Code and except in relation to an 4320  
offense for which a sentence of ~~death or~~ life imprisonment is to 4321  
be imposed, if the court imposing a sentence upon an offender 4322  
for a felony elects or is required to impose a prison term on 4323  
the offender pursuant to this chapter, the court shall impose a 4324  
definite prison term that shall be one of the following: 4325

(1) For a felony of the first degree, the prison term 4326  
shall be three, four, five, six, seven, eight, nine, ten, or 4327  
eleven years. 4328

(2) For a felony of the second degree, the prison term 4329  
shall be two, three, four, five, six, seven, or eight years. 4330

(3) (a) For a felony of the third degree that is a 4331  
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 4332  
2907.05, or 3795.04 of the Revised Code or that is a violation 4333  
of section 2911.02 or 2911.12 of the Revised Code if the 4334  
offender previously has been convicted of or pleaded guilty in 4335  
two or more separate proceedings to two or more violations of 4336  
section 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised 4337  
Code, the prison term shall be twelve, eighteen, twenty-four, 4338  
thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty 4339  
months. 4340

(b) For a felony of the third degree that is not an 4341  
offense for which division (A) (3) (a) of this section applies, 4342  
the prison term shall be nine, twelve, eighteen, twenty-four, 4343

thirty, or thirty-six months. 4344

(4) For a felony of the fourth degree, the prison term 4345  
shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, 4346  
fourteen, fifteen, sixteen, seventeen, or eighteen months. 4347

(5) For a felony of the fifth degree, the prison term 4348  
shall be six, seven, eight, nine, ten, eleven, or twelve months. 4349

(B) (1) (a) Except as provided in division (B) (1) (e) of this 4350  
section, if an offender who is convicted of or pleads guilty to 4351  
a felony also is convicted of or pleads guilty to a 4352  
specification of the type described in section 2941.141, 4353  
2941.144, or 2941.145 of the Revised Code, the court shall 4354  
impose on the offender one of the following prison terms: 4355

(i) A prison term of six years if the specification is of 4356  
the type described in division (A) of section 2941.144 of the 4357  
Revised Code that charges the offender with having a firearm 4358  
that is an automatic firearm or that was equipped with a firearm 4359  
muffler or suppressor on or about the offender's person or under 4360  
the offender's control while committing the offense; 4361

(ii) A prison term of three years if the specification is 4362  
of the type described in division (A) of section 2941.145 of the 4363  
Revised Code that charges the offender with having a firearm on 4364  
or about the offender's person or under the offender's control 4365  
while committing the offense and displaying the firearm, 4366  
brandishing the firearm, indicating that the offender possessed 4367  
the firearm, or using it to facilitate the offense; 4368

(iii) A prison term of one year if the specification is of 4369  
the type described in division (A) of section 2941.141 of the 4370  
Revised Code that charges the offender with having a firearm on 4371  
or about the offender's person or under the offender's control 4372

while committing the offense; 4373

(iv) A prison term of nine years if the specification is 4374  
of the type described in division (D) of section 2941.144 of the 4375  
Revised Code that charges the offender with having a firearm 4376  
that is an automatic firearm or that was equipped with a firearm 4377  
muffler or suppressor on or about the offender's person or under 4378  
the offender's control while committing the offense and 4379  
specifies that the offender previously has been convicted of or 4380  
pleaded guilty to a specification of the type described in 4381  
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4382  
the Revised Code; 4383

(v) A prison term of fifty-four months if the 4384  
specification is of the type described in division (D) of 4385  
section 2941.145 of the Revised Code that charges the offender 4386  
with having a firearm on or about the offender's person or under 4387  
the offender's control while committing the offense and 4388  
displaying the firearm, brandishing the firearm, indicating that 4389  
the offender possessed the firearm, or using the firearm to 4390  
facilitate the offense and that the offender previously has been 4391  
convicted of or pleaded guilty to a specification of the type 4392  
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 4393  
2941.1412 of the Revised Code; 4394

(vi) A prison term of eighteen months if the specification 4395  
is of the type described in division (D) of section 2941.141 of 4396  
the Revised Code that charges the offender with having a firearm 4397  
on or about the offender's person or under the offender's 4398  
control while committing the offense and that the offender 4399  
previously has been convicted of or pleaded guilty to a 4400  
specification of the type described in section 2941.141, 4401  
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 4402

(b) If a court imposes a prison term on an offender under 4403  
division (B) (1) (a) of this section, the prison term shall not be 4404  
reduced pursuant to section 2967.19, section 2929.20, section 4405  
2967.193, or any other provision of Chapter 2967. or Chapter 4406  
5120. of the Revised Code. Except as provided in division (B) (1) 4407  
(g) of this section, a court shall not impose more than one 4408  
prison term on an offender under division (B) (1) (a) of this 4409  
section for felonies committed as part of the same act or 4410  
transaction. 4411

(c) (i) Except as provided in division (B) (1) (e) of this 4412  
section, if an offender who is convicted of or pleads guilty to 4413  
a violation of section 2923.161 of the Revised Code or to a 4414  
felony that includes, as an essential element, purposely or 4415  
knowingly causing or attempting to cause the death of or 4416  
physical harm to another, also is convicted of or pleads guilty 4417  
to a specification of the type described in division (A) of 4418  
section 2941.146 of the Revised Code that charges the offender 4419  
with committing the offense by discharging a firearm from a 4420  
motor vehicle other than a manufactured home, the court, after 4421  
imposing a prison term on the offender for the violation of 4422  
section 2923.161 of the Revised Code or for the other felony 4423  
offense under division (A), (B) (2), or (B) (3) of this section, 4424  
shall impose an additional prison term of five years upon the 4425  
offender that shall not be reduced pursuant to section 2929.20, 4426  
section 2967.19, section 2967.193, or any other provision of 4427  
Chapter 2967. or Chapter 5120. of the Revised Code. 4428

(ii) Except as provided in division (B) (1) (e) of this 4429  
section, if an offender who is convicted of or pleads guilty to 4430  
a violation of section 2923.161 of the Revised Code or to a 4431  
felony that includes, as an essential element, purposely or 4432  
knowingly causing or attempting to cause the death of or 4433

physical harm to another, also is convicted of or pleads guilty 4434  
to a specification of the type described in division (C) of 4435  
section 2941.146 of the Revised Code that charges the offender 4436  
with committing the offense by discharging a firearm from a 4437  
motor vehicle other than a manufactured home and that the 4438  
offender previously has been convicted of or pleaded guilty to a 4439  
specification of the type described in section 2941.141, 4440  
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 4441  
the court, after imposing a prison term on the offender for the 4442  
violation of section 2923.161 of the Revised Code or for the 4443  
other felony offense under division (A), (B) (2), or (3) of this 4444  
section, shall impose an additional prison term of ninety months 4445  
upon the offender that shall not be reduced pursuant to section 4446  
2929.20, 2967.19, 2967.193, or any other provision of Chapter 4447  
2967. or Chapter 5120. of the Revised Code. 4448

(iii) A court shall not impose more than one additional 4449  
prison term on an offender under division (B) (1) (c) of this 4450  
section for felonies committed as part of the same act or 4451  
transaction. If a court imposes an additional prison term on an 4452  
offender under division (B) (1) (c) of this section relative to an 4453  
offense, the court also shall impose a prison term under 4454  
division (B) (1) (a) of this section relative to the same offense, 4455  
provided the criteria specified in that division for imposing an 4456  
additional prison term are satisfied relative to the offender 4457  
and the offense. 4458

(d) If an offender who is convicted of or pleads guilty to 4459  
an offense of violence that is a felony also is convicted of or 4460  
pleads guilty to a specification of the type described in 4461  
section 2941.1411 of the Revised Code that charges the offender 4462  
with wearing or carrying body armor while committing the felony 4463  
offense of violence, the court shall impose on the offender a 4464

prison term of two years. The prison term so imposed, subject to 4465  
divisions (C) to (I) of section 2967.19 of the Revised Code, 4466  
shall not be reduced pursuant to section 2929.20, section 4467  
2967.19, section 2967.193, or any other provision of Chapter 4468  
2967. or Chapter 5120. of the Revised Code. A court shall not 4469  
impose more than one prison term on an offender under division 4470  
(B) (1) (d) of this section for felonies committed as part of the 4471  
same act or transaction. If a court imposes an additional prison 4472  
term under division (B) (1) (a) or (c) of this section, the court 4473  
is not precluded from imposing an additional prison term under 4474  
division (B) (1) (d) of this section. 4475

(e) The court shall not impose any of the prison terms 4476  
described in division (B) (1) (a) of this section or any of the 4477  
additional prison terms described in division (B) (1) (c) of this 4478  
section upon an offender for a violation of section 2923.12 or 4479  
2923.123 of the Revised Code. The court shall not impose any of 4480  
the prison terms described in division (B) (1) (a) or (b) of this 4481  
section upon an offender for a violation of section 2923.122 4482  
that involves a deadly weapon that is a firearm other than a 4483  
dangerous ordnance, section 2923.16, or section 2923.121 of the 4484  
Revised Code. The court shall not impose any of the prison terms 4485  
described in division (B) (1) (a) of this section or any of the 4486  
additional prison terms described in division (B) (1) (c) of this 4487  
section upon an offender for a violation of section 2923.13 of 4488  
the Revised Code unless all of the following apply: 4489

(i) The offender previously has been convicted of 4490  
aggravated murder, murder, or any felony of the first or second 4491  
degree. 4492

(ii) Less than five years have passed since the offender 4493  
was released from prison or post-release control, whichever is 4494



later, for the prior offense. 4495

(f) (i) If an offender is convicted of or pleads guilty to 4496  
a felony that includes, as an essential element, causing or 4497  
attempting to cause the death of or physical harm to another and 4498  
also is convicted of or pleads guilty to a specification of the 4499  
type described in division (A) of section 2941.1412 of the 4500  
Revised Code that charges the offender with committing the 4501  
offense by discharging a firearm at a peace officer as defined 4502  
in section 2935.01 of the Revised Code or a corrections officer, 4503  
as defined in section 2941.1412 of the Revised Code, the court, 4504  
after imposing a prison term on the offender for the felony 4505  
offense under division (A), (B) (2), or (B) (3) of this section, 4506  
shall impose an additional prison term of seven years upon the 4507  
offender that shall not be reduced pursuant to section 2929.20, 4508  
section 2967.19, section 2967.193, or any other provision of 4509  
Chapter 2967. or Chapter 5120. of the Revised Code. 4510

(ii) If an offender is convicted of or pleads guilty to a 4511  
felony that includes, as an essential element, causing or 4512  
attempting to cause the death of or physical harm to another and 4513  
also is convicted of or pleads guilty to a specification of the 4514  
type described in division (B) of section 2941.1412 of the 4515  
Revised Code that charges the offender with committing the 4516  
offense by discharging a firearm at a peace officer, as defined 4517  
in section 2935.01 of the Revised Code, or a corrections 4518  
officer, as defined in section 2941.1412 of the Revised Code, 4519  
and that the offender previously has been convicted of or 4520  
pleaded guilty to a specification of the type described in 4521  
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4522  
the Revised Code, the court, after imposing a prison term on the 4523  
offender for the felony offense under division (A), (B) (2), or 4524  
(3) of this section, shall impose an additional prison term of 4525

one hundred twenty-six months upon the offender that shall not  
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or  
any other provision of Chapter 2967. or 5120. of the Revised  
Code.

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

(g) If an offender is convicted of or pleads guilty to two  
or more felonies, if one or more of those felonies are  
aggravated murder, murder, attempted aggravated murder,  
attempted murder, aggravated robbery, felonious assault, or  
rape, and if the offender is convicted of or pleads guilty to a  
specification of the type described under division (B)(1)(a) of  
this section in connection with two or more of the felonies, the  
sentencing court shall impose on the offender the prison term  
specified under division (B)(1)(a) of this section for each of

the two most serious specifications of which the offender is 4557  
convicted or to which the offender pleads guilty and, in its 4558  
discretion, also may impose on the offender the prison term 4559  
specified under that division for any or all of the remaining 4560  
specifications. 4561

(2) (a) If division (B) (2) (b) of this section does not 4562  
apply, the court may impose on an offender, in addition to the 4563  
longest prison term authorized or required for the offense, an 4564  
additional definite prison term of one, two, three, four, five, 4565  
six, seven, eight, nine, or ten years if all of the following 4566  
criteria are met: 4567

(i) The offender is convicted of or pleads guilty to a 4568  
specification of the type described in section 2941.149 of the 4569  
Revised Code that the offender is a repeat violent offender. 4570

(ii) The offense of which the offender currently is 4571  
convicted or to which the offender currently pleads guilty is 4572  
aggravated murder and the court does not impose a sentence of 4573  
~~death or~~ life imprisonment without parole, murder, terrorism and 4574  
the court does not impose a sentence of life imprisonment 4575  
without parole, any felony of the first degree that is an 4576  
offense of violence and the court does not impose a sentence of 4577  
life imprisonment without parole, or any felony of the second 4578  
degree that is an offense of violence and the trier of fact 4579  
finds that the offense involved an attempt to cause or a threat 4580  
to cause serious physical harm to a person or resulted in 4581  
serious physical harm to a person. 4582

(iii) The court imposes the longest prison term for the 4583  
offense that is not life imprisonment without parole. 4584

(iv) The court finds that the prison terms imposed 4585

pursuant to division (B) (2) (a) (iii) of this section and, if 4586  
applicable, division (B) (1) or (3) of this section are 4587  
inadequate to punish the offender and protect the public from 4588  
future crime, because the applicable factors under section 4589  
2929.12 of the Revised Code indicating a greater likelihood of 4590  
recidivism outweigh the applicable factors under that section 4591  
indicating a lesser likelihood of recidivism. 4592

(v) The court finds that the prison terms imposed pursuant 4593  
to division (B) (2) (a) (iii) of this section and, if applicable, 4594  
division (B) (1) or (3) of this section are demeaning to the 4595  
seriousness of the offense, because one or more of the factors 4596  
under section 2929.12 of the Revised Code indicating that the 4597  
offender's conduct is more serious than conduct normally 4598  
constituting the offense are present, and they outweigh the 4599  
applicable factors under that section indicating that the 4600  
offender's conduct is less serious than conduct normally 4601  
constituting the offense. 4602

(b) The court shall impose on an offender the longest 4603  
prison term authorized or required for the offense and shall 4604  
impose on the offender an additional definite prison term of 4605  
one, two, three, four, five, six, seven, eight, nine, or ten 4606  
years if all of the following criteria are met: 4607

(i) The offender is convicted of or pleads guilty to a 4608  
specification of the type described in section 2941.149 of the 4609  
Revised Code that the offender is a repeat violent offender. 4610

(ii) The offender within the preceding twenty years has 4611  
been convicted of or pleaded guilty to three or more offenses 4612  
described in division (CC) (1) of section 2929.01 of the Revised 4613  
Code, including all offenses described in that division of which 4614  
the offender is convicted or to which the offender pleads guilty 4615

in the current prosecution and all offenses described in that 4616  
division of which the offender previously has been convicted or 4617  
to which the offender previously pleaded guilty, whether 4618  
prosecuted together or separately. 4619

(iii) The offense or offenses of which the offender 4620  
currently is convicted or to which the offender currently pleads 4621  
guilty is aggravated murder and the court does not impose a 4622  
sentence of ~~death or~~ life imprisonment without parole, murder, 4623  
terrorism and the court does not impose a sentence of life 4624  
imprisonment without parole, any felony of the first degree that 4625  
is an offense of violence and the court does not impose a 4626  
sentence of life imprisonment without parole, or any felony of 4627  
the second degree that is an offense of violence and the trier 4628  
of fact finds that the offense involved an attempt to cause or a 4629  
threat to cause serious physical harm to a person or resulted in 4630  
serious physical harm to a person. 4631

(c) For purposes of division (B) (2) (b) of this section, 4632  
two or more offenses committed at the same time or as part of 4633  
the same act or event shall be considered one offense, and that 4634  
one offense shall be the offense with the greatest penalty. 4635

(d) A sentence imposed under division (B) (2) (a) or (b) of 4636  
this section shall not be reduced pursuant to section 2929.20, 4637  
section 2967.19, or section 2967.193, or any other provision of 4638  
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 4639  
shall serve an additional prison term imposed under this section 4640  
consecutively to and prior to the prison term imposed for the 4641  
underlying offense. 4642

(e) When imposing a sentence pursuant to division (B) (2) 4643  
(a) or (b) of this section, the court shall state its findings 4644  
explaining the imposed sentence. 4645

(3) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, division (C) or (D) of section 3719.172, division (E) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in section 2941.1410 of the Revised Code charging that the offender is a major drug offender, if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious offense in the pattern of corrupt activity being a felony of the first degree, or if the offender is guilty of an attempted violation of section 2907.02 of the Revised Code and, had the offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a mandatory prison term of the maximum prison term prescribed for a felony of the first degree that, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, cannot be reduced pursuant to section 2929.20, section 2967.19, or any other provision of Chapter 2967. or 5120. of the Revised Code.

(4) If the offender is being sentenced for a third or 4678  
fourth degree felony OVI offense under division (G) (2) of 4679  
section 2929.13 of the Revised Code, the sentencing court shall 4680  
impose upon the offender a mandatory prison term in accordance 4681  
with that division. In addition to the mandatory prison term, if 4682  
the offender is being sentenced for a fourth degree felony OVI 4683  
offense, the court, notwithstanding division (A) (4) of this 4684  
section, may sentence the offender to a definite prison term of 4685  
not less than six months and not more than thirty months, and if 4686  
the offender is being sentenced for a third degree felony OVI 4687  
offense, the sentencing court may sentence the offender to an 4688  
additional prison term of any duration specified in division (A) 4689  
(3) of this section. In either case, the additional prison term 4690  
imposed shall be reduced by the sixty or one hundred twenty days 4691  
imposed upon the offender as the mandatory prison term. The 4692  
total of the additional prison term imposed under division (B) 4693  
(4) of this section plus the sixty or one hundred twenty days 4694  
imposed as the mandatory prison term shall equal a definite term 4695  
in the range of six months to thirty months for a fourth degree 4696  
felony OVI offense and shall equal one of the authorized prison 4697  
terms specified in division (A) (3) of this section for a third 4698  
degree felony OVI offense. If the court imposes an additional 4699  
prison term under division (B) (4) of this section, the offender 4700  
shall serve the additional prison term after the offender has 4701  
served the mandatory prison term required for the offense. In 4702  
addition to the mandatory prison term or mandatory and 4703  
additional prison term imposed as described in division (B) (4) 4704  
of this section, the court also may sentence the offender to a 4705  
community control sanction under section 2929.16 or 2929.17 of 4706  
the Revised Code, but the offender shall serve all of the prison 4707  
terms so imposed prior to serving the community control 4708  
sanction. 4709

If the offender is being sentenced for a fourth degree 4710  
felony OVI offense under division (G) (1) of section 2929.13 of 4711  
the Revised Code and the court imposes a mandatory term of local 4712  
incarceration, the court may impose a prison term as described 4713  
in division (A) (1) of that section. 4714

(5) If an offender is convicted of or pleads guilty to a 4715  
violation of division (A) (1) or (2) of section 2903.06 of the 4716  
Revised Code and also is convicted of or pleads guilty to a 4717  
specification of the type described in section 2941.1414 of the 4718  
Revised Code that charges that the victim of the offense is a 4719  
peace officer, as defined in section 2935.01 of the Revised 4720  
Code, or an investigator of the bureau of criminal 4721  
identification and investigation, as defined in section 2903.11 4722  
of the Revised Code, the court shall impose on the offender a 4723  
prison term of five years. If a court imposes a prison term on 4724  
an offender under division (B) (5) of this section, the prison 4725  
term, subject to divisions (C) to (I) of section 2967.19 of the 4726  
Revised Code, shall not be reduced pursuant to section 2929.20, 4727  
section 2967.19, section 2967.193, or any other provision of 4728  
Chapter 2967. or Chapter 5120. of the Revised Code. A court 4729  
shall not impose more than one prison term on an offender under 4730  
division (B) (5) of this section for felonies committed as part 4731  
of the same act. 4732

(6) If an offender is convicted of or pleads guilty to a 4733  
violation of division (A) (1) or (2) of section 2903.06 of the 4734  
Revised Code and also is convicted of or pleads guilty to a 4735  
specification of the type described in section 2941.1415 of the 4736  
Revised Code that charges that the offender previously has been 4737  
convicted of or pleaded guilty to three or more violations of 4738  
division (A) or (B) of section 4511.19 of the Revised Code or an 4739  
equivalent offense, as defined in section 2941.1415 of the 4740



Revised Code, or three or more violations of any combination of 4741  
those divisions and offenses, the court shall impose on the 4742  
offender a prison term of three years. If a court imposes a 4743  
prison term on an offender under division (B) (6) of this 4744  
section, the prison term, subject to divisions (C) to (I) of 4745  
section 2967.19 of the Revised Code, shall not be reduced 4746  
pursuant to section 2929.20, section 2967.19, section 2967.193, 4747  
or any other provision of Chapter 2967. or Chapter 5120. of the 4748  
Revised Code. A court shall not impose more than one prison term 4749  
on an offender under division (B) (6) of this section for 4750  
felonies committed as part of the same act. 4751

(7) (a) If an offender is convicted of or pleads guilty to 4752  
a felony violation of section 2905.01, 2905.02, 2907.21, 4753  
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, 4754  
or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of 4755  
the Revised Code and also is convicted of or pleads guilty to a 4756  
specification of the type described in section 2941.1422 of the 4757  
Revised Code that charges that the offender knowingly committed 4758  
the offense in furtherance of human trafficking, the court shall 4759  
impose on the offender a mandatory prison term that is one of 4760  
the following: 4761

(i) If the offense is a felony of the first degree, a 4762  
definite prison term of not less than five years and not greater 4763  
than ten years; 4764

(ii) If the offense is a felony of the second or third 4765  
degree, a definite prison term of not less than three years and 4766  
not greater than the maximum prison term allowed for the offense 4767  
by division (A) of section 2929.14 of the Revised Code; 4768

(iii) If the offense is a felony of the fourth or fifth 4769  
degree, a definite prison term that is the maximum prison term 4770

allowed for the offense by division (A) of section 2929.14 of 4771  
the Revised Code. 4772

(b) Subject to divisions (C) to (I) of section 2967.19 of 4773  
the Revised Code, the prison term imposed under division (B) (7) 4774  
(a) of this section shall not be reduced pursuant to section 4775  
2929.20, section 2967.19, section 2967.193, or any other 4776  
provision of Chapter 2967. of the Revised Code. A court shall 4777  
not impose more than one prison term on an offender under 4778  
division (B) (7) (a) of this section for felonies committed as 4779  
part of the same act, scheme, or plan. 4780

(8) If an offender is convicted of or pleads guilty to a 4781  
felony violation of section 2903.11, 2903.12, or 2903.13 of the 4782  
Revised Code and also is convicted of or pleads guilty to a 4783  
specification of the type described in section 2941.1423 of the 4784  
Revised Code that charges that the victim of the violation was a 4785  
woman whom the offender knew was pregnant at the time of the 4786  
violation, notwithstanding the range of prison terms prescribed 4787  
in division (A) of this section for felonies of the same degree 4788  
as the violation, the court shall impose on the offender a 4789  
mandatory prison term that is either a definite prison term of 4790  
six months or one of the prison terms prescribed in section 4791  
2929.14 of the Revised Code for felonies of the same degree as 4792  
the violation. 4793

(C) (1) (a) Subject to division (C) (1) (b) of this section, 4794  
if a mandatory prison term is imposed upon an offender pursuant 4795  
to division (B) (1) (a) of this section for having a firearm on or 4796  
about the offender's person or under the offender's control 4797  
while committing a felony, if a mandatory prison term is imposed 4798  
upon an offender pursuant to division (B) (1) (c) of this section 4799  
for committing a felony specified in that division by 4800

discharging a firearm from a motor vehicle, or if both types of 4801  
mandatory prison terms are imposed, the offender shall serve any 4802  
mandatory prison term imposed under either division 4803  
consecutively to any other mandatory prison term imposed under 4804  
either division or under division (B) (1) (d) of this section, 4805  
consecutively to and prior to any prison term imposed for the 4806  
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 4807  
this section or any other section of the Revised Code, and 4808  
consecutively to any other prison term or mandatory prison term 4809  
previously or subsequently imposed upon the offender. 4810

(b) If a mandatory prison term is imposed upon an offender 4811  
pursuant to division (B) (1) (d) of this section for wearing or 4812  
carrying body armor while committing an offense of violence that 4813  
is a felony, the offender shall serve the mandatory term so 4814  
imposed consecutively to any other mandatory prison term imposed 4815  
under that division or under division (B) (1) (a) or (c) of this 4816  
section, consecutively to and prior to any prison term imposed 4817  
for the underlying felony under division (A), (B) (2), or (B) (3) 4818  
of this section or any other section of the Revised Code, and 4819  
consecutively to any other prison term or mandatory prison term 4820  
previously or subsequently imposed upon the offender. 4821

(c) If a mandatory prison term is imposed upon an offender 4822  
pursuant to division (B) (1) (f) of this section, the offender 4823  
shall serve the mandatory prison term so imposed consecutively 4824  
to and prior to any prison term imposed for the underlying 4825  
felony under division (A), (B) (2), or (B) (3) of this section or 4826  
any other section of the Revised Code, and consecutively to any 4827  
other prison term or mandatory prison term previously or 4828  
subsequently imposed upon the offender. 4829

(d) If a mandatory prison term is imposed upon an offender 4830

pursuant to division (B) (7) or (8) of this section, the offender 4831  
shall serve the mandatory prison term so imposed consecutively 4832  
to any other mandatory prison term imposed under that division 4833  
or under any other provision of law and consecutively to any 4834  
other prison term or mandatory prison term previously or 4835  
subsequently imposed upon the offender. 4836

(2) If an offender who is an inmate in a jail, prison, or 4837  
other residential detention facility violates section 2917.02, 4838  
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 4839  
(2) of section 2921.34 of the Revised Code, if an offender who 4840  
is under detention at a detention facility commits a felony 4841  
violation of section 2923.131 of the Revised Code, or if an 4842  
offender who is an inmate in a jail, prison, or other 4843  
residential detention facility or is under detention at a 4844  
detention facility commits another felony while the offender is 4845  
an escapee in violation of division (A) (1) or (2) of section 4846  
2921.34 of the Revised Code, any prison term imposed upon the 4847  
offender for one of those violations shall be served by the 4848  
offender consecutively to the prison term or term of 4849  
imprisonment the offender was serving when the offender 4850  
committed that offense and to any other prison term previously 4851  
or subsequently imposed upon the offender. 4852

(3) If a prison term is imposed for a violation of 4853  
division (B) of section 2911.01 of the Revised Code, a violation 4854  
of division (A) of section 2913.02 of the Revised Code in which 4855  
the stolen property is a firearm or dangerous ordnance, or a 4856  
felony violation of division (B) of section 2921.331 of the 4857  
Revised Code, the offender shall serve that prison term 4858  
consecutively to any other prison term or mandatory prison term 4859  
previously or subsequently imposed upon the offender. 4860

(4) If multiple prison terms are imposed on an offender 4861  
for convictions of multiple offenses, the court may require the 4862  
offender to serve the prison terms consecutively if the court 4863  
finds that the consecutive service is necessary to protect the 4864  
public from future crime or to punish the offender and that 4865  
consecutive sentences are not disproportionate to the 4866  
seriousness of the offender's conduct and to the danger the 4867  
offender poses to the public, and if the court also finds any of 4868  
the following: 4869

(a) The offender committed one or more of the multiple 4870  
offenses while the offender was awaiting trial or sentencing, 4871  
was under a sanction imposed pursuant to section 2929.16, 4872  
2929.17, or 2929.18 of the Revised Code, or was under post- 4873  
release control for a prior offense. 4874

(b) At least two of the multiple offenses were committed 4875  
as part of one or more courses of conduct, and the harm caused 4876  
by two or more of the multiple offenses so committed was so 4877  
great or unusual that no single prison term for any of the 4878  
offenses committed as part of any of the courses of conduct 4879  
adequately reflects the seriousness of the offender's conduct. 4880

(c) The offender's history of criminal conduct 4881  
demonstrates that consecutive sentences are necessary to protect 4882  
the public from future crime by the offender. 4883

(5) If a mandatory prison term is imposed upon an offender 4884  
pursuant to division (B) (5) or (6) of this section, the offender 4885  
shall serve the mandatory prison term consecutively to and prior 4886  
to any prison term imposed for the underlying violation of 4887  
division (A) (1) or (2) of section 2903.06 of the Revised Code 4888  
pursuant to division (A) of this section or section 2929.142 of 4889  
the Revised Code. If a mandatory prison term is imposed upon an 4890

offender pursuant to division (B)(5) of this section, and if a  
mandatory prison term also is imposed upon the offender pursuant  
to division (B)(6) of this section in relation to the same  
violation, the offender shall serve the mandatory prison term  
imposed pursuant to division (B)(5) of this section  
consecutively to and prior to the mandatory prison term imposed  
pursuant to division (B)(6) of this section and consecutively to  
and prior to any prison term imposed for the underlying  
violation of division (A)(1) or (2) of section 2903.06 of the  
Revised Code pursuant to division (A) of this section or section  
2929.142 of the Revised Code.

(6) When consecutive prison terms are imposed pursuant to  
division (C)(1), (2), (3), (4), or (5) or division (H)(1) or (2)  
of this section, the term to be served is the aggregate of all  
of the terms so imposed.

(D)(1) If a court imposes a prison term for a felony of  
the first degree, for a felony of the second degree, for a  
felony sex offense, or for a felony of the third degree that is  
not a felony sex offense and in the commission of which the  
offender caused or threatened to cause physical harm to a  
person, it shall include in the sentence a requirement that the  
offender be subject to a period of post-release control after  
the offender's release from imprisonment, in accordance with  
that division. If a court imposes a sentence including a prison  
term of a type described in this division on or after July 11,  
2006, the failure of a court to include a post-release control  
requirement in the sentence pursuant to this division does not  
negate, limit, or otherwise affect the mandatory period of post-  
release control that is required for the offender under division  
(B) of section 2967.28 of the Revised Code. Section 2929.191 of  
the Revised Code applies if, prior to July 11, 2006, a court

imposed a sentence including a prison term of a type described 4922  
in this division and failed to include in the sentence pursuant 4923  
to this division a statement regarding post-release control. 4924

(2) If a court imposes a prison term for a felony of the 4925  
third, fourth, or fifth degree that is not subject to division 4926  
(D) (1) of this section, it shall include in the sentence a 4927  
requirement that the offender be subject to a period of post- 4928  
release control after the offender's release from imprisonment, 4929  
in accordance with that division, if the parole board determines 4930  
that a period of post-release control is necessary. Section 4931  
2929.191 of the Revised Code applies if, prior to July 11, 2006, 4932  
a court imposed a sentence including a prison term of a type 4933  
described in this division and failed to include in the sentence 4934  
pursuant to this division a statement regarding post-release 4935  
control. 4936

(E) The court shall impose sentence upon the offender in 4937  
accordance with section 2971.03 of the Revised Code, and Chapter 4938  
2971. of the Revised Code applies regarding the prison term or 4939  
term of life imprisonment without parole imposed upon the 4940  
offender and the service of that term of imprisonment if any of 4941  
the following apply: 4942

(1) A person is convicted of or pleads guilty to a violent 4943  
sex offense or a designated homicide, assault, or kidnapping 4944  
offense, and, in relation to that offense, the offender is 4945  
adjudicated a sexually violent predator. 4946

(2) A person is convicted of or pleads guilty to a 4947  
violation of division (A) (1) (b) of section 2907.02 of the 4948  
Revised Code committed on or after January 2, 2007, and either 4949  
the court does not impose a sentence of life without parole when 4950  
authorized pursuant to division (B) of section 2907.02 of the 4951

Revised Code, or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code.

(3) A person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(4) A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after January 1, 2008, and that section requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(5) A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, 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) (d) of section 2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ of the Revised Code requires the court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

(6) A person is convicted of or pleads guilty to murder committed on or after January 1, 2008, and ~~division (B) (2) (C) (1)~~ of section 2929.02 of the Revised Code requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(F) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, ~~sections-section 2929.02 to 2929.06 of the Revised Code, section-2929.142 of the Revised~~



~~Code, section or~~ 2971.03 of the Revised Code, or any other 4981  
provision of law, section 5120.163 of the Revised Code applies 4982  
regarding the person while the person is confined in a state 4983  
correctional institution. 4984

(G) If an offender who is convicted of or pleads guilty to 4985  
a felony that is an offense of violence also is convicted of or 4986  
pleads guilty to a specification of the type described in 4987  
section 2941.142 of the Revised Code that charges the offender 4988  
with having committed the felony while participating in a 4989  
criminal gang, the court shall impose upon the offender an 4990  
additional prison term of one, two, or three years. 4991

(H) (1) If an offender who is convicted of or pleads guilty 4992  
to aggravated murder, murder, or a felony of the first, second, 4993  
or third degree that is an offense of violence also is convicted 4994  
of or pleads guilty to a specification of the type described in 4995  
section 2941.143 of the Revised Code that charges the offender 4996  
with having committed the offense in a school safety zone or 4997  
towards a person in a school safety zone, the court shall impose 4998  
upon the offender an additional prison term of two years. The 4999  
offender shall serve the additional two years consecutively to 5000  
and prior to the prison term imposed for the underlying offense. 5001

(2) (a) If an offender is convicted of or pleads guilty to 5002  
a felony violation of section 2907.22, 2907.24, 2907.241, or 5003  
2907.25 of the Revised Code and to a specification of the type 5004  
described in section 2941.1421 of the Revised Code and if the 5005  
court imposes a prison term on the offender for the felony 5006  
violation, the court may impose upon the offender an additional 5007  
prison term as follows: 5008

(i) Subject to division (H) (2) (a) (ii) of this section, an 5009  
additional prison term of one, two, three, four, five, or six 5010

months; 5011

(ii) If the offender previously has been convicted of or 5012  
pleaded guilty to one or more felony or misdemeanor violations 5013  
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 5014  
the Revised Code and also was convicted of or pleaded guilty to 5015  
a specification of the type described in section 2941.1421 of 5016  
the Revised Code regarding one or more of those violations, an 5017  
additional prison term of one, two, three, four, five, six, 5018  
seven, eight, nine, ten, eleven, or twelve months. 5019

(b) In lieu of imposing an additional prison term under 5020  
division (H)(2)(a) of this section, the court may directly 5021  
impose on the offender a sanction that requires the offender to 5022  
wear a real-time processing, continual tracking electronic 5023  
monitoring device during the period of time specified by the 5024  
court. The period of time specified by the court shall equal the 5025  
duration of an additional prison term that the court could have 5026  
imposed upon the offender under division (H)(2)(a) of this 5027  
section. A sanction imposed under this division shall commence 5028  
on the date specified by the court, provided that the sanction 5029  
shall not commence until after the offender has served the 5030  
prison term imposed for the felony violation of section 2907.22, 5031  
2907.24, 2907.241, or 2907.25 of the Revised Code and any 5032  
residential sanction imposed for the violation under section 5033  
2929.16 of the Revised Code. A sanction imposed under this 5034  
division shall be considered to be a community control sanction 5035  
for purposes of section 2929.15 of the Revised Code, and all 5036  
provisions of the Revised Code that pertain to community control 5037  
sanctions shall apply to a sanction imposed under this division, 5038  
except to the extent that they would by their nature be clearly 5039  
inapplicable. The offender shall pay all costs associated with a 5040  
sanction imposed under this division, including the cost of the 5041

use of the monitoring device. 5042

(I) At the time of sentencing, the court may recommend the 5043  
offender for placement in a program of shock incarceration under 5044  
section 5120.031 of the Revised Code or for placement in an 5045  
intensive program prison under section 5120.032 of the Revised 5046  
Code, disapprove placement of the offender in a program of shock 5047  
incarceration or an intensive program prison of that nature, or 5048  
make no recommendation on placement of the offender. In no case 5049  
shall the department of rehabilitation and correction place the 5050  
offender in a program or prison of that nature unless the 5051  
department determines as specified in section 5120.031 or 5052  
5120.032 of the Revised Code, whichever is applicable, that the 5053  
offender is eligible for the placement. 5054

If the court disapproves placement of the offender in a 5055  
program or prison of that nature, the department of 5056  
rehabilitation and correction shall not place the offender in 5057  
any program of shock incarceration or intensive program prison. 5058

If the court recommends placement of the offender in a 5059  
program of shock incarceration or in an intensive program 5060  
prison, and if the offender is subsequently placed in the 5061  
recommended program or prison, the department shall notify the 5062  
court of the placement and shall include with the notice a brief 5063  
description of the placement. 5064

If the court recommends placement of the offender in a 5065  
program of shock incarceration or in an intensive program prison 5066  
and the department does not subsequently place the offender in 5067  
the recommended program or prison, the department shall send a 5068  
notice to the court indicating why the offender was not placed 5069  
in the recommended program or prison. 5070

If the court does not make a recommendation under this 5071  
division with respect to an offender and if the department 5072  
determines as specified in section 5120.031 or 5120.032 of the 5073  
Revised Code, whichever is applicable, that the offender is 5074  
eligible for placement in a program or prison of that nature, 5075  
the department shall screen the offender and determine if there 5076  
is an available program of shock incarceration or an intensive 5077  
program prison for which the offender is suited. If there is an 5078  
available program of shock incarceration or an intensive program 5079  
prison for which the offender is suited, the department shall 5080  
notify the court of the proposed placement of the offender as 5081  
specified in section 5120.031 or 5120.032 of the Revised Code 5082  
and shall include with the notice a brief description of the 5083  
placement. The court shall have ten days from receipt of the 5084  
notice to disapprove the placement. 5085

(J) If a person is convicted of or pleads guilty to 5086  
aggravated vehicular homicide in violation of division (A) (1) of 5087  
section 2903.06 of the Revised Code and division (B) (2) (c) of 5088  
that section applies, the person shall be sentenced pursuant to 5089  
section 2929.142 of the Revised Code. 5090

(K) (1) The court shall impose an additional mandatory 5091  
prison term of two, three, four, five, six, seven, eight, nine, 5092  
ten, or eleven years on an offender who is convicted of or 5093  
pleads guilty to a violent felony offense if the offender also 5094  
is convicted of or pleads guilty to a specification of the type 5095  
described in section 2941.1424 of the Revised Code that charges 5096  
that the offender is a violent career criminal and had a firearm 5097  
on or about the offender's person or under the offender's 5098  
control while committing the presently charged violent felony 5099  
offense and displayed or brandished the firearm, indicated that 5100  
the offender possessed a firearm, or used the firearm to 5101

facilitate the offense. The offender shall serve the prison term 5102  
imposed under this division consecutively to and prior to the 5103  
prison term imposed for the underlying offense. The prison term 5104  
shall not be reduced pursuant to section 2929.20 or 2967.19 or 5105  
any other provision of Chapter 2967. or 5120. of the Revised 5106  
Code. A court may not impose more than one sentence under 5107  
division (B) (2) (a) of this section and this division for acts 5108  
committed as part of the same act or transaction. 5109

(2) As used in division (K) (1) of this section, "violent 5110  
career criminal" and "violent felony offense" have the same 5111  
meanings as in section 2923.132 of the Revised Code. 5112

**Sec. 2929.20.** (A) As used in this section: 5113

(1) (a) Except as provided in division (A) (1) (b) of this 5114  
section, "eligible offender" means any person who, on or after 5115  
April 7, 2009, is serving a stated prison term that includes one 5116  
or more nonmandatory prison terms. 5117

(b) "Eligible offender" does not include any person who, 5118  
on or after April 7, 2009, is serving a stated prison term for 5119  
any of the following criminal offenses that was a felony and was 5120  
committed while the person held a public office in this state: 5121

(i) A violation of section 2921.02, 2921.03, 2921.05, 5122  
2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised 5123  
Code; 5124

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 5125  
2921.12 of the Revised Code, when the conduct constituting the 5126  
violation was related to the duties of the offender's public 5127  
office or to the offender's actions as a public official holding 5128  
that public office; 5129

(iii) A violation of an existing or former municipal 5130

ordinance or law of this or any other state or the United States 5131  
that is substantially equivalent to any violation listed in 5132  
division (A) (1) (b) (i) of this section; 5133

(iv) A violation of an existing or former municipal 5134  
ordinance or law of this or any other state or the United States 5135  
that is substantially equivalent to any violation listed in 5136  
division (A) (1) (b) (ii) of this section, when the conduct 5137  
constituting the violation was related to the duties of the 5138  
offender's public office or to the offender's actions as a 5139  
public official holding that public office; 5140

(v) A conspiracy to commit, attempt to commit, or 5141  
complicity in committing any offense listed in division (A) (1) 5142  
(b) (i) or described in division (A) (1) (b) (iii) of this section; 5143

(vi) A conspiracy to commit, attempt to commit, or 5144  
complicity in committing any offense listed in division (A) (1) 5145  
(b) (ii) or described in division (A) (1) (b) (iv) of this section, 5146  
if the conduct constituting the offense that was the subject of 5147  
the conspiracy, that would have constituted the offense 5148  
attempted, or constituting the offense in which the offender was 5149  
complicit was or would have been related to the duties of the 5150  
offender's public office or to the offender's actions as a 5151  
public official holding that public office. 5152

(2) "Nonmandatory prison term" means a prison term that is 5153  
not a mandatory prison term. 5154

(3) "Public office" means any elected federal, state, or 5155  
local government office in this state. 5156

(4) "Victim's representative" has the same meaning as in 5157  
section 2930.01 of the Revised Code. 5158

(5) "Imminent danger of death," "medically incapacitated," 5159

and "terminal illness" have the same meanings as in section 5160  
2967.05 of the Revised Code. 5161

(B) On the motion of an eligible offender or upon its own 5162  
motion, the sentencing court may reduce the eligible offender's 5163  
aggregated nonmandatory prison term or terms through a judicial 5164  
release under this section. 5165

(C) An eligible offender may file a motion for judicial 5166  
release with the sentencing court within the following 5167  
applicable periods: 5168

(1) If the aggregated nonmandatory prison term or terms is 5169  
less than two years, the eligible offender may file the motion 5170  
not earlier than thirty days after the offender is delivered to 5171  
a state correctional institution or, if the prison term includes 5172  
a mandatory prison term or terms, not earlier than thirty days 5173  
after the expiration of all mandatory prison terms. 5174

(2) If the aggregated nonmandatory prison term or terms is 5175  
at least two years but less than five years, the eligible 5176  
offender may file the motion not earlier than one hundred eighty 5177  
days after the offender is delivered to a state correctional 5178  
institution or, if the prison term includes a mandatory prison 5179  
term or terms, not earlier than one hundred eighty days after 5180  
the expiration of all mandatory prison terms. 5181

(3) If the aggregated nonmandatory prison term or terms is 5182  
five years, the eligible offender may file the motion not 5183  
earlier than the date on which the eligible offender has served 5184  
four years of the offender's stated prison term or, if the 5185  
prison term includes a mandatory prison term or terms, not 5186  
earlier than four years after the expiration of all mandatory 5187  
prison terms. 5188

(4) If the aggregated nonmandatory prison term or terms is 5189  
more than five years but not more than ten years, the eligible 5190  
offender may file the motion not earlier than the date on which 5191  
the eligible offender has served five years of the offender's 5192  
stated prison term or, if the prison term includes a mandatory 5193  
prison term or terms, not earlier than five years after the 5194  
expiration of all mandatory prison terms. 5195

(5) If the aggregated nonmandatory prison term or terms is 5196  
more than ten years, the eligible offender may file the motion 5197  
not earlier than the later of the date on which the offender has 5198  
served one-half of the offender's stated prison term or the date 5199  
specified in division (C) (4) of this section. 5200

(D) Upon receipt of a timely motion for judicial release 5201  
filed by an eligible offender under division (C) of this section 5202  
or upon the sentencing court's own motion made within the 5203  
appropriate time specified in that division, the court may deny 5204  
the motion without a hearing or schedule a hearing on the 5205  
motion. The court shall not grant the motion without a hearing. 5206  
If a court denies a motion without a hearing, the court later 5207  
may consider judicial release for that eligible offender on a 5208  
subsequent motion filed by that eligible offender unless the 5209  
court denies the motion with prejudice. If a court denies a 5210  
motion with prejudice, the court may later consider judicial 5211  
release on its own motion. If a court denies a motion after a 5212  
hearing, the court shall not consider a subsequent motion for 5213  
that eligible offender. The court shall hold only one hearing 5214  
for any eligible offender. 5215

A hearing under this section shall be conducted in open 5216  
court not less than thirty or more than sixty days after the 5217  
motion is filed, provided that the court may delay the hearing 5218



for one hundred eighty additional days. If the court holds a hearing, the court shall enter a ruling on the motion within ten days after the hearing. If the court denies the motion without a hearing, the court shall enter its ruling on the motion within sixty days after the motion is filed.

(E) If a court schedules a hearing under division (D) of this section, the court shall notify the eligible offender and the head of the state correctional institution in which the eligible offender is confined prior to the hearing. The head of the state correctional institution immediately shall notify the appropriate person at the department of rehabilitation and correction of the hearing, and the department within twenty-four hours after receipt of the notice, shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the offender's name and all of the information specified in division (A) (1) (c) (i) of that section. If the court schedules a hearing for judicial release, the court promptly shall give notice of the hearing to the prosecuting attorney of the county in which the eligible offender was indicted. Upon receipt of the notice from the court, the prosecuting attorney shall do whichever of the following is applicable:

(1) Subject to division (E) (2) of this section, notify the victim of the offense or the victim's representative pursuant to division (B) of section 2930.16 of the Revised Code;

(2) If the offense was an offense of violence that is a felony of the first, second, or third degree, except as otherwise provided in this division, notify the victim or the victim's representative of the hearing regardless of whether the victim or victim's representative has requested the notification. The notice of the hearing shall not be given under

this division to a victim or victim's representative if the 5249  
victim or victim's representative has requested pursuant to 5250  
division (B) (2) of section 2930.03 of the Revised Code that the 5251  
victim or the victim's representative not be provided the 5252  
notice. If notice is to be provided to a victim or victim's 5253  
representative under this division, the prosecuting attorney may 5254  
give the notice by any reasonable means, including regular mail, 5255  
telephone, and electronic mail, in accordance with division (D) 5256  
(1) of section 2930.16 of the Revised Code. If the notice is 5257  
based on an offense committed prior to March 22, 2013, the 5258  
notice also shall include the opt-out information described in 5259  
division (D) (1) of section 2930.16 of the Revised Code. The 5260  
prosecuting attorney, in accordance with division (D) (2) of 5261  
section 2930.16 of the Revised Code, shall keep a record of all 5262  
attempts to provide the notice, and of all notices provided, 5263  
under this division. Division (E) (2) of this section, and the 5264  
notice-related provisions of division (K) of this section, 5265  
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 5266  
2967.12, division (E) (1) (b) of section 2967.19, division (A) (3) 5267  
(b) of section 2967.26, division (D) (1) of section 2967.28, and 5268  
division (A) (2) of section 5149.101 of the Revised Code enacted 5269  
in the act in which division (E) (2) of this section was enacted, 5270  
shall be known as "Roberta's Law." 5271

(F) Upon an offender's successful completion of 5272  
rehabilitative activities, the head of the state correctional 5273  
institution may notify the sentencing court of the successful 5274  
completion of the activities. 5275

(G) Prior to the date of the hearing on a motion for 5276  
judicial release under this section, the head of the state 5277  
correctional institution in which the eligible offender is 5278  
confined shall send to the court an institutional summary report 5279

on the eligible offender's conduct in the institution and in any 5280  
institution from which the eligible offender may have been 5281  
transferred. Upon the request of the prosecuting attorney of the 5282  
county in which the eligible offender was indicted or of any law 5283  
enforcement agency, the head of the state correctional 5284  
institution, at the same time the person sends the institutional 5285  
summary report to the court, also shall send a copy of the 5286  
report to the requesting prosecuting attorney and law 5287  
enforcement agencies. The institutional summary report shall 5288  
cover the eligible offender's participation in school, 5289  
vocational training, work, treatment, and other rehabilitative 5290  
activities and any disciplinary action taken against the 5291  
eligible offender. The report shall be made part of the record 5292  
of the hearing. A presentence investigation report is not 5293  
required for judicial release. 5294

(H) If the court grants a hearing on a motion for judicial 5295  
release under this section, the eligible offender shall attend 5296  
the hearing if ordered to do so by the court. Upon receipt of a 5297  
copy of the journal entry containing the order, the head of the 5298  
state correctional institution in which the eligible offender is 5299  
incarcerated shall deliver the eligible offender to the sheriff 5300  
of the county in which the hearing is to be held. The sheriff 5301  
shall convey the eligible offender to and from the hearing. 5302

(I) At the hearing on a motion for judicial release under 5303  
this section, the court shall afford the eligible offender and 5304  
the eligible offender's attorney an opportunity to present 5305  
written and, if present, oral information relevant to the 5306  
motion. The court shall afford a similar opportunity to the 5307  
prosecuting attorney, the victim or the victim's representative, 5308  
and any other person the court determines is likely to present 5309  
additional relevant information. The court shall consider any 5310

statement of a victim made pursuant to section 2930.14 or 5311  
2930.17 of the Revised Code, any victim impact statement 5312  
prepared pursuant to section 2947.051 of the Revised Code, and 5313  
any report made under division (G) of this section. The court 5314  
may consider any written statement of any person submitted to 5315  
the court pursuant to division (L) of this section. After ruling 5316  
on the motion, the court shall notify the victim of the ruling 5317  
in accordance with sections 2930.03 and 2930.16 of the Revised 5318  
Code. 5319

(J) (1) A court shall not grant a judicial release under 5320  
this section to an eligible offender who is imprisoned for a 5321  
felony of the first or second degree, or to an eligible offender 5322  
who committed an offense under Chapter 2925. or 3719. of the 5323  
Revised Code and for whom there was a presumption under section 5324  
2929.13 of the Revised Code in favor of a prison term, unless 5325  
the court, with reference to factors under section 2929.12 of 5326  
the Revised Code, finds both of the following: 5327

(a) That a sanction other than a prison term would 5328  
adequately punish the offender and protect the public from 5329  
future criminal violations by the eligible offender because the 5330  
applicable factors indicating a lesser likelihood of recidivism 5331  
outweigh the applicable factors indicating a greater likelihood 5332  
of recidivism; 5333

(b) That a sanction other than a prison term would not 5334  
demean the seriousness of the offense because factors indicating 5335  
that the eligible offender's conduct in committing the offense 5336  
was less serious than conduct normally constituting the offense 5337  
outweigh factors indicating that the eligible offender's conduct 5338  
was more serious than conduct normally constituting the offense. 5339

(2) A court that grants a judicial release to an eligible 5340

offender under division (J) (1) of this section shall specify on 5341  
the record both findings required in that division and also 5342  
shall list all the factors described in that division that were 5343  
presented at the hearing. 5344

(K) If the court grants a motion for judicial release 5345  
under this section, the court shall order the release of the 5346  
eligible offender, shall place the eligible offender under an 5347  
appropriate community control sanction, under appropriate 5348  
conditions, and under the supervision of the department of 5349  
probation serving the court and shall reserve the right to 5350  
reimpose the sentence that it reduced if the offender violates 5351  
the sanction. If the court reimposes the reduced sentence, it 5352  
may do so either concurrently with, or consecutive to, any new 5353  
sentence imposed upon the eligible offender as a result of the 5354  
violation that is a new offense. Except as provided in division 5355  
(R) (2) of this section, the period of community control shall be 5356  
no longer than five years. The court, in its discretion, may 5357  
reduce the period of community control by the amount of time the 5358  
eligible offender spent in jail or prison for the offense and in 5359  
prison. If the court made any findings pursuant to division (J) 5360  
(1) of this section, the court shall serve a copy of the 5361  
findings upon counsel for the parties within fifteen days after 5362  
the date on which the court grants the motion for judicial 5363  
release. 5364

If the court grants a motion for judicial release, the 5365  
court shall notify the appropriate person at the department of 5366  
rehabilitation and correction, and the department shall post 5367  
notice of the release on the database it maintains pursuant to 5368  
section 5120.66 of the Revised Code. The court also shall notify 5369  
the prosecuting attorney of the county in which the eligible 5370  
offender was indicted that the motion has been granted. Unless 5371

the victim or the victim's representative has requested pursuant 5372  
to division (B) (2) of section 2930.03 of the Revised Code that 5373  
the victim or victim's representative not be provided the 5374  
notice, the prosecuting attorney shall notify the victim or the 5375  
victim's representative of the judicial release in any manner, 5376  
and in accordance with the same procedures, pursuant to which 5377  
the prosecuting attorney is authorized to provide notice of the 5378  
hearing pursuant to division (E) (2) of this section. If the 5379  
notice is based on an offense committed prior to March 22, 2013, 5380  
the notice to the victim or victim's representative also shall 5381  
include the opt-out information described in division (D) (1) of 5382  
section 2930.16 of the Revised Code. 5383

(L) In addition to and independent of the right of a 5384  
victim to make a statement pursuant to section 2930.14, 2930.17, 5385  
or 2946.051 of the Revised Code and any right of a person to 5386  
present written information or make a statement pursuant to 5387  
division (I) of this section, any person may submit to the 5388  
court, at any time prior to the hearing on the offender's motion 5389  
for judicial release, a written statement concerning the effects 5390  
of the offender's crime or crimes, the circumstances surrounding 5391  
the crime or crimes, the manner in which the crime or crimes 5392  
were perpetrated, and the person's opinion as to whether the 5393  
offender should be released. 5394

(M) The changes to this section that are made on September 5395  
30, 2011, apply to any judicial release decision made on or 5396  
after September 30, 2011, for any eligible offender. 5397

(N) Notwithstanding the eligibility requirements specified 5398  
in division (A) of this section and the filing time frames 5399  
specified in division (C) of this section and notwithstanding 5400  
the findings required under division (J) of this section, the 5401

sentencing court, upon the court's own motion and after 5402  
considering whether the release of the offender into society 5403  
would create undue risk to public safety, may grant a judicial 5404  
release to an offender who is not serving a life sentence at any 5405  
time during the offender's imposed sentence when the director of 5406  
rehabilitation and correction certifies to the sentencing court 5407  
through the chief medical officer for the department of 5408  
rehabilitation and correction that the offender is in imminent 5409  
danger of death, is medically incapacitated, or is suffering 5410  
from a terminal illness. 5411

(O) The director of rehabilitation and correction shall 5412  
not certify any offender under division (N) of this section who 5413  
is serving a death sentence. 5414

(P) A motion made by the court under division (N) of this 5415  
section is subject to the notice, hearing, and other procedural 5416  
requirements specified in divisions (D), (E), (G), (H), (I), 5417  
(K), and (L) of this section, except for the following: 5418

(1) The court may waive the offender's appearance at any 5419  
hearing scheduled by the court if the offender's condition makes 5420  
it impossible for the offender to participate meaningfully in 5421  
the proceeding. 5422

(2) The court may grant the motion without a hearing, 5423  
provided that the prosecuting attorney and victim or victim's 5424  
representative to whom notice of the hearing was provided under 5425  
division (E) of this section indicate that they do not wish to 5426  
participate in the hearing or present information relevant to 5427  
the motion. 5428

(Q) The court may request health care records from the 5429  
department of rehabilitation and correction to verify the 5430

certification made under division (N) of this section. 5431

(R) (1) If the court grants judicial release under division 5432  
(N) of this section, the court shall do all of the following: 5433

(a) Order the release of the offender; 5434

(b) Place the offender under an appropriate community 5435  
control sanction, under appropriate conditions; 5436

(c) Place the offender under the supervision of the 5437  
department of probation serving the court or under the 5438  
supervision of the adult parole authority. 5439

(2) The court, in its discretion, may revoke the judicial 5440  
release if the offender violates the community control sanction 5441  
described in division (R) (1) of this section. The period of that 5442  
community control is not subject to the five-year limitation 5443  
described in division (K) of this section and shall not expire 5444  
earlier than the date on which all of the offender's mandatory 5445  
prison terms expire. 5446

(S) If the health of an offender who is released under 5447  
division (N) of this section improves so that the offender is no 5448  
longer terminally ill, medically incapacitated, or in imminent 5449  
danger of death, the court shall, upon the court's own motion, 5450  
revoke the judicial release. The court shall not grant the 5451  
motion without a hearing unless the offender waives a hearing. 5452  
If a hearing is held, the court shall afford the offender and 5453  
the offender's attorney an opportunity to present written and, 5454  
if the offender or the offender's attorney is present, oral 5455  
information relevant to the motion. The court shall afford a 5456  
similar opportunity to the prosecuting attorney, the victim or 5457  
the victim's representative, and any other person the court 5458  
determines is likely to present additional relevant information. 5459



A court that grants a motion under this division shall specify 5460  
its findings on the record. 5461

**Sec. 2929.61.** (A) Persons charged with an offense that was 5462  
formerly a capital offense and that was committed prior to 5463  
January 1, 1974, shall be prosecuted under the law as it existed 5464  
at the time the offense was committed, and, if convicted, shall 5465  
be imprisoned for life, except that whenever the statute under 5466  
which any such person is prosecuted provides for a lesser 5467  
penalty under the circumstances of the particular case, such 5468  
lesser penalty shall be imposed. 5469

(B) Persons charged with an offense, other than an offense 5470  
that was formerly a capital offense, that was committed prior to 5471  
January 1, 1974, shall be prosecuted under the law as it existed 5472  
at the time the offense was committed. Persons convicted or 5473  
sentenced on or after January 1, 1974, for an offense committed 5474  
prior to January 1, 1974, shall be sentenced according to the 5475  
penalty for commission of the substantially equivalent offense 5476  
under Amended Substitute House Bill 511 of the 109th General 5477  
Assembly. If the offense for which sentence is being imposed 5478  
does not have a substantial equivalent under that act, or if 5479  
that act provides a more severe penalty than that originally 5480  
prescribed for the offense of which the person is convicted, 5481  
then sentence shall be imposed under the law as it existed prior 5482  
to January 1, 1974. 5483

(C) Persons charged with an offense that is a felony of 5484  
the third or fourth degree and that was committed on or after 5485  
January 1, 1974, and before July 1, 1983, shall be prosecuted 5486  
under the law as it existed at the time the offense was 5487  
committed. Persons convicted or sentenced on or after July 1, 5488  
1983, for an offense that is a felony of the third or fourth 5489

degree and that was committed on or after January 1, 1974, and 5490  
before July 1, 1983, shall be notified by the court sufficiently 5491  
in advance of sentencing that they may choose to be sentenced 5492  
pursuant to either the law in effect at the time of the 5493  
commission of the offense or the law in effect at the time of 5494  
sentencing. This notice shall be written and shall include the 5495  
differences between and possible effects of the alternative 5496  
sentence forms and the effect of the person's refusal to choose. 5497  
The person to be sentenced shall then inform the court in 5498  
writing of ~~his~~ the person's choice, and shall be sentenced 5499  
accordingly. Any person choosing to be sentenced pursuant to the 5500  
law in effect at the time of the commission of an offense that 5501  
is a felony of the third or fourth degree shall then be eligible 5502  
for parole, and this person cannot at a later date have ~~his~~ the 5503  
person's sentence converted to a definite sentence. If the 5504  
person refuses to choose between the two possible sentences, the 5505  
person shall be sentenced pursuant to the law in effect at the 5506  
time of the commission of the offense. 5507

(D) Persons charged with an offense that was a felony of 5508  
the first or second degree at the time it was committed, that 5509  
was committed on or after January 1, 1974, and that was 5510  
committed prior to July 1, 1983, shall be prosecuted for that 5511  
offense and, if convicted, shall be sentenced under the law as 5512  
it existed at the time the offense was committed. 5513

**Sec. 2930.03.** (A) A person or entity required or 5514  
authorized under this chapter to give notice to a victim shall 5515  
give the notice to the victim by any means reasonably calculated 5516  
to provide prompt actual notice. Except when a provision 5517  
requires that notice is to be given in a specific manner, a 5518  
notice may be oral or written. 5519

(B) (1) Except for receipt of the initial information and 5520  
notice required to be given to a victim under divisions (A) and 5521  
(B) of section 2930.04, section 2930.05, and divisions (A) and 5522  
(B) of section 2930.06 of the Revised Code and the notice 5523  
required to be given to a victim under division (D) of section 5524  
2930.16 of the Revised Code, a victim who wishes to receive any 5525  
notice authorized by this chapter shall make a request for the 5526  
notice to the prosecutor or the custodial agency that is to 5527  
provide the notice, as specified in this chapter. If the victim 5528  
does not make a request as described in this division, the 5529  
prosecutor or custodial agency is not required to provide any 5530  
notice described in this chapter other than the initial 5531  
information and notice required to be given to a victim under 5532  
divisions (A) and (B) of section 2930.04, section 2930.05, and 5533  
divisions (A) and (B) of section 2930.06 of the Revised Code and 5534  
the notice required to be given to a victim under division (D) 5535  
of section 2930.16 of the Revised Code. 5536

(2) A victim who does not wish to receive any of the 5537  
notices required to be given to a victim under division (E) (2) 5538  
or (K) of section 2929.20, division (D) of section 2930.16, 5539  
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 5540  
section 2967.19, division (A) (3) (b) of section 2967.26, division 5541  
(D) (1) of section 2967.28, or division (A) (2) of section 5542  
5149.101 of the Revised Code shall make a request to the 5543  
prosecutor or custodial agency that is to provide the particular 5544  
notice that the notice not be provided to the victim. Unless the 5545  
victim makes a request as described in this division, the 5546  
prosecutor or custodial agency shall provide the notices 5547  
required to be given to a victim under division (E) (2) or (K) of 5548  
section 2929.20, division (D) of section 2930.16, division ~~(H)~~ 5549  
(G) of section 2967.12, division (E) (1) (b) of section 2967.19, 5550

division (A) (3) (b) of section 2967.26, division (D) (1) of 5551  
section 2967.28, or division (A) (2) of section 5149.101 of the 5552  
Revised Code in any manner, and in accordance with the 5553  
procedures, specified in the particular division. This division 5554  
also applies to a victim's representative or a member of a 5555  
victim's immediate family that is authorized to receive any of 5556  
the notices specified in this division. 5557

(C) A person or agency that is required to furnish notice 5558  
under this chapter shall give the notice to the victim at the 5559  
address or telephone number provided to the person or agency by 5560  
the victim. A victim who requests to receive notice under this 5561  
chapter as described in division (B) of this section shall 5562  
inform the person or agency of the name, address, or telephone 5563  
number of the victim and of any change to that information. 5564

(D) A person or agency that has furnished information to a 5565  
victim in accordance with any requirement or authorization under 5566  
this chapter shall notify the victim promptly of any significant 5567  
changes to that information. 5568

(E) Divisions (A) to (D) of this section do not apply 5569  
regarding a notice that a prosecutor is required to provide 5570  
under section 2930.061 of the Revised Code. A prosecutor 5571  
required to provide notice under that section shall provide the 5572  
notice as specified in that section. 5573

**Sec. 2930.06.** (A) The prosecutor in a case, to the extent 5574  
practicable, shall confer with the victim in the case before 5575  
pretrial diversion is granted to the defendant or alleged 5576  
juvenile offender in the case, before amending or dismissing an 5577  
indictment, information, or complaint against that defendant or 5578  
alleged juvenile offender, before agreeing to a negotiated plea 5579  
for that defendant or alleged juvenile offender, before a trial 5580

of that defendant by judge or jury, or before the juvenile court 5581  
conducts an adjudicatory hearing for that alleged juvenile 5582  
offender. If the juvenile court disposes of a case prior to the 5583  
prosecutor's involvement in the case, the court or a court 5584  
employee shall notify the victim in the case that the alleged 5585  
juvenile offender will be granted pretrial diversion, the 5586  
complaint against that alleged juvenile offender will be amended 5587  
or dismissed, or the court will conduct an adjudicatory hearing 5588  
for that alleged juvenile offender. If the prosecutor fails to 5589  
confer with the victim at any of those times, the court, if 5590  
informed of the failure, shall note on the record the failure 5591  
and the prosecutor's reasons for the failure. A prosecutor's 5592  
failure to confer with a victim as required by this division and 5593  
a court's failure to provide the notice as required by this 5594  
division do not affect the validity of an agreement between the 5595  
prosecutor and the defendant or alleged juvenile offender in the 5596  
case, a pretrial diversion of the defendant or alleged juvenile 5597  
offender, an amendment or dismissal of an indictment, 5598  
information, or complaint filed against the defendant or alleged 5599  
juvenile offender, a plea entered by the defendant or alleged 5600  
juvenile defender, an admission entered by the defendant or 5601  
alleged juvenile offender, or any other disposition in the case. 5602  
A court shall not dismiss a criminal complaint, charge, 5603  
information, or indictment or a delinquent child complaint 5604  
solely at the request of the victim and over the objection of 5605  
the prosecuting attorney, village solicitor, city director of 5606  
law, or other chief legal officer responsible for the 5607  
prosecution of the case. 5608

(B) After a prosecution in a case has been commenced, the 5609  
prosecutor or a designee of the prosecutor other than a court or 5610  
court employee, to the extent practicable, promptly shall give 5611

the victim all of the following information, except that, if the 5612  
juvenile court disposes of a case prior to the prosecutor's 5613  
involvement in the case, the court or a court employee, to the 5614  
extent practicable, promptly shall give the victim all of the 5615  
following information: 5616

(1) The name of the crime or specified delinquent act with 5617  
which the defendant or alleged juvenile offender in the case has 5618  
been charged and the name of the defendant or alleged juvenile 5619  
offender; 5620

(2) The file number of the case; 5621

(3) A brief statement regarding the procedural steps in a 5622  
criminal prosecution or delinquency proceeding involving a crime 5623  
or specified delinquent act similar to the crime or specified 5624  
delinquent act with which the defendant or alleged juvenile 5625  
offender has been charged and the right of the victim to be 5626  
present during all proceedings held throughout the prosecution 5627  
of the case; 5628

(4) A summary of the rights of a victim under this 5629  
chapter; 5630

(5) Procedures the victim or the prosecutor may follow if 5631  
the victim becomes subject to threats or intimidation by the 5632  
defendant, alleged juvenile offender, or any other person; 5633

(6) The name and business telephone number of a person to 5634  
contact for further information with respect to the case; 5635

(7) The right of the victim to have a victim's 5636  
representative exercise the victim's rights under this chapter 5637  
in accordance with section 2930.02 of the Revised Code and the 5638  
procedure by which a victim's representative may be designated; 5639

(8) Notice that any notification under division (C) of 5640  
this section, sections 2930.07 to 2930.15, division (A), (B), or 5641  
(C) of section 2930.16, sections 2930.17 to 2930.19, and section 5642  
5139.56 of the Revised Code will be given to the victim only if 5643  
the victim asks to receive the notification and that notice 5644  
under division (E) (2) or (K) of section 2929.20, division (D) of 5645  
section 2930.16, division ~~(H)~~ (G) of section 2967.12, division 5646  
(E) (1) (b) of section 2967.19, division (A) (3) (b) of section 5647  
2967.26, division (D) (1) of section 2967.28, or division (A) (2) 5648  
of section 5149.101 of the Revised Code will be given unless the 5649  
victim asks that the notification not be provided. 5650

(C) Upon the request of the victim, the prosecutor or, if 5651  
it is a delinquency proceeding and a prosecutor is not involved 5652  
in the case, the court shall give the victim notice of the date, 5653  
time, and place of any scheduled criminal or juvenile 5654  
proceedings in the case and notice of any changes in those 5655  
proceedings or in the schedule in the case. 5656

(D) A victim who requests notice under division (C) of 5657  
this section and who elects pursuant to division (B) of section 5658  
2930.03 of the Revised Code to receive any further notice from 5659  
the prosecutor or, if it is a delinquency proceeding and a 5660  
prosecutor is not involved in the case, the court under this 5661  
chapter shall keep the prosecutor or the court informed of the 5662  
victim's current address and telephone number until the case is 5663  
dismissed or terminated, the defendant is acquitted or 5664  
sentenced, the delinquent child complaint is dismissed, the 5665  
defendant is adjudicated a delinquent child, or the appellate 5666  
process is completed, whichever is the final disposition in the 5667  
case. 5668

(E) If a defendant is charged with the commission of a 5669

misdemeanor offense that is not identified in division (A) (2) of 5670  
section 2930.01 of the Revised Code and if a police report or a 5671  
complaint, indictment, or information that charges the 5672  
commission of that offense and provides the basis for a criminal 5673  
prosecution of that defendant identifies one or more individuals 5674  
as individuals against whom that offense was committed, after a 5675  
prosecution in the case has been commenced, the prosecutor or a 5676  
designee of the prosecutor other than a court or court employee, 5677  
to the extent practicable, promptly shall notify each of the 5678  
individuals so identified in the report, complaint, indictment, 5679  
or information that, if the defendant is convicted of or pleads 5680  
guilty to the offense, the individual may make an oral or 5681  
written statement to the court hearing the case regarding the 5682  
sentence to be imposed upon the defendant and that the court 5683  
must consider any statement so made that is relevant. Before 5684  
imposing sentence in the case, the court shall permit the 5685  
individuals so identified in the report, complaint, indictment, 5686  
or information to make an oral or written statement. Division 5687  
(A) of section 2930.14 of the Revised Code applies regarding any 5688  
statement so made. The court shall consider a statement so made, 5689  
in accordance with division (B) of that section and division (D) 5690  
of section 2929.22 of the Revised Code. 5691

**Sec. 2930.16.** (A) If a defendant is incarcerated, a victim 5692  
in a case who has requested to receive notice under this section 5693  
shall be given notice of the incarceration of the defendant. If 5694  
an alleged juvenile offender is committed to the temporary 5695  
custody of a school, camp, institution, or other facility 5696  
operated for the care of delinquent children or to the legal 5697  
custody of the department of youth services, a victim in a case 5698  
who has requested to receive notice under this section shall be 5699  
given notice of the commitment. Promptly after sentence is 5700



imposed upon the defendant or the commitment of the alleged 5701  
juvenile offender is ordered, the prosecutor in the case shall 5702  
notify the victim of the date on which the defendant will be 5703  
released from confinement or the prosecutor's reasonable 5704  
estimate of that date or the date on which the alleged juvenile 5705  
offender will have served the minimum period of commitment or 5706  
the prosecutor's reasonable estimate of that date. The 5707  
prosecutor also shall notify the victim of the name of the 5708  
custodial agency of the defendant or alleged juvenile offender 5709  
and tell the victim how to contact that custodial agency. If the 5710  
custodial agency is the department of rehabilitation and 5711  
correction, the prosecutor shall notify the victim of the 5712  
services offered by the office of victims' services pursuant to 5713  
section 5120.60 of the Revised Code. If the custodial agency is 5714  
the department of youth services, the prosecutor shall notify 5715  
the victim of the services provided by the office of victims' 5716  
services within the release authority of the department pursuant 5717  
to section 5139.55 of the Revised Code and the victim's right 5718  
pursuant to section 5139.56 of the Revised Code to submit a 5719  
written request to the release authority to be notified of 5720  
actions the release authority takes with respect to the alleged 5721  
juvenile offender. The victim shall keep the custodial agency 5722  
informed of the victim's current address and telephone number. 5723

(B) (1) Upon the victim's request or in accordance with 5724  
division (D) of this section, the prosecutor promptly shall 5725  
notify the victim of any hearing for judicial release of the 5726  
defendant pursuant to section 2929.20 of the Revised Code, of 5727  
any hearing for release of the defendant pursuant to section 5728  
2967.19 of the Revised Code, or of any hearing for judicial 5729  
release or early release of the alleged juvenile offender 5730  
pursuant to section 2151.38 of the Revised Code and of the 5731

victim's right to make a statement under those sections. The 5732  
court shall notify the victim of its ruling in each of those 5733  
hearings and on each of those applications. 5734

(2) If an offender is sentenced to a prison term pursuant 5735  
to division (A) (3) or (B) of section 2971.03 of the Revised 5736  
Code, upon the request of the victim of the crime or in 5737  
accordance with division (D) of this section, the prosecutor 5738  
promptly shall notify the victim of any hearing to be conducted 5739  
pursuant to section 2971.05 of the Revised Code to determine 5740  
whether to modify the requirement that the offender serve the 5741  
entire prison term in a state correctional facility in 5742  
accordance with division (C) of that section, whether to 5743  
continue, revise, or revoke any existing modification of that 5744  
requirement, or whether to terminate the prison term in 5745  
accordance with division (D) of that section. The court shall 5746  
notify the victim of any order issued at the conclusion of the 5747  
hearing. 5748

(C) Upon the victim's request made at any time before the 5749  
particular notice would be due or in accordance with division 5750  
(D) of this section, the custodial agency of a defendant or 5751  
alleged juvenile offender shall give the victim any of the 5752  
following notices that is applicable: 5753

(1) At least sixty days before the adult parole authority 5754  
recommends a pardon or commutation of sentence for the defendant 5755  
or at least sixty days prior to a hearing before the adult 5756  
parole authority regarding a grant of parole to the defendant, 5757  
notice of the victim's right to submit a statement regarding the 5758  
impact of the defendant's release in accordance with section 5759  
2967.12 of the Revised Code and, if applicable, of the victim's 5760  
right to appear at a full board hearing of the parole board to 5761

give testimony as authorized by section 5149.101 of the Revised Code; 5762  
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(2) At least sixty days before the defendant is transferred to transitional control under section 2967.26 of the Revised Code, notice of the pendency of the transfer and of the victim's right under that section to submit a statement regarding the impact of the transfer; 5764  
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(3) At least sixty days before the release authority of the department of youth services holds a release review, release hearing, or discharge review for the alleged juvenile offender, notice of the pendency of the review or hearing, of the victim's right to make an oral or written statement regarding the impact of the crime upon the victim or regarding the possible release or discharge, and, if the notice pertains to a hearing, of the victim's right to attend and make statements or comments at the hearing as authorized by section 5139.56 of the Revised Code; 5769  
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(4) Prompt notice of the defendant's or alleged juvenile offender's escape from a facility of the custodial agency in which the defendant was incarcerated or in which the alleged juvenile offender was placed after commitment, of the defendant's or alleged juvenile offender's absence without leave from a mental health or developmental disabilities facility or from other custody, and of the capture of the defendant or alleged juvenile offender after an escape or absence; 5778  
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(5) Notice of the defendant's or alleged juvenile offender's death while in confinement or custody; 5786  
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(6) Notice of the filing of a petition by the director of rehabilitation and correction pursuant to section 2967.19 of the Revised Code requesting the early release under that section of 5788  
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the defendant; 5791

(7) Notice of the defendant's or alleged juvenile 5792  
offender's release from confinement or custody and the terms and 5793  
conditions of the release. 5794

(D) (1) If a defendant is incarcerated for the commission 5795  
of aggravated murder, murder, or an offense of violence that is 5796  
a felony of the first, second, or third degree or is under a 5797  
sentence of life imprisonment or if an alleged juvenile offender 5798  
has been charged with the commission of an act that would be 5799  
aggravated murder, murder, or an offense of violence that is a 5800  
felony of the first, second, or third degree or be subject to a 5801  
sentence of life imprisonment if committed by an adult, except 5802  
as otherwise provided in this division, the notices described in 5803  
divisions (B) and (C) of this section shall be given regardless 5804  
of whether the victim has requested the notification. The 5805  
notices described in divisions (B) and (C) of this section shall 5806  
not be given under this division to a victim if the victim has 5807  
requested pursuant to division (B) (2) of section 2930.03 of the 5808  
Revised Code that the victim not be provided the notice. 5809  
Regardless of whether the victim has requested that the notices 5810  
described in division (C) of this section be provided or not be 5811  
provided, the custodial agency shall give notice similar to 5812  
those notices to the prosecutor in the case, to the sentencing 5813  
court, to the law enforcement agency that arrested the defendant 5814  
or alleged juvenile offender if any officer of that agency was a 5815  
victim of the offense, and to any member of the victim's 5816  
immediate family who requests notification. If the notice given 5817  
under this division to the victim is based on an offense 5818  
committed prior to March 22, 2013, and if the prosecutor or 5819  
custodial agency has not previously successfully provided any 5820  
notice to the victim under this division or division (B) or (C) 5821

of this section with respect to that offense and the offender 5822  
who committed it, the notice also shall inform the victim that 5823  
the victim may request that the victim not be provided any 5824  
further notices with respect to that offense and the offender 5825  
who committed it and shall describe the procedure for making 5826  
that request. If the notice given under this division to the 5827  
victim pertains to a hearing regarding a grant of a parole to 5828  
the defendant, the notice also shall inform the victim that the 5829  
victim, a member of the victim's immediate family, or the 5830  
victim's representative may request a victim conference, as 5831  
described in division (E) of this section, and shall provide an 5832  
explanation of a victim conference. 5833

The prosecutor or custodial agency may give the notices to 5834  
which this division applies by any reasonable means, including 5835  
regular mail, telephone, and electronic mail. If the prosecutor 5836  
or custodial agency attempts to provide notice to a victim under 5837  
this division but the attempt is unsuccessful because the 5838  
prosecutor or custodial agency is unable to locate the victim, 5839  
is unable to provide the notice by its chosen method because it 5840  
cannot determine the mailing address, telephone number, or 5841  
electronic mail address at which to provide the notice, or, if 5842  
the notice is sent by mail, the notice is returned, the 5843  
prosecutor or custodial agency shall make another attempt to 5844  
provide the notice to the victim. If the second attempt is 5845  
unsuccessful, the prosecutor or custodial agency shall make at 5846  
least one more attempt to provide the notice. If the notice is 5847  
based on an offense committed prior to March 22, 2013, in each 5848  
attempt to provide the notice to the victim, the notice shall 5849  
include the opt-out information described in the preceding 5850  
paragraph. The prosecutor or custodial agency, in accordance 5851  
with division (D) (2) of this section, shall keep a record of all 5852

attempts to provide the notice, and of all notices provided, 5853  
under this division. 5854

Division (D) (1) of this section, and the notice-related 5855  
provisions of divisions (E) (2) and (K) of section 2929.20, 5856  
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 5857  
section 2967.19, division (A) (3) (b) of section 2967.26, division 5858  
(D) (1) of section 2967.28, and division (A) (2) of section 5859  
5149.101 of the Revised Code enacted in the act in which 5860  
division (D) (1) of this section was enacted, shall be known as 5861  
"Roberta's Law." 5862

(2) Each prosecutor and custodial agency that attempts to 5863  
give any notice to which division (D) (1) of this section applies 5864  
shall keep a record of all attempts to give the notice. The 5865  
record shall indicate the person who was to be the recipient of 5866  
the notice, the date on which the attempt was made, the manner 5867  
in which the attempt was made, and the person who made the 5868  
attempt. If the attempt is successful and the notice is given, 5869  
the record shall indicate that fact. The record shall be kept in 5870  
a manner that allows public inspection of attempts and notices 5871  
given to persons other than victims without revealing the names, 5872  
addresses, or other identifying information relating to victims. 5873  
The record of attempts and notices given to victims is not a 5874  
public record, but the prosecutor or custodial agency shall 5875  
provide upon request a copy of that record to a prosecuting 5876  
attorney, judge, law enforcement agency, or member of the 5877  
general assembly. The record of attempts and notices given to 5878  
persons other than victims is a public record. A record kept 5879  
under this division may be indexed by offender name, or in any 5880  
other manner determined by the prosecutor or the custodial 5881  
agency. Each prosecutor or custodial agency that is required to 5882  
keep a record under this division shall determine the procedures 5883

for keeping the record and the manner in which it is to be kept, 5884  
subject to the requirements of this division. 5885

(E) The adult parole authority shall adopt rules under 5886  
Chapter 119. of the Revised Code providing for a victim 5887  
conference, upon request of the victim, a member of the victim's 5888  
immediate family, or the victim's representative, prior to a 5889  
parole hearing in the case of a prisoner who is incarcerated for 5890  
the commission of aggravated murder, murder, or an offense of 5891  
violence that is a felony of the first, second, or third degree 5892  
or is under a sentence of life imprisonment. The rules shall 5893  
provide for, but not be limited to, all of the following: 5894

(1) Subject to division (E)(3) of this section, attendance 5895  
by the victim, members of the victim's immediate family, the 5896  
victim's representative, and, if practicable, other individuals; 5897

(2) Allotment of up to one hour for the conference; 5898

(3) A specification of the number of persons specified in 5899  
division (E)(1) of this section who may be present at any single 5900  
victim conference, if limited by the department pursuant to 5901  
division (F) of this section. 5902

(F) The department may limit the number of persons 5903  
specified in division (E)(1) of this section who may be present 5904  
at any single victim conference, provided that the department 5905  
shall not limit the number of persons who may be present at any 5906  
single conference to fewer than three. If the department limits 5907  
the number of persons who may be present at any single victim 5908  
conference, the department shall permit and schedule, upon 5909  
request of the victim, a member of the victim's immediate 5910  
family, or the victim's representative, multiple victim 5911  
conferences for the persons specified in division (E)(1) of this 5912

section. 5913

(G) As used in this section, "victim's immediate family" 5914  
has the same meaning as in section 2967.12 of the Revised Code. 5915

**Sec. 2930.19.** (A) In a manner consistent with the duty of 5916  
a prosecutor to represent the interests of the public as a 5917  
whole, a prosecutor shall seek compliance with this chapter on 5918  
behalf of a victim, a member of the victim's family, or the 5919  
victim's representative. 5920

(B) The failure of a public official or public agency to 5921  
comply with the requirements of this chapter does not give rise 5922  
to a claim for damages against that public official or public 5923  
agency, except that a public agency as an employer may be held 5924  
responsible for a violation of section 2930.18 of the Revised 5925  
Code. 5926

(C) The failure of any person or entity to provide a 5927  
right, privilege, or notice to a victim under this chapter does 5928  
not constitute grounds for declaring a mistrial or new trial, 5929  
for setting aside a conviction, sentence, adjudication, or 5930  
disposition, or for granting postconviction release to a 5931  
defendant or alleged juvenile offender. 5932

~~(D) If there is a conflict between a provision in this 5933  
chapter and a specific statute governing the procedure in a case 5934  
involving a capital offense, the specific statute supersedes the 5935  
provision in this chapter. 5936~~

~~(E) If the victim of a crime is incarcerated in a state or 5937  
local correctional facility or is in the legal custody of the 5938  
department of youth services, the victim's rights under this 5939  
chapter may be modified by court order to prevent any security 5940  
risk, hardship, or undue burden upon a public official or public 5941~~



agency with a duty under this chapter. 5942

**Sec. 2937.222.** (A) On the motion of the prosecuting 5943  
attorney or on the judge's own motion, the judge shall hold a 5944  
hearing to determine whether an accused person charged with 5945  
aggravated murder ~~when it is not a capital offense~~, murder, a 5946  
felony of the first or second degree, a violation of section 5947  
2903.06 of the Revised Code, a violation of section 2903.211 of 5948  
the Revised Code that is a felony, or a felony OVI offense shall 5949  
be denied bail. The judge shall order that the accused be 5950  
detained until the conclusion of the hearing. Except for good 5951  
cause, a continuance on the motion of the state shall not exceed 5952  
three court days. Except for good cause, a continuance on the 5953  
motion of the accused shall not exceed five court days unless 5954  
the motion of the accused waives in writing the five-day limit 5955  
and states in writing a specific period for which the accused 5956  
requests a continuance. A continuance granted upon a motion of 5957  
the accused that waives in writing the five-day limit shall not 5958  
exceed five court days after the period of continuance requested 5959  
in the motion. 5960

At the hearing, the accused has the right to be 5961  
represented by counsel and, if the accused is indigent, to have 5962  
counsel appointed. The judge shall afford the accused an 5963  
opportunity to testify, to present witnesses and other 5964  
information, and to cross-examine witnesses who appear at the 5965  
hearing. The rules concerning admissibility of evidence in 5966  
criminal trials do not apply to the presentation and 5967  
consideration of information at the hearing. Regardless of 5968  
whether the hearing is being held on the motion of the 5969  
prosecuting attorney or on the court's own motion, the state has 5970  
the burden of proving that the proof is evident or the 5971  
presumption great that the accused committed the offense with 5972

which the accused is charged, of proving that the accused poses 5973  
a substantial risk of serious physical harm to any person or to 5974  
the community, and of proving that no release conditions will 5975  
reasonably assure the safety of that person and the community. 5976

The judge may reopen the hearing at any time before trial 5977  
if the judge finds that information exists that was not known to 5978  
the movant at the time of the hearing and that that information 5979  
has a material bearing on whether bail should be denied. If a 5980  
municipal court or county court enters an order denying bail, a 5981  
judge of the court of common pleas having jurisdiction over the 5982  
case may continue that order or may hold a hearing pursuant to 5983  
this section to determine whether to continue that order. 5984

(B) No accused person shall be denied bail pursuant to 5985  
this section unless the judge finds by clear and convincing 5986  
evidence that the proof is evident or the presumption great that 5987  
the accused committed the offense described in division (A) of 5988  
this section with which the accused is charged, finds by clear 5989  
and convincing evidence that the accused poses a substantial 5990  
risk of serious physical harm to any person or to the community, 5991  
and finds by clear and convincing evidence that no release 5992  
conditions will reasonably assure the safety of that person and 5993  
the community. 5994

(C) The judge, in determining whether the accused person 5995  
described in division (A) of this section poses a substantial 5996  
risk of serious physical harm to any person or to the community 5997  
and whether there are conditions of release that will reasonably 5998  
assure the safety of that person and the community, shall 5999  
consider all available information regarding all of the 6000  
following: 6001

(1) The nature and circumstances of the offense charged, 6002

including whether the offense is an offense of violence or 6003  
involves alcohol or a drug of abuse; 6004

(2) The weight of the evidence against the accused; 6005

(3) The history and characteristics of the accused, 6006  
including, but not limited to, both of the following: 6007

(a) The character, physical and mental condition, family 6008  
ties, employment, financial resources, length of residence in 6009  
the community, community ties, past conduct, history relating to 6010  
drug or alcohol abuse, and criminal history of the accused; 6011

(b) Whether, at the time of the current alleged offense or 6012  
at the time of the arrest of the accused, the accused was on 6013  
probation, parole, post-release control, or other release 6014  
pending trial, sentencing, appeal, or completion of sentence for 6015  
the commission of an offense under the laws of this state, 6016  
another state, or the United States or under a municipal 6017  
ordinance. 6018

(4) The nature and seriousness of the danger to any person 6019  
or the community that would be posed by the person's release. 6020

(D) (1) An order of the court of common pleas denying bail 6021  
pursuant to this section is a final appealable order. In an 6022  
appeal pursuant to division (D) of this section, the court of 6023  
appeals shall do all of the following: 6024

(a) Give the appeal priority on its calendar; 6025

(b) Liberally modify or dispense with formal requirements 6026  
in the interest of a speedy and just resolution of the appeal; 6027

(c) Decide the appeal expeditiously; 6028

(d) Promptly enter its judgment affirming or reversing the 6029

order denying bail. 6030

(2) The pendency of an appeal under this section does not 6031  
deprive the court of common pleas of jurisdiction to conduct 6032  
further proceedings in the case or to further consider the order 6033  
denying bail in accordance with this section. If, during the 6034  
pendency of an appeal under division (D) of this section, the 6035  
court of common pleas sets aside or terminates the order denying 6036  
bail, the court of appeals shall dismiss the appeal. 6037

(E) As used in this section: 6038

(1) "Court day" has the same meaning as in section 5122.01 6039  
of the Revised Code. 6040

(2) "Felony OVI offense" means a third degree felony OVI 6041  
offense and a fourth degree felony OVI offense. 6042

(3) "Fourth degree felony OVI offense" and "third degree 6043  
felony OVI offense" have the same meanings as in section 2929.01 6044  
of the Revised Code. 6045

**Sec. 2941.021.** Any criminal offense which is not 6046  
punishable by ~~death or~~ life imprisonment may be prosecuted by 6047  
information filed in the common pleas court by the prosecuting 6048  
attorney if the defendant, after ~~he has~~ having been advised by 6049  
the court of the nature of the charge against ~~him~~ the defendant 6050  
and of ~~his~~ the defendant's rights under the constitution, is 6051  
represented by counsel or has affirmatively waived counsel by 6052  
waiver in writing and in open court, waives in writing and in 6053  
open court prosecution by indictment. 6054

**Sec. 2941.14.** ~~(A)~~ In an indictment for aggravated murder, 6055  
murder, or voluntary or involuntary manslaughter, the manner in 6056  
which, or the means by which the death was caused need not be 6057  
set forth. 6058

~~(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.~~ 6059  
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~~(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:~~ 6069  
6070  
6071  
6072

~~"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 which it appears, or in words sufficient to give the accused notice of the same)."~~ 6073  
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**Sec. 2941.148.** (A) (1) The application of Chapter 2971. of the Revised Code to an offender is precluded unless one of the following applies: 6081  
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6083

(a) The offender is charged with a violent sex offense, and the indictment, count in the indictment, or information charging the violent sex offense also includes a specification that the offender is a sexually violent predator, or the offender is charged with a designated homicide, assault, or 6084  
6085  
6086  
6087  
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kidnapping offense, and the indictment, count in the indictment, 6089  
or information charging the designated homicide, assault, or 6090  
kidnapping offense also includes both a specification of the 6091  
type described in section 2941.147 of the Revised Code and a 6092  
specification that the offender is a sexually violent predator. 6093

(b) The offender is convicted of or pleads guilty to a 6094  
violation of division (A) (1) (b) of section 2907.02 of the 6095  
Revised Code committed on or after January 2, 2007, and division 6096  
(B) of section 2907.02 of the Revised Code does not prohibit the 6097  
court from sentencing the offender pursuant to section 2971.03 6098  
of the Revised Code. 6099

(c) The offender is convicted of or pleads guilty to 6100  
attempted rape committed on or after January 2, 2007, and to a 6101  
specification of the type described in section 2941.1418, 6102  
2941.1419, or 2941.1420 of the Revised Code. 6103

(d) The offender is convicted of or pleads guilty to a 6104  
violation of section 2905.01 of the Revised Code and to a 6105  
specification of the type described in section 2941.147 of the 6106  
Revised Code, and section 2905.01 of the Revised Code requires a 6107  
court to sentence the offender pursuant to section 2971.03 of 6108  
the Revised Code. 6109

(e) The offender is convicted of or pleads guilty to 6110  
aggravated murder and to a specification of the type described 6111  
in section 2941.147 of the Revised Code, and division ~~(A) (2) (b)~~ 6112  
~~(ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C)~~ 6113  
~~(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section~~ 6114  
~~2929.03, or division (A) or (B) (C) (1) of section 2929.06~~ 6115  
2929.02 of the Revised Code requires a court to sentence the 6116  
offender pursuant to division (B) (3) of section 2971.03 of the 6117  
Revised Code. 6118

(f) The offender is convicted of or pleads guilty to 6119  
murder and to a specification of the type described in section 6120  
2941.147 of the Revised Code, and division ~~(B) (2)~~ (C) (1) of 6121  
section 2929.02 of the Revised Code requires a court to sentence 6122  
the offender pursuant to section 2971.03 of the Revised Code. 6123

(2) A specification required under division (A) (1) (a) of 6124  
this section that an offender is a sexually violent predator 6125  
shall be stated at the end of the body of the indictment, count, 6126  
or information and shall be stated in substantially the 6127  
following form: 6128

"Specification (or, specification to the first count). The 6129  
grand jury (or insert the person's or prosecuting attorney's 6130  
name when appropriate) further find and specify that the 6131  
offender is a sexually violent predator." 6132

(B) In determining for purposes of this section whether a 6133  
person is a sexually violent predator, all of the factors set 6134  
forth in divisions (H) (1) to (6) of section 2971.01 of the 6135  
Revised Code that apply regarding the person may be considered 6136  
as evidence tending to indicate that it is likely that the 6137  
person will engage in the future in one or more sexually violent 6138  
offenses. 6139

(C) As used in this section, "designated homicide, 6140  
assault, or kidnapping offense," "violent sex offense," and 6141  
"sexually violent predator" have the same meanings as in section 6142  
2971.01 of the Revised Code. 6143

**Sec. 2941.401.** When a person has entered upon a term of 6144  
imprisonment in a correctional institution of this state, and 6145  
when during the continuance of the term of imprisonment there is 6146  
pending in this state any untried indictment, information, or 6147

complaint against the prisoner, ~~he~~ the prisoner shall be brought 6148  
to trial within one hundred eighty days after ~~he~~ the prisoner 6149  
causes to be delivered to the prosecuting attorney and the 6150  
appropriate court in which the matter is pending, written notice 6151  
of the place of ~~his~~ the prisoner's imprisonment and a request 6152  
for a final disposition to be made of the matter, except that 6153  
for good cause shown in open court, with the prisoner or ~~his~~ the 6154  
prisoner's counsel present, the court may grant any necessary or 6155  
reasonable continuance. The request of the prisoner shall be 6156  
accompanied by a certificate of the warden or superintendent 6157  
having custody of the prisoner, stating the term of commitment 6158  
under which the prisoner is being held, the time served and 6159  
remaining to be served on the sentence, the amount of good time 6160  
earned, the time of parole eligibility of the prisoner, and any 6161  
decisions of the adult parole authority relating to the 6162  
prisoner. 6163

The written notice and request for final disposition shall 6164  
be given or sent by the prisoner to the warden or superintendent 6165  
having custody of ~~him~~ the prisoner, who shall promptly forward 6166  
it with the certificate to the appropriate prosecuting attorney 6167  
and court by registered or certified mail, return receipt 6168  
requested. 6169

The warden or superintendent having custody of the 6170  
prisoner shall promptly inform ~~him~~ the prisoner in writing of 6171  
the source and contents of any untried indictment, information, 6172  
or complaint against ~~him~~ the prisoner, concerning which the 6173  
warden or superintendent has knowledge, and of ~~his~~ the 6174  
prisoner's right to make a request for final disposition 6175  
thereof. 6176

Escape from custody by the prisoner, subsequent to ~~his~~ the 6177



prisoner's execution of the request for final disposition, voids 6178  
the request. 6179

If the action is not brought to trial within the time 6180  
provided, subject to continuance allowed pursuant to this 6181  
section, no court any longer has jurisdiction thereof, the 6182  
indictment, information, or complaint is void, and the court 6183  
shall enter an order dismissing the action with prejudice. 6184

This section does not apply to any person adjudged to be 6185  
mentally ill or who is under sentence of life imprisonment ~~or~~ 6186  
~~death, or to any prisoner under sentence of death.~~ 6187

**Sec. 2941.43.** If the convict referred to in section 6188  
2941.40 of the Revised Code is acquitted, ~~he~~ the convict shall 6189  
be forthwith returned by the sheriff to the state correctional 6190  
institution to serve out the remainder of ~~his~~ the convict's 6191  
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 6192  
state correctional institution, ~~he~~ the convict shall be returned 6193  
to the state correctional institution by the sheriff to serve 6194  
~~his new~~ the convict's term. If ~~he is sentenced to death, the~~ 6195  
~~death sentence shall be executed as if he were not under~~ 6196  
~~sentence of imprisonment in a state correctional institution.~~ 6197

**Sec. 2941.51.** (A) Counsel appointed to a case or selected 6198  
by an indigent person under division (E) of section 120.16 or 6199  
division (E) of section 120.26 of the Revised Code, or otherwise 6200  
appointed by the court, except for counsel appointed by the 6201  
court to provide legal representation for a person charged with 6202  
a violation of an ordinance of a municipal corporation, shall be 6203  
paid for their services by the county the compensation and 6204  
expenses that the trial court approves. Each request for payment 6205  
shall be accompanied by a financial disclosure form and an 6206  
affidavit of indigency that are completed by the indigent person 6207

on forms prescribed by the state public defender. Compensation 6208  
and expenses shall not exceed the amounts fixed by the board of 6209  
county commissioners pursuant to division (B) of this section. 6210

(B) The board of county commissioners shall establish a 6211  
schedule of fees by case or on an hourly basis to be paid by the 6212  
county for legal services provided by appointed counsel. Prior 6213  
to establishing such schedule, the board shall request the bar 6214  
association or associations of the county to submit a proposed 6215  
~~schedule for cases other than capital cases.~~ The schedule 6216  
submitted shall be subject to the review, amendment, and 6217  
approval of the board of county commissioners, ~~except with~~ 6218  
~~respect to capital cases. With respect to capital cases, the~~ 6219  
~~schedule shall provide for fees by case or on an hourly basis to~~ 6220  
~~be paid to counsel in the amount or at the rate set by the~~ 6221  
~~capital case attorney fee council pursuant to division (D) of~~ 6222  
~~section 120.33 of the Revised Code, and the board of county~~ 6223  
~~commissioners shall approve that amount or rate.~~ 6224

~~With respect to capital cases, counsel shall be paid~~ 6225  
~~compensation and expenses in accordance with the amount or at~~ 6226  
~~the rate set by the capital case attorney fee council pursuant~~ 6227  
~~to division (D) of section 120.33 of the Revised Code.~~ 6228

(C) In a case where counsel have been appointed to conduct 6229  
an appeal under Chapter 120. of the Revised Code, such 6230  
compensation shall be fixed by the court of appeals or the 6231  
supreme court, as provided in divisions (A) and (B) of this 6232  
section. 6233

(D) The fees and expenses approved by the court under this 6234  
section shall not be taxed as part of the costs and shall be 6235  
paid by the county. However, if the person represented has, or 6236  
reasonably may be expected to have, the means to meet some part 6237

of the cost of the services rendered to the person, the person 6238  
shall pay the county an amount that the person reasonably can be 6239  
expected to pay. Pursuant to section 120.04 of the Revised Code, 6240  
the county shall pay to the state public defender a percentage 6241  
of the payment received from the person in an amount 6242  
proportionate to the percentage of the costs of the person's 6243  
case that were paid to the county by the state public defender 6244  
pursuant to this section. The money paid to the state public 6245  
defender shall be credited to the client payment fund created 6246  
pursuant to division (B) (5) of section 120.04 of the Revised 6247  
Code. 6248

(E) The county auditor shall draw a warrant on the county 6249  
treasurer for the payment of such counsel in the amount fixed by 6250  
the court, plus the expenses that the court fixes and certifies 6251  
to the auditor. The county auditor shall report periodically, 6252  
but not less than annually, to the board of county commissioners 6253  
and to the Ohio public defender commission the amounts paid out 6254  
pursuant to the approval of the court under this section,~~—~~ 6255  
~~separately stating costs and expenses that are reimbursable—~~ 6256  
~~under section 120.35 of the Revised Code.~~ The board, after 6257  
review and approval of the auditor's report, may then certify it 6258  
to the state public defender for reimbursement. The request for 6259  
reimbursement shall be accompanied by a financial disclosure 6260  
form completed by each indigent person for whom counsel was 6261  
provided on a form prescribed by the state public defender. The 6262  
state public defender shall review the report and, in accordance 6263  
with the standards, guidelines, and maximums established 6264  
pursuant to divisions (B) (7) and (8) of section 120.04 of the 6265  
Revised Code, pay fifty per cent of the total cost,~~other than—~~ 6266  
~~costs and expenses that are reimbursable under section 120.35 of—~~ 6267  
~~the Revised Code, if any,~~ of paying appointed counsel in each 6268

county and pay fifty per cent of costs and expenses that are 6269  
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 6270  
to the board. 6271

(F) If any county system for paying appointed counsel 6272  
fails to maintain the standards for the conduct of the system 6273  
established by the rules of the Ohio public defender commission 6274  
pursuant to divisions (B) and (C) of section 120.03 of the 6275  
Revised Code or the standards established by the state public 6276  
defender pursuant to division (B) (7) of section 120.04 of the 6277  
Revised Code, the commission shall notify the board of county 6278  
commissioners of the county that the county system for paying 6279  
appointed counsel has failed to comply with its rules. Unless 6280  
the board corrects the conduct of its appointed counsel system 6281  
to comply with the rules within ninety days after the date of 6282  
the notice, the state public defender may deny all or part of 6283  
the county's reimbursement from the state provided for in this 6284  
section. 6285

**Sec. 2945.06.** In any case in which a defendant waives ~~his~~ 6286  
the defendant's right to trial by jury and elects to be tried by 6287  
the court under section 2945.05 of the Revised Code, any judge 6288  
of the court in which the cause is pending shall proceed to 6289  
hear, try, and determine the cause in accordance with the rules 6290  
and in like manner as if the cause were being tried before a 6291  
jury. ~~If the accused is charged with an offense punishable with~~ 6292  
~~death, he shall be tried by a court to be composed of three~~ 6293  
~~judges, consisting of the judge presiding at the time in the~~ 6294  
~~trial of criminal cases and two other judges to be designated by~~ 6295  
~~the presiding judge or chief justice of that court, and in case~~ 6296  
~~there is neither a presiding judge nor a chief justice, by the~~ 6297  
~~chief justice of the supreme court. The judges or a majority of~~ 6298  
~~them may decide all questions of fact and law arising upon the~~ 6299

~~trial; however the accused shall not be found guilty or not  
guilty of any offense unless the judges unanimously find the  
accused guilty or not guilty. If the accused pleads guilty of  
aggravated murder, a court composed of three judges shall  
examine the witnesses, determine whether the accused is guilty  
of aggravated murder or any other offense, and pronounce  
sentence accordingly. The court shall follow the procedures  
contained in sections 2929.03 and 2929.04 of the Revised Code in  
all cases in which the accused is charged with an offense  
punishable by death. If in the composition of the court it is  
necessary that a judge from another county be assigned by the  
chief justice, the judge from another county shall be  
compensated for his services as provided by section 141.07 of  
the Revised Code.~~

**Sec. 2945.10.** The trial of an issue upon an indictment or  
information shall proceed before the trial court or jury as  
follows:

(A) Counsel for the state must first state the case for  
the prosecution, and may briefly state the evidence by which the  
counsel for the state expects to sustain it.

(B) The defendant or the defendant's counsel must then  
state the defense, and may briefly state the evidence which the  
defendant or the defendant's counsel expects to offer in support  
of it.

(C) The state must first produce its evidence and the  
defendant shall then produce the defendant's evidence.

(D) The state will then be confined to rebutting evidence,  
but the court, for good reason, in furtherance of justice, may  
permit evidence to be offered by either side out of its order.

(E) When the evidence is concluded, ~~one of the following~~ 6329  
~~applies regarding jury instructions:~~ 6330

~~(1) In a capital case that is being heard by a jury, the~~ 6331  
~~court shall prepare written instructions to the jury on the~~ 6332  
~~points of law, shall provide copies of the written instructions~~ 6333  
~~to the jury before orally instructing the jury, and shall permit~~ 6334  
~~the jury to retain and consult the instructions during the~~ 6335  
~~court's presentation of the oral instructions and during the~~ 6336  
~~jury's deliberations.~~ 6337

~~(2) In a case that is not a capital case, either party may~~ 6338  
request instructions to the jury on the points of law, which 6339  
instructions shall be reduced to writing if either party 6340  
requests it. 6341

(F) When the evidence is concluded, unless the case is 6342  
submitted without argument, the counsel for the state shall 6343  
commence, the defendant or the defendant's counsel follow, and 6344  
the counsel for the state conclude the argument to the jury. 6345

(G) The court, after the argument is concluded and before 6346  
proceeding with other business, shall forthwith charge the jury. 6347  
Such charge shall be reduced to writing by the court if either 6348  
party requests it before the argument to the jury is commenced. 6349  
Such charge, or other charge or instruction provided for in this 6350  
section, when so written and given, shall not be orally 6351  
qualified, modified, or explained to the jury by the court. 6352  
Written charges and instructions shall be taken by the jury in 6353  
their retirement and returned with their verdict into court and 6354  
remain on file with the papers of the case. 6355

The court may deviate from the order of proceedings listed 6356  
in this section. 6357

**Sec. 2945.13.** When two or more persons are jointly 6358  
indicted for a felony, ~~except a capital offense,~~ they shall be 6359  
tried jointly unless the court, for good cause shown on 6360  
application therefor by the prosecuting attorney or one or more 6361  
of said defendants, orders one or more of said defendants to be 6362  
tried separately. 6363

**Sec. 2945.21.** (A) (1) In criminal cases in which there is 6364  
only one defendant, each party, in addition to the challenges 6365  
for cause authorized by law, may peremptorily challenge three of 6366  
the jurors in misdemeanor cases and four of the jurors in felony 6367  
cases ~~other than capital cases.~~ If there is more than one 6368  
defendant, each defendant may peremptorily challenge the same 6369  
number of jurors as if ~~he~~ the defendant were the sole defendant. 6370

~~(2) Notwithstanding Criminal Rule 24, in capital cases in~~ 6371  
~~which there is only one defendant, each party, in addition to~~ 6372  
~~the challenges for cause authorized by law, may peremptorily~~ 6373  
~~challenge twelve of the jurors. If there is more than one~~ 6374  
~~defendant, each defendant may peremptorily challenge the same~~ 6375  
~~number of jurors as if he were the sole defendant.~~ 6376

~~(3)~~ In any case in which there are multiple defendants, 6377  
the prosecuting attorney may peremptorily challenge a number of 6378  
jurors equal to the total number of peremptory challenges 6379  
allowed to all of the defendants. 6380

(B) If any indictments, informations, or complaints are 6381  
consolidated for trial, the consolidated cases shall be 6382  
considered, for purposes of exercising peremptory challenges, as 6383  
though the defendants or offenses had been joined in the same 6384  
indictment, information, or complaint. 6385

(C) The exercise of peremptory challenges authorized by 6386

this section shall be in accordance with the procedures of 6387  
Criminal Rule 24. 6388

**Sec. 2945.25.** A person called as a juror in a criminal 6389  
case may be challenged for the following causes: 6390

(A) That ~~he~~ the person was a member of the grand jury that 6391  
found the indictment in the case; 6392

(B) That ~~he~~ the person is possessed of a state of mind 6393  
evincing enmity or bias toward the defendant or the state; but 6394  
no person summoned as a juror shall be disqualified by reason of 6395  
a previously formed or expressed opinion with reference to the 6396  
guilt or innocence of the accused, if the court is satisfied, 6397  
from examination of the juror or from other evidence, that ~~he~~ 6398  
the juror will render an impartial verdict according to the law 6399  
and the evidence submitted to the jury at the trial; 6400

(C) ~~In the trial of a capital offense, that he~~ 6401  
~~unequivocally states that under no circumstances will he follow~~ 6402  
~~the instructions of a trial judge and consider fairly the~~ 6403  
~~imposition of a sentence of death in a particular case. A~~ 6404  
~~prospective juror's conscientious or religious opposition to the~~ 6405  
~~death penalty in and of itself is not grounds for a challenge~~ 6406  
~~for cause. All parties shall be given wide latitude in voir dire~~ 6407  
~~questioning in this regard.~~ 6408

~~(D)~~ That ~~he~~ the person is related by consanguinity or 6409  
affinity within the fifth degree to the person alleged to be 6410  
injured or attempted to be injured by the offense charged, or to 6411  
the person on whose complaint the prosecution was instituted, or 6412  
to the defendant; 6413

~~(E)~~ ~~(D)~~ That ~~he~~ the person served on a petit jury drawn in 6414  
the same cause against the same defendant, and that jury was 6415



discharged after hearing the evidence or rendering a verdict on 6416  
the evidence that was set aside; 6417

~~(F)~~ (E) That ~~he~~ the person served as a juror in a civil 6418  
case brought against the defendant for the same act; 6419

~~(G)~~ (F) That ~~he~~ the person has been subpoenaed in good 6420  
faith as a witness in the case; 6421

~~(H)~~ (G) That ~~he~~ the person is a chronic alcoholic, or drug 6422  
dependent person; 6423

~~(I)~~ (H) That ~~he~~ the person has been convicted of a crime 6424  
that by law disqualifies ~~him~~ the person from serving on a jury; 6425

~~(J)~~ (I) That ~~he~~ the person has an action pending between 6426  
~~him~~ the person and the state or the defendant; 6427

~~(K)~~ (J) That ~~he~~ the person or ~~his~~ the person's spouse is a 6428  
party to another action then pending in any court in which an 6429  
attorney in the cause then on trial is an attorney, either for 6430  
or against ~~him~~ the person; 6431

~~(L)~~ (K) That ~~he~~ the person is the person alleged to be 6432  
injured or attempted to be injured by the offense charged, or is 6433  
the person on whose complaint the prosecution was instituted, or 6434  
the defendant; 6435

~~(M)~~ (L) That ~~he~~ the person is the employer or employee, or 6436  
the spouse, parent, son, or daughter of the employer or 6437  
employee, or the counselor, agent, or attorney of any person 6438  
included in division (L) of this section; 6439

~~(N)~~ (M) That English is not ~~his~~ the person's native 6440  
language, and ~~his~~ the person's knowledge of English is 6441  
insufficient to permit ~~him~~ the person to understand the facts 6442  
and law in the case; 6443

~~(O)~~ ~~(N)~~ That ~~he~~ the person otherwise is unsuitable for any 6444  
other cause to serve as a juror. 6445

The validity of each challenge listed in this section 6446  
shall be determined by the court. 6447

**Sec. 2945.33.** When a cause is finally submitted the jurors 6448  
must be kept together in a convenient place under the charge of 6449  
an officer until they agree upon a verdict, or are discharged by 6450  
the court. The court, ~~except in cases where the offense charged~~ 6451  
~~may be punishable by death,~~ may permit the jurors to separate 6452  
during the adjournment of court overnight, under proper 6453  
cautions, or under supervision of an officer. Such officer shall 6454  
not permit a communication to be made to them, nor make any 6455  
~~himself communication to them~~ except to ask if they have agreed 6456  
upon a verdict, unless ~~he~~ the officer does so by order of the 6457  
court. Such officer shall not communicate to any person, before 6458  
the verdict is delivered, any matter in relation to their 6459  
deliberation. Upon the trial of any prosecution for misdemeanor, 6460  
the court may permit the jury to separate during their 6461  
deliberation, or upon adjournment of the court overnight. 6462

~~In cases where the offense charged may be punished by~~ 6463  
~~death, after the case is finally submitted to the jury, the~~ 6464  
~~jurors shall be kept in charge of the proper officer and proper~~ 6465  
~~arrangements for their care and maintenance shall be made as~~ 6466  
~~under section 2945.31 of the Revised Code.~~ 6467

**Sec. 2945.38.** (A) If the issue of a defendant's competence 6468  
to stand trial is raised and if the court, upon conducting the 6469  
hearing provided for in section 2945.37 of the Revised Code, 6470  
finds that the defendant is competent to stand trial, the 6471  
defendant shall be proceeded against as provided by law. If the 6472  
court finds the defendant competent to stand trial and the 6473

defendant is receiving psychotropic drugs or other medication, 6474  
the court may authorize the continued administration of the 6475  
drugs or medication or other appropriate treatment in order to 6476  
maintain the defendant's competence to stand trial, unless the 6477  
defendant's attending physician advises the court against 6478  
continuation of the drugs, other medication, or treatment. 6479

(B) (1) (a) If, after taking into consideration all relevant 6480  
reports, information, and other evidence, the court finds that 6481  
the defendant is incompetent to stand trial and that there is a 6482  
substantial probability that the defendant will become competent 6483  
to stand trial within one year if the defendant is provided with 6484  
a course of treatment, the court shall order the defendant to 6485  
undergo treatment. If the defendant has been charged with a 6486  
felony offense and if, after taking into consideration all 6487  
relevant reports, information, and other evidence, the court 6488  
finds that the defendant is incompetent to stand trial, but the 6489  
court is unable at that time to determine whether there is a 6490  
substantial probability that the defendant will become competent 6491  
to stand trial within one year if the defendant is provided with 6492  
a course of treatment, the court shall order continuing 6493  
evaluation and treatment of the defendant for a period not to 6494  
exceed four months to determine whether there is a substantial 6495  
probability that the defendant will become competent to stand 6496  
trial within one year if the defendant is provided with a course 6497  
of treatment. 6498

(b) The court order for the defendant to undergo treatment 6499  
or continuing evaluation and treatment under division (B) (1) (a) 6500  
of this section shall specify that the defendant, if determined 6501  
to require mental health treatment or continuing evaluation and 6502  
treatment, either shall be committed to the department of mental 6503  
health and addiction services for treatment or continuing 6504

evaluation and treatment at a hospital, facility, or agency, as 6505  
determined to be clinically appropriate by the department of 6506  
mental health and addiction services or shall be committed to a 6507  
facility certified by the department of mental health and 6508  
addiction services as being qualified to treat mental illness, 6509  
to a public or community mental health facility, or to a 6510  
psychiatrist or another mental health professional for treatment 6511  
or continuing evaluation and treatment. Prior to placing the 6512  
defendant, the department of mental health and addiction 6513  
services shall obtain court approval for that placement 6514  
following a hearing. The court order for the defendant to 6515  
undergo treatment or continuing evaluation and treatment under 6516  
division (B) (1) (a) of this section shall specify that the 6517  
defendant, if determined to require treatment or continuing 6518  
evaluation and treatment for an intellectual disability, shall 6519  
receive treatment or continuing evaluation and treatment at an 6520  
institution or facility operated by the department of 6521  
developmental disabilities, at a facility certified by the 6522  
department of developmental disabilities as being qualified to 6523  
treat intellectual disabilities, at a public or private 6524  
intellectual disabilities facility, or by a psychiatrist or 6525  
another intellectual disabilities professional. In any case, the 6526  
order may restrict the defendant's freedom of movement as the 6527  
court considers necessary. The prosecutor in the defendant's 6528  
case shall send to the chief clinical officer of the hospital, 6529  
facility, or agency where the defendant is placed by the 6530  
department of mental health and addiction services, or to the 6531  
managing officer of the institution, the director of the program 6532  
or facility, or the person to which the defendant is committed, 6533  
copies of relevant police reports and other background 6534  
information that pertains to the defendant and is available to 6535  
the prosecutor unless the prosecutor determines that the release 6536

of any of the information in the police reports or any of the 6537  
other background information to unauthorized persons would 6538  
interfere with the effective prosecution of any person or would 6539  
create a substantial risk of harm to any person. 6540

In determining the place of commitment, the court shall 6541  
consider the extent to which the person is a danger to the 6542  
person and to others, the need for security, and the type of 6543  
crime involved and shall order the least restrictive alternative 6544  
available that is consistent with public safety and treatment 6545  
goals. In weighing these factors, the court shall give 6546  
preference to protecting public safety. 6547

(c) If the defendant is found incompetent to stand trial, 6548  
if the chief clinical officer of the hospital, facility, or 6549  
agency where the defendant is placed, or the managing officer of 6550  
the institution, the director of the program or facility, or the 6551  
person to which the defendant is committed for treatment or 6552  
continuing evaluation and treatment under division (B)(1)(b) of 6553  
this section determines that medication is necessary to restore 6554  
the defendant's competency to stand trial, and if the defendant 6555  
lacks the capacity to give informed consent or refuses 6556  
medication, the chief clinical officer of the hospital, 6557  
facility, or agency where the defendant is placed, or the 6558  
managing officer of the institution, the director of the program 6559  
or facility, or the person to which the defendant is committed 6560  
for treatment or continuing evaluation and treatment may 6561  
petition the court for authorization for the involuntary 6562  
administration of medication. The court shall hold a hearing on 6563  
the petition within five days of the filing of the petition if 6564  
the petition was filed in a municipal court or a county court 6565  
regarding an incompetent defendant charged with a misdemeanor or 6566  
within ten days of the filing of the petition if the petition 6567

was filed in a court of common pleas regarding an incompetent 6568  
defendant charged with a felony offense. Following the hearing, 6569  
the court may authorize the involuntary administration of 6570  
medication or may dismiss the petition. 6571

(2) If the court finds that the defendant is incompetent 6572  
to stand trial and that, even if the defendant is provided with 6573  
a course of treatment, there is not a substantial probability 6574  
that the defendant will become competent to stand trial within 6575  
one year, the court shall order the discharge of the defendant, 6576  
unless upon motion of the prosecutor or on its own motion, the 6577  
court either seeks to retain jurisdiction over the defendant 6578  
pursuant to section 2945.39 of the Revised Code or files an 6579  
affidavit in the probate court for the civil commitment of the 6580  
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 6581  
alleging that the defendant is a mentally ill person subject to 6582  
court order or a person with an intellectual disability subject 6583  
to institutionalization by court order. If an affidavit is filed 6584  
in the probate court, the trial court shall send to the probate 6585  
court copies of all written reports of the defendant's mental 6586  
condition that were prepared pursuant to section 2945.371 of the 6587  
Revised Code. 6588

The trial court may issue the temporary order of detention 6589  
that a probate court may issue under section 5122.11 or 5123.71 6590  
of the Revised Code, to remain in effect until the probable 6591  
cause or initial hearing in the probate court. Further 6592  
proceedings in the probate court are civil proceedings governed 6593  
by Chapter 5122. or 5123. of the Revised Code. 6594

(C) No defendant shall be required to undergo treatment, 6595  
including any continuing evaluation and treatment, under 6596  
division (B) (1) of this section for longer than whichever of the 6597

following periods is applicable: 6598

(1) One year, if the most serious offense with which the 6599  
defendant is charged is one of the following offenses: 6600

(a) Aggravated murder, murder, or an offense of violence 6601  
for which a sentence of ~~death or~~ life imprisonment may be 6602  
imposed; 6603

(b) An offense of violence that is a felony of the first 6604  
or second degree; 6605

(c) A conspiracy to commit, an attempt to commit, or 6606  
complicity in the commission of an offense described in division 6607  
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 6608  
complicity is a felony of the first or second degree. 6609

(2) Six months, if the most serious offense with which the 6610  
defendant is charged is a felony other than a felony described 6611  
in division (C) (1) of this section; 6612

(3) Sixty days, if the most serious offense with which the 6613  
defendant is charged is a misdemeanor of the first or second 6614  
degree; 6615

(4) Thirty days, if the most serious offense with which 6616  
the defendant is charged is a misdemeanor of the third or fourth 6617  
degree, a minor misdemeanor, or an unclassified misdemeanor. 6618

(D) Any defendant who is committed pursuant to this 6619  
section shall not voluntarily admit the defendant or be 6620  
voluntarily admitted to a hospital or institution pursuant to 6621  
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 6622  
Code. 6623

(E) Except as otherwise provided in this division, a 6624  
defendant who is charged with an offense and is committed by the 6625

court under this section to the department of mental health and 6626  
addiction services or is committed to an institution or facility 6627  
for the treatment of intellectual disabilities shall not be 6628  
granted unsupervised on-grounds movement, supervised off-grounds 6629  
movement, or nonsecured status except in accordance with the 6630  
court order. The court may grant a defendant supervised off- 6631  
grounds movement to obtain medical treatment or specialized 6632  
habilitation treatment services if the person who supervises the 6633  
treatment or the continuing evaluation and treatment of the 6634  
defendant ordered under division (B)(1)(a) of this section 6635  
informs the court that the treatment or continuing evaluation 6636  
and treatment cannot be provided at the hospital or facility 6637  
where the defendant is placed by the department of mental health 6638  
and addiction services or the institution or facility to which 6639  
the defendant is committed. The chief clinical officer of the 6640  
hospital or facility where the defendant is placed by the 6641  
department of mental health and addiction services or the 6642  
managing officer of the institution or director of the facility 6643  
to which the defendant is committed, or a designee of any of 6644  
those persons, may grant a defendant movement to a medical 6645  
facility for an emergency medical situation with appropriate 6646  
supervision to ensure the safety of the defendant, staff, and 6647  
community during that emergency medical situation. The chief 6648  
clinical officer of the hospital or facility where the defendant 6649  
is placed by the department of mental health and addiction 6650  
services or the managing officer of the institution or director 6651  
of the facility to which the defendant is committed shall notify 6652  
the court within twenty-four hours of the defendant's movement 6653  
to the medical facility for an emergency medical situation under 6654  
this division. 6655

(F) The person who supervises the treatment or continuing 6656



evaluation and treatment of a defendant ordered to undergo 6657  
treatment or continuing evaluation and treatment under division 6658  
(B) (1) (a) of this section shall file a written report with the 6659  
court at the following times: 6660

(1) Whenever the person believes the defendant is capable 6661  
of understanding the nature and objective of the proceedings 6662  
against the defendant and of assisting in the defendant's 6663  
defense; 6664

(2) For a felony offense, fourteen days before expiration 6665  
of the maximum time for treatment as specified in division (C) 6666  
of this section and fourteen days before the expiration of the 6667  
maximum time for continuing evaluation and treatment as 6668  
specified in division (B) (1) (a) of this section, and, for a 6669  
misdemeanor offense, ten days before the expiration of the 6670  
maximum time for treatment, as specified in division (C) of this 6671  
section; 6672

(3) At a minimum, after each six months of treatment; 6673

(4) Whenever the person who supervises the treatment or 6674  
continuing evaluation and treatment of a defendant ordered under 6675  
division (B) (1) (a) of this section believes that there is not a 6676  
substantial probability that the defendant will become capable 6677  
of understanding the nature and objective of the proceedings 6678  
against the defendant or of assisting in the defendant's defense 6679  
even if the defendant is provided with a course of treatment. 6680

(G) A report under division (F) of this section shall 6681  
contain the examiner's findings, the facts in reasonable detail 6682  
on which the findings are based, and the examiner's opinion as 6683  
to the defendant's capability of understanding the nature and 6684  
objective of the proceedings against the defendant and of 6685

assisting in the defendant's defense. If, in the examiner's 6686  
opinion, the defendant remains incapable of understanding the 6687  
nature and objective of the proceedings against the defendant 6688  
and of assisting in the defendant's defense and there is a 6689  
substantial probability that the defendant will become capable 6690  
of understanding the nature and objective of the proceedings 6691  
against the defendant and of assisting in the defendant's 6692  
defense if the defendant is provided with a course of treatment, 6693  
if in the examiner's opinion the defendant remains mentally ill 6694  
or continues to have an intellectual disability, and if the 6695  
maximum time for treatment as specified in division (C) of this 6696  
section has not expired, the report also shall contain the 6697  
examiner's recommendation as to the least restrictive placement 6698  
or commitment alternative that is consistent with the 6699  
defendant's treatment needs for restoration to competency and 6700  
with the safety of the community. The court shall provide copies 6701  
of the report to the prosecutor and defense counsel. 6702

(H) If a defendant is committed pursuant to division (B) 6703  
(1) of this section, within ten days after the treating 6704  
physician of the defendant or the examiner of the defendant who 6705  
is employed or retained by the treating facility advises that 6706  
there is not a substantial probability that the defendant will 6707  
become capable of understanding the nature and objective of the 6708  
proceedings against the defendant or of assisting in the 6709  
defendant's defense even if the defendant is provided with a 6710  
course of treatment, within ten days after the expiration of the 6711  
maximum time for treatment as specified in division (C) of this 6712  
section, within ten days after the expiration of the maximum 6713  
time for continuing evaluation and treatment as specified in 6714  
division (B) (1) (a) of this section, within thirty days after a 6715  
defendant's request for a hearing that is made after six months 6716

of treatment, or within thirty days after being advised by the 6717  
treating physician or examiner that the defendant is competent 6718  
to stand trial, whichever is the earliest, the court shall 6719  
conduct another hearing to determine if the defendant is 6720  
competent to stand trial and shall do whichever of the following 6721  
is applicable: 6722

(1) If the court finds that the defendant is competent to 6723  
stand trial, the defendant shall be proceeded against as 6724  
provided by law. 6725

(2) If the court finds that the defendant is incompetent 6726  
to stand trial, but that there is a substantial probability that 6727  
the defendant will become competent to stand trial if the 6728  
defendant is provided with a course of treatment, and the 6729  
maximum time for treatment as specified in division (C) of this 6730  
section has not expired, the court, after consideration of the 6731  
examiner's recommendation, shall order that treatment be 6732  
continued, may change the facility or program at which the 6733  
treatment is to be continued, and shall specify whether the 6734  
treatment is to be continued at the same or a different facility 6735  
or program. 6736

(3) If the court finds that the defendant is incompetent 6737  
to stand trial, if the defendant is charged with an offense 6738  
listed in division (C)(1) of this section, and if the court 6739  
finds that there is not a substantial probability that the 6740  
defendant will become competent to stand trial even if the 6741  
defendant is provided with a course of treatment, or if the 6742  
maximum time for treatment relative to that offense as specified 6743  
in division (C) of this section has expired, further proceedings 6744  
shall be as provided in sections 2945.39, 2945.401, and 2945.402 6745  
of the Revised Code. 6746

(4) If the court finds that the defendant is incompetent 6747  
to stand trial, if the most serious offense with which the 6748  
defendant is charged is a misdemeanor or a felony other than a 6749  
felony listed in division (C)(1) of this section, and if the 6750  
court finds that there is not a substantial probability that the 6751  
defendant will become competent to stand trial even if the 6752  
defendant is provided with a course of treatment, or if the 6753  
maximum time for treatment relative to that offense as specified 6754  
in division (C) of this section has expired, the court shall 6755  
dismiss the indictment, information, or complaint against the 6756  
defendant. A dismissal under this division is not a bar to 6757  
further prosecution based on the same conduct. The court shall 6758  
discharge the defendant unless the court or prosecutor files an 6759  
affidavit in probate court for civil commitment pursuant to 6760  
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 6761  
civil commitment is filed, the court may detain the defendant 6762  
for ten days pending civil commitment. All of the following 6763  
provisions apply to persons charged with a misdemeanor or a 6764  
felony other than a felony listed in division (C)(1) of this 6765  
section who are committed by the probate court subsequent to the 6766  
court's or prosecutor's filing of an affidavit for civil 6767  
commitment under authority of this division: 6768

(a) The chief clinical officer of the entity, hospital, or 6769  
facility, the managing officer of the institution, the director 6770  
of the program, or the person to which the defendant is 6771  
committed or admitted shall do all of the following: 6772

(i) Notify the prosecutor, in writing, of the discharge of 6773  
the defendant, send the notice at least ten days prior to the 6774  
discharge unless the discharge is by the probate court, and 6775  
state in the notice the date on which the defendant will be 6776  
discharged; 6777

(ii) Notify the prosecutor, in writing, when the defendant 6778  
is absent without leave or is granted unsupervised, off-grounds 6779  
movement, and send this notice promptly after the discovery of 6780  
the absence without leave or prior to the granting of the 6781  
unsupervised, off-grounds movement, whichever is applicable; 6782

(iii) Notify the prosecutor, in writing, of the change of 6783  
the defendant's commitment or admission to voluntary status, 6784  
send the notice promptly upon learning of the change to 6785  
voluntary status, and state in the notice the date on which the 6786  
defendant was committed or admitted on a voluntary status. 6787

(b) Upon receiving notice that the defendant will be 6788  
granted unsupervised, off-grounds movement, the prosecutor 6789  
either shall re-indict the defendant or promptly notify the 6790  
court that the prosecutor does not intend to prosecute the 6791  
charges against the defendant. 6792

(I) If a defendant is convicted of a crime and sentenced 6793  
to a jail or workhouse, the defendant's sentence shall be 6794  
reduced by the total number of days the defendant is confined 6795  
for evaluation to determine the defendant's competence to stand 6796  
trial or treatment under this section and sections 2945.37 and 6797  
2945.371 of the Revised Code or by the total number of days the 6798  
defendant is confined for evaluation to determine the 6799  
defendant's mental condition at the time of the offense charged. 6800

**Sec. 2949.02.** (A) If a person is convicted of any bailable 6801  
offense, including, but not limited to, a violation of an 6802  
ordinance of a municipal corporation, in a municipal or county 6803  
court or in a court of common pleas and if the person gives to 6804  
the trial judge or magistrate a written notice of the person's 6805  
intention to file or apply for leave to file an appeal to the 6806  
court of appeals, the trial judge or magistrate may suspend, ~~7-~~ 6807

~~subject to division (A) (2) (b) of section 2953.09 of the Revised Code,~~ execution of the sentence or judgment imposed for any fixed time that will give the person time either to prepare and file, or to apply for leave to file, the appeal. In all bailable cases, except as provided in division (B) of this section, the trial judge or magistrate may release the person on bail in accordance with Criminal Rule 46, and the bail shall at least be conditioned that the person will appeal without delay and abide by the judgment and sentence of the court.

(B) Notwithstanding any provision of Criminal Rule 46 to the contrary, a trial judge of a court of common pleas shall not release on bail pursuant to division (A) of this section a person who is convicted of a bailable offense if the person is sentenced to imprisonment for life or if that offense is a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious sexual penetration in violation of former section 2907.12 of the Revised Code.

(C) If a trial judge of a court of common pleas is prohibited by division (B) of this section from releasing on bail pursuant to division (A) of this section a person who is convicted of a bailable offense and not sentenced to imprisonment for life, the appropriate court of appeals or two judges of it, upon motion of such a person and for good cause shown, may release the person on bail in accordance with Appellate Rule 8 and Criminal Rule 46, and the bail shall at least be conditioned as described in division (A) of this section.

**Sec. 2949.03.** If a judgment of conviction by a court of

common pleas, municipal court, or county court is affirmed by a 6838  
court of appeals and remanded to the trial court for execution 6839  
of the sentence or judgment imposed, and the person so convicted 6840  
gives notice of ~~his~~ the person's intention to file a notice of 6841  
appeal to the supreme court, the trial court, on the filing of a 6842  
motion by such person within three days after the rendition by 6843  
the court of appeals of the judgment of affirmation, may further 6844  
suspend, ~~subject to division (A) (2) (b) of section 2953.09 of the~~ 6845  
~~Revised Code,~~ the execution of the sentence or judgment imposed 6846  
for a time sufficient to give such person an opportunity to file 6847  
a notice of appeal to the supreme court, but the sentence or 6848  
judgment imposed shall not be suspended more than thirty days 6849  
for that purpose. 6850

**Sec. 2953.02.** In ~~a capital case in which a sentence of~~ 6851  
~~death is imposed for an offense committed before January 1,~~ 6852  
~~1995, and in any other~~ criminal case, including a conviction for 6853  
the violation of an ordinance of a municipal corporation, the 6854  
judgment or final order of a court of record inferior to the 6855  
court of appeals may be reviewed in the court of appeals. A 6856  
final order of an administrative officer or agency may be 6857  
reviewed in the court of common pleas. A judgment or final order 6858  
of the court of appeals involving a question arising under the 6859  
Constitution of the United States or of this state may be 6860  
appealed to the supreme court as a matter of right. This right 6861  
of appeal from judgments and final orders of the court of 6862  
appeals shall extend to ~~cases in which a sentence of death is~~ 6863  
~~imposed for an offense committed before January 1, 1995, and in~~ 6864  
~~which the death penalty has been affirmed,~~ felony cases in which 6865  
the supreme court has directed the court of appeals to certify 6866  
its record, and in all other criminal cases of public or general 6867  
interest wherein the supreme court has granted a motion to 6868

certify the record of the court of appeals. ~~In a capital case in~~ 6869  
~~which a sentence of death is imposed for an offense committed on~~ 6870  
~~or after January 1, 1995, the judgment or final order may be~~ 6871  
~~appealed from the trial court directly to the supreme court as a~~ 6872  
~~matter of right. The supreme court in criminal cases shall not~~ 6873  
~~be required to determine as to the weight of the evidence,~~ 6874  
~~except that, in cases in which a sentence of death is imposed~~ 6875  
~~for an offense committed on or after January 1, 1995, and in~~ 6876  
~~which the question of the weight of the evidence to support the~~ 6877  
~~judgment has been raised on appeal, the supreme court shall~~ 6878  
~~determine as to the weight of the evidence to support the~~ 6879  
~~judgment and shall determine as to the weight of the evidence to~~ 6880  
~~support the sentence of death as provided in section 2929.05 of~~ 6881  
~~the Revised Code.~~ 6882

**Sec. 2953.07.** ~~(A)~~ Upon the hearing of an appeal other than 6883  
an appeal from a mayor's court, the appellate court may affirm 6884  
the judgment or reverse it, in whole or in part, or modify it, 6885  
and order the accused to be discharged or grant a new trial. The 6886  
appellate court may remand the accused for the sole purpose of 6887  
correcting a sentence imposed contrary to law, provided that, on 6888  
an appeal of a sentence imposed upon a person who is convicted 6889  
of or pleads guilty to a felony that is brought under section 6890  
2953.08 of the Revised Code, division (G) of that section 6891  
applies to the court. If the judgment is reversed, the appellant 6892  
shall recover from the appellee all court costs incurred to 6893  
secure the reversal, including the cost of transcripts. ~~In~~ 6894  
~~capital cases, when the judgment is affirmed and the day fixed~~ 6895  
~~for the execution is passed, the appellate court shall appoint a~~ 6896  
~~day for it, and the clerk of the appellate court shall issue a~~ 6897  
~~warrant under the seal of the appellate court, to the sheriff of~~ 6898  
~~the proper county, or the warden of the appropriate state~~ 6899



~~correctional institution, commanding the sheriff or warden to  
carry the sentence into execution on the day so appointed. The  
sheriff or warden shall execute and return the warrant as in  
other cases, and the clerk shall record the warrant and return.~~

~~(B) As used in this section, "appellate court" means, for  
a case in which a sentence of death is imposed for an offense  
committed before January 1, 1995, both the court of appeals and  
the supreme court, and for a case in which a sentence of death  
is imposed for an offense committed on or after January 1, 1995,  
the supreme court.~~

**Sec. 2953.08.** (A) In addition to any other right to appeal  
and except as provided in division (D) of this section, a  
defendant who is convicted of or pleads guilty to a felony may  
appeal as a matter of right the sentence imposed upon the  
defendant on one of the following grounds:

(1) The sentence consisted of or included the maximum  
prison term allowed for the offense by division (A) of section  
2929.14 or section 2929.142 of the Revised Code, the maximum  
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 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 6929  
section 2929.13 of the Revised Code for purposes of sentencing. 6930  
If the court specifies that it found one or more of the factors 6931  
in division (B) (1) (b) of section 2929.13 of the Revised Code to 6932  
apply relative to the defendant, the defendant is not entitled 6933  
under this division to appeal as a matter of right the sentence 6934  
imposed upon the offender. 6935

(3) The person was convicted of or pleaded guilty to a 6936  
violent sex offense or a designated homicide, assault, or 6937  
kidnapping offense, was adjudicated a sexually violent predator 6938  
in relation to that offense, and was sentenced pursuant to 6939  
division (A) (3) of section 2971.03 of the Revised Code, if the 6940  
minimum term of the indefinite term imposed pursuant to division 6941  
(A) (3) of section 2971.03 of the Revised Code is the longest 6942  
term available for the offense from among the range of terms 6943  
listed in section 2929.14 of the Revised Code. As used in this 6944  
division, "designated homicide, assault, or kidnapping offense" 6945  
and "violent sex offense" have the same meanings as in section 6946  
2971.01 of the Revised Code. As used in this division, 6947  
"adjudicated a sexually violent predator" has the same meaning 6948  
as in section 2929.01 of the Revised Code, and a person is 6949  
"adjudicated a sexually violent predator" in the same manner and 6950  
the same circumstances as are described in that section. 6951

(4) The sentence is contrary to law. 6952

(5) The sentence consisted of an additional prison term of 6953  
ten years imposed pursuant to division (B) (2) (a) of section 6954  
2929.14 of the Revised Code. 6955

(B) In addition to any other right to appeal and except as 6956  
provided in division (D) of this section, a prosecuting 6957  
attorney, a city director of law, village solicitor, or similar 6958

chief legal officer of a municipal corporation, or the attorney 6959  
general, if one of those persons prosecuted the case, may appeal 6960  
as a matter of right a sentence imposed upon a defendant who is 6961  
convicted of or pleads guilty to a felony or, in the 6962  
circumstances described in division (B) (3) of this section the 6963  
modification of a sentence imposed upon such a defendant, on any 6964  
of the following grounds: 6965

(1) The sentence did not include a prison term despite a 6966  
presumption favoring a prison term for the offense for which it 6967  
was imposed, as set forth in section 2929.13 or Chapter 2925. of 6968  
the Revised Code. 6969

(2) The sentence is contrary to law. 6970

(3) The sentence is a modification under section 2929.20 6971  
of the Revised Code of a sentence that was imposed for a felony 6972  
of the first or second degree. 6973

(C) (1) In addition to the right to appeal a sentence 6974  
granted under division (A) or (B) of this section, a defendant 6975  
who is convicted of or pleads guilty to a felony may seek leave 6976  
to appeal a sentence imposed upon the defendant on the basis 6977  
that the sentencing judge has imposed consecutive sentences 6978  
under division (C) (3) of section 2929.14 of the Revised Code and 6979  
that the consecutive sentences exceed the maximum prison term 6980  
allowed by division (A) of that section for the most serious 6981  
offense of which the defendant was convicted. Upon the filing of 6982  
a motion under this division, the court of appeals may grant 6983  
leave to appeal the sentence if the court determines that the 6984  
allegation included as the basis of the motion is true. 6985

(2) A defendant may seek leave to appeal an additional 6986  
sentence imposed upon the defendant pursuant to division (B) (2) 6987

(a) or (b) of section 2929.14 of the Revised Code if the 6988  
additional sentence is for a definite prison term that is longer 6989  
than five years. 6990

(D) (1) A sentence imposed upon a defendant is not subject 6991  
to review under this section if the sentence is authorized by 6992  
law, has been recommended jointly by the defendant and the 6993  
prosecution in the case, and is imposed by a sentencing judge. 6994

(2) Except as provided in division (C) (2) of this section, 6995  
a sentence imposed upon a defendant is not subject to review 6996  
under this section if the sentence is imposed pursuant to 6997  
division (B) (2) (b) of section 2929.14 of the Revised Code. 6998  
Except as otherwise provided in this division, a defendant 6999  
retains all rights to appeal as provided under this chapter or 7000  
any other provision of the Revised Code. A defendant has the 7001  
right to appeal under this chapter or any other provision of the 7002  
Revised Code the court's application of division (B) (2) (c) of 7003  
section 2929.14 of the Revised Code. 7004

(3) A sentence imposed for aggravated murder or murder 7005  
pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised 7006  
Code is not subject to review under this section. 7007

(E) A defendant, prosecuting attorney, city director of 7008  
law, village solicitor, or chief municipal legal officer shall 7009  
file an appeal of a sentence under this section to a court of 7010  
appeals within the time limits specified in Rule 4(B) of the 7011  
Rules of Appellate Procedure, provided that if the appeal is 7012  
pursuant to division (B) (3) of this section, the time limits 7013  
specified in that rule shall not commence running until the 7014  
court grants the motion that makes the sentence modification in 7015  
question. A sentence appeal under this section shall be 7016  
consolidated with any other appeal in the case. If no other 7017

appeal is filed, the court of appeals may review only the 7018  
portions of the trial record that pertain to sentencing. 7019

(F) On the appeal of a sentence under this section, the 7020  
record to be reviewed shall include all of the following, as 7021  
applicable: 7022

(1) Any presentence, psychiatric, or other investigative 7023  
report that was submitted to the court in writing before the 7024  
sentence was imposed. An appellate court that reviews a 7025  
presentence investigation report prepared pursuant to section 7026  
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 7027  
connection with the appeal of a sentence under this section 7028  
shall comply with division (D) (3) of section 2951.03 of the 7029  
Revised Code when the appellate court is not using the 7030  
presentence investigation report, and the appellate court's use 7031  
of a presentence investigation report of that nature in 7032  
connection with the appeal of a sentence under this section does 7033  
not affect the otherwise confidential character of the contents 7034  
of that report as described in division (D) (1) of section 7035  
2951.03 of the Revised Code and does not cause that report to 7036  
become a public record, as defined in section 149.43 of the 7037  
Revised Code, following the appellate court's use of the report. 7038

(2) The trial record in the case in which the sentence was 7039  
imposed; 7040

(3) Any oral or written statements made to or by the court 7041  
at the sentencing hearing at which the sentence was imposed; 7042

(4) Any written findings that the court was required to 7043  
make in connection with the modification of the sentence 7044  
pursuant to a judicial release under division (I) of section 7045  
2929.20 of the Revised Code. 7046

(G) (1) If the sentencing court was required to make the findings required by division (B) or (D) of section 2929.13 or division (I) of section 2929.20 of the Revised Code, or to state the findings of the trier of fact required by division (B) (2) (e) of section 2929.14 of the Revised Code, relative to the imposition or modification of the sentence, and if the sentencing court failed to state the required findings on the record, the court hearing an appeal under division (A), (B), or (C) of this section shall remand the case to the sentencing court and instruct the sentencing court to state, on the record, the required findings.

(2) The court hearing an appeal under division (A), (B), or (C) of this section shall review the record, including the findings underlying the sentence or modification given by the sentencing court.

The appellate court may increase, reduce, or otherwise modify a sentence that is appealed under this section or may vacate the sentence and remand the matter to the sentencing court for resentencing. The appellate court's standard for review is not whether the sentencing court abused its discretion. The appellate court may take any action authorized by this division if it clearly and convincingly finds either of the following:

(a) That the record does not support the sentencing court's findings under division (B) or (D) of section 2929.13, division (B) (2) (e) or (C) (4) of section 2929.14, or division (I) of section 2929.20 of the Revised Code, whichever, if any, is relevant;

(b) That the sentence is otherwise contrary to law.

(H) A judgment or final order of a court of appeals under this section may be appealed, by leave of court, to the supreme court. 7076  
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**Sec. 2953.09.** (A) (1) Upon filing an appeal in the supreme court, the execution of the sentence or judgment imposed in cases of felony is suspended. 7079  
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(2) ~~(a)~~ If a notice of appeal is filed pursuant to the Rules of Appellate Procedure by a defendant who is convicted in a municipal or county court or a court of common pleas of a felony or misdemeanor under the Revised Code or an ordinance of a municipal corporation, the filing of the notice of appeal does not suspend execution of the sentence or judgment imposed. However, consistent with divisions (A) (2) (b), (B), and (C) of this section, Appellate Rule 8, and Criminal Rule 46, the municipal or county court, court of common pleas, or court of appeals may suspend execution of the sentence or judgment imposed during the pendency of the appeal and shall determine whether that defendant is entitled to bail and the amount and nature of any bail that is required. The bail shall at least be conditioned that the defendant will prosecute the appeal without delay and abide by the judgment and sentence of the court. 7082  
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~~(b) (i) A court of common pleas or court of appeals may suspend the execution of a sentence of death imposed for an offense committed before January 1, 1995, only if no date for execution has been set by the supreme court, good cause is shown for the suspension, the defendant files a motion requesting the suspension, and notice has been given to the prosecuting attorney of the appropriate county.~~ 7097  
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~~(ii) A court of common pleas may suspend the execution of a sentence of death imposed for an offense committed on or after~~ 7104  
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~~January 1, 1995, only if no date for execution has been set by  
the supreme court, good cause is shown, the defendant files a  
motion requesting the suspension, and notice has been given to  
the prosecuting attorney of the appropriate county.~~

~~(iii) A court of common pleas or court of appeals may  
suspend the execution of the sentence or judgment imposed for a  
felony in a capital case in which a sentence of death is not  
imposed only if no date for execution of the sentence has been  
set by the supreme court, good cause is shown for the  
suspension, the defendant files a motion requesting the  
suspension, and only after notice has been given to the  
prosecuting attorney of the appropriate county.~~

(B) Notwithstanding any provision of Criminal Rule 46 to  
the contrary, a trial judge of a court of common pleas shall not  
release on bail pursuant to division (A) (2) (a) of this section a  
defendant who is convicted of aailable offense if the  
defendant is sentenced to imprisonment for life or if that  
offense is a violation of section 2903.01, 2903.02, 2903.03,  
2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02,  
2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious  
sexual penetration in violation of former section 2907.12 of the  
Revised Code.

(C) If a trial judge of a court of common pleas is  
prohibited by division (B) of this section from releasing on  
bail pursuant to division (A) (2) (a) of this section a defendant  
who is convicted of aailable offense and not sentenced to  
imprisonment for life, the appropriate court of appeals or two  
judges of it, upon motion of the defendant and for good cause  
shown, may release the defendant on bail in accordance with  
division (A) (2) of this section.



**Sec. 2953.10.** When an appeal is taken from a court of 7136  
appeals to the supreme court, the supreme court has the same 7137  
power and authority to suspend the execution of sentence during 7138  
the pendency of the appeal and admit the defendant to bail as 7139  
does the court of appeals unless another section of the Revised 7140  
Code or the Rules of Practice of the Supreme Court specify a 7141  
distinct bail or suspension of sentence authority. 7142

~~When an appeal in a case in which a sentence of death is~~ 7143  
~~imposed for an offense committed on or after January 1, 1995, is~~ 7144  
~~taken directly from the trial court to the supreme court, the~~ 7145  
~~supreme court has the same power and authority to suspend the~~ 7146  
~~execution of the sentence during the pendency of the appeal and~~ 7147  
~~admit the defendant to bail as does the court of appeals for~~ 7148  
~~cases in which a sentence of death is imposed for an offense~~ 7149  
~~committed before January 1, 1995, unless another section of the~~ 7150  
~~Revised Code or the Rules of Practice of the Supreme Court~~ 7151  
~~specify a distinct bail or suspension of sentence authority.~~ 7152

**Sec. 2953.21.** (A) (1) (a) Any person who has been convicted 7153  
of a criminal offense or adjudicated a delinquent child and who 7154  
claims that there was such a denial or infringement of the 7155  
person's rights as to render the judgment void or voidable under 7156  
the Ohio Constitution or the Constitution of the United States, 7157  
~~any person who has been convicted of a criminal offense and~~ 7158  
~~sentenced to death and who claims that there was a denial or~~ 7159  
~~infringement of the person's rights under either of those~~ 7160  
~~Constitutions that creates a reasonable probability of an~~ 7161  
~~altered verdict,~~ and any person who has been convicted of a 7162  
criminal offense that is a felony and who is an offender for 7163  
whom DNA testing that was performed under sections 2953.71 to 7164  
2953.81 of the Revised Code or under former section 2953.82 of 7165  
the Revised Code and analyzed in the context of and upon 7166

consideration of all available admissible evidence related to 7167  
the person's case as described in division (D) of section 7168  
2953.74 of the Revised Code provided results that establish, by 7169  
clear and convincing evidence, actual innocence of that felony 7170  
offense ~~or, if the person was sentenced to death, establish, by~~ 7171  
~~clear and convincing evidence, actual innocence of the~~ 7172  
~~aggravating circumstance or circumstances the person was found~~ 7173  
~~guilty of committing and that is or are the basis of that~~ 7174  
~~sentence of death,~~ may file a petition in the court that imposed 7175  
sentence, stating the grounds for relief relied upon, and asking 7176  
the court to vacate or set aside the judgment or sentence or to 7177  
grant other appropriate relief. The petitioner may file a 7178  
supporting affidavit and other documentary evidence in support 7179  
of the claim for relief. 7180

(b) As used in division (A) (1) (a) of this section, "actual 7181  
innocence" means that, had the results of the DNA testing 7182  
conducted under sections 2953.71 to 2953.81 of the Revised Code 7183  
or under former section 2953.82 of the Revised Code been 7184  
presented at trial, and had those results been analyzed in the 7185  
context of and upon consideration of all available admissible 7186  
evidence related to the person's case as described in division 7187  
(D) of section 2953.74 of the Revised Code, no reasonable 7188  
factfinder would have found the petitioner guilty of the offense 7189  
of which the petitioner was convicted, ~~or, if the person was~~ 7190  
~~sentenced to death, no reasonable factfinder would have found~~ 7191  
~~the petitioner guilty of the aggravating circumstance or~~ 7192  
~~circumstances the petitioner was found guilty of committing and~~ 7193  
~~that is or are the basis of that sentence of death.~~ 7194

(c) As used in divisions (A) (1) (a) and (b) of this 7195  
section, "former section 2953.82 of the Revised Code" means 7196  
section 2953.82 of the Revised Code as it existed prior to July 7197

6, 2010. 7198

~~(d) At any time in conjunction with the filing of a petition for postconviction relief under division (A) of this section by a person who has been sentenced to death, or with the litigation of a petition so filed, the court, for good cause shown, may authorize the petitioner in seeking the postconviction relief and the prosecuting attorney of the county served by the court in defending the proceeding, to take depositions and to issue subpoenas and subpoenas duces tecum in accordance with divisions (A) (1) (d), (A) (1) (e), and (C) of this section, and to any other form of discovery as in a civil action that the court in its discretion permits. The court may limit the extent of discovery under this division. In addition to discovery that is relevant to the claim and was available under Criminal Rule 16 through conclusion of the original criminal trial, the court, for good cause shown, may authorize the petitioner or prosecuting attorney to take depositions and issue subpoenas and subpoenas duces tecum in either of the following circumstances:~~ 7199  
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~~(i) For any witness who testified at trial or who was disclosed by the state prior to trial, except as otherwise provided in this division, the petitioner or prosecuting attorney shows clear and convincing evidence 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. This division does not apply if the witness was unavailable for trial or would not voluntarily be interviewed by the defendant or prosecuting attorney.~~ 7217  
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~~(ii) For any witness with respect to whom division (A) (1) (d) (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.~~

~~(e) 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) (d) 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.~~

~~(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) (d) 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) (g) (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.~~ 7259  
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~~(g) If a petitioner, prosecuting attorney, or person from  
whom discovery is sought makes a motion for an order under  
division (A) (1) (f) 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) (d) 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.~~ 7263  
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~~Before any person moves for an order under division (A) (1)  
(f) 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) (f) of this section shall be accompanied by  
a statement reciting the effort made to resolve the matter in  
accordance with this paragraph.~~ 7273  
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~~The orders that may be made under division (A) (1) (f) of  
this section include, but are not limited to, any of the  
following:~~ 7280  
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~~(i) That the discovery not be had;~~ 7283

~~(ii) That the discovery may be had only on specified terms  
and conditions, including a designation of the time or place;~~ 7284  
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~~(iii) That the discovery may be had only by a method of  
discovery other than that selected by the party seeking~~ 7286  
7287

~~discovery;~~ 7288

~~(iv) That certain matters not be inquired into or that the scope of the discovery be limited to certain matters;~~ 7289  
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~~(v) That discovery be conducted with no one present except persons designated by the court;~~ 7291  
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~~(vi) That a deposition after being sealed be opened only by order of the court;~~ 7293  
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~~(vii) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;~~ 7295  
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~~(viii) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.~~ 7298  
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~~(h) Any postconviction discovery authorized under division (A) (1) (d) of this section shall be completed not later than eighteen months after the start of the discovery proceedings unless, for good cause shown, the court extends that period for completing the discovery.~~ 7301  
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~~(i) Nothing in division (A) (1) (d) of this section authorizes, or shall be construed as authorizing, the relitigation, or discovery in support of relitigation, of any matter barred by the doctrine of res judicata.~~ 7306  
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~~(j) Division (A) (1) of this section does not apply to any person who has been convicted of a criminal offense and sentenced to death and who has unsuccessfully raised the same claims in a petition for postconviction relief.~~ 7310  
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(2) Except as otherwise provided in section 2953.23 of the Revised Code, a petition under division (A) (1) of this section 7314  
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shall be filed no later than three hundred sixty-five days after 7316  
the date on which the trial transcript is filed in the court of 7317  
appeals in the direct appeal of the judgment of conviction or 7318  
adjudication ~~or, if the direct appeal involves a sentence of~~ 7319  
~~death, the date on which the trial transcript is filed in the~~ 7320  
~~supreme court.~~ If no appeal is taken, except as otherwise 7321  
provided in section 2953.23 of the Revised Code, the petition 7322  
shall be filed no later than three hundred sixty-five days after 7323  
the expiration of the time for filing the appeal. 7324

~~(3) In a petition filed under division (A) of this~~ 7325  
~~section, a person who has been sentenced to death may ask the~~ 7326  
~~court to render void or voidable the judgment with respect to~~ 7327  
~~the conviction of aggravated murder or the specification of an~~ 7328  
~~aggravating circumstance or the sentence of death.~~ 7329

~~(4)~~ A petitioner shall state in the original or amended 7330  
petition filed under division (A) of this section all grounds 7331  
for relief claimed by the petitioner. Except as provided in 7332  
section 2953.23 of the Revised Code, any ground for relief that 7333  
is not so stated in the petition is waived. 7334

~~(5)~~ (4) If the petitioner in a petition filed under 7335  
division (A) of this section was convicted of or pleaded guilty 7336  
to a felony, the petition may include a claim that the 7337  
petitioner was denied the equal protection of the laws in 7338  
violation of the Ohio Constitution or the United States 7339  
Constitution because the sentence imposed upon the petitioner 7340  
for the felony was part of a consistent pattern of disparity in 7341  
sentencing by the judge who imposed the sentence, with regard to 7342  
the petitioner's race, gender, ethnic background, or religion. 7343  
If the supreme court adopts a rule requiring a court of common 7344  
pleas to maintain information with regard to an offender's race, 7345

gender, ethnic background, or religion, the supporting evidence 7346  
for the petition shall include, but shall not be limited to, a 7347  
copy of that type of information relative to the petitioner's 7348  
sentence and copies of that type of information relative to 7349  
sentences that the same judge imposed upon other persons. 7350

~~(6) Notwithstanding any law or court rule to the contrary, 7351  
there is no limit on the number of pages in, or on the length 7352  
of, a petition filed under division (A) of this section by a 7353  
person who has been sentenced to death. If any court rule 7354  
specifies a limit on the number of pages in, or on the length 7355  
of, a petition filed under division (A) of this section or on a 7356  
prosecuting attorney's response to such a petition by answer or 7357  
motion and a person who has been sentenced to death files a 7358  
petition that exceeds the limit specified for the petition, the 7359  
prosecuting attorney may respond by an answer or motion that 7360  
exceeds the limit specified for the response. 7361~~

(B) The clerk of the court in which the petition for 7362  
postconviction relief and, ~~if applicable, a request for 7363  
postconviction discovery described in division (A) (1) (d) of this 7364  
section is filed shall docket the petition and the request and 7365  
bring ~~them~~ it promptly to the attention of the court. The clerk 7366  
of the court in which the petition for postconviction relief 7367  
and, ~~if applicable, a request for postconviction discovery 7368  
described in division (A) (1) (d) of this section is filed 7369  
immediately shall forward a copy of the petition and a copy of 7370  
the request if filed by the petitioner to the prosecuting 7371  
attorney of the county served by the court. If the request for 7372  
postconviction discovery is filed by the prosecuting attorney, 7373  
the clerk of the court immediately shall forward a copy of the 7374  
request to the petitioner or the petitioner's counsel. 7375~~~~



~~(C) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests a deposition or the prosecuting attorney in the case requests a deposition, and if the court grants the request under division (A) (1) (d) of this section, the court shall notify the petitioner or the petitioner's counsel and the prosecuting attorney. The deposition shall be conducted pursuant to divisions (B), (D), and (E) of Criminal Rule 15. Notwithstanding division (C) of Criminal Rule 15, the petitioner is not entitled to attend the deposition. The prosecuting attorney shall be permitted to attend and participate in any deposition.~~

~~(D) The court shall consider a petition that is timely filed under division (A) (2) of this section even if a direct appeal of the judgment is pending. Before granting a hearing on a petition filed under division (A) of this section, the court shall determine whether there are substantive grounds for relief. In making such a determination, the court shall consider, in addition to the petition, the supporting affidavits, and the documentary evidence, all the files and records pertaining to the proceedings against the petitioner, including, but not limited to, the indictment, the court's journal entries, the journalized records of the clerk of the court, and the court reporter's transcript. The court reporter's transcript, if ordered and certified by the court, shall be taxed as court costs. If the court dismisses the petition, it shall make and file findings of fact and conclusions of law with respect to such dismissal. If the petition was filed by a person who has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the dismissal of the petition and of each claim it contains.~~

~~(E)~~ (D) Within ten days after the docketing of the 7407  
petition, or within any further time that the court may fix for 7408  
good cause shown, the prosecuting attorney shall respond by 7409  
answer or motion. ~~Division (A) (6) of this section applies with~~ 7410  
~~respect to the prosecuting attorney's response.~~ Within twenty 7411  
days from the date the issues are raised, either party may move 7412  
for summary judgment. The right to summary judgment shall appear 7413  
on the face of the record. 7414

~~(F)~~ (E) Unless the petition and the files and records of 7415  
the case show the petitioner is not entitled to relief, the 7416  
court shall proceed to a prompt hearing on the issues even if a 7417  
direct appeal of the case is pending. If the court notifies the 7418  
parties that it has found grounds for granting relief, either 7419  
party may request an appellate court in which a direct appeal of 7420  
the judgment is pending to remand the pending case to the court. 7421

~~(G) A petitioner who files a petition under division (A)~~ 7422  
~~of this section may amend the petition as follows:~~ 7423

~~(1) If the petition was filed by a person who has been~~ 7424  
~~sentenced to death, at any time that is not later than one~~ 7425  
~~hundred eighty days after the petition is filed, the petitioner~~ 7426  
~~may amend the petition with or without leave or prejudice to the~~ 7427  
~~proceedings.~~ 7428

~~(2) If division (G) (1) of this section does not apply, at~~ 7429  
(F) At any time before the answer or motion is filed, the 7430  
petitioner may amend the petition with or without leave or 7431  
prejudice to the proceedings. 7432

~~(3) The petitioner may amend the petition with leave of~~ 7433  
court at any time ~~after the expiration of the applicable period~~ 7434  
~~specified in division (G) (1) or (2) of this section thereafter.~~ 7435

~~(H)~~ (G) If the court does not find grounds for granting relief, it shall make and file findings of fact and conclusions of law and shall enter judgment denying relief on the petition. ~~If the petition was filed by a person who has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the denial of relief on the petition and of each claim it contains.~~ If no direct appeal of the case is pending and the court finds grounds for relief or if a pending direct appeal of the case has been remanded to the court pursuant to a request made pursuant to division ~~(F)~~ (E) of this section and the court finds grounds for granting relief, it shall make and file findings of fact and conclusions of law and shall enter a judgment that vacates and sets aside the judgment in question, and, in the case of a petitioner who is a prisoner in custody, shall discharge or resentence the petitioner or grant a new trial as the court determines appropriate. ~~If the petitioner has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the finding of grounds for granting the relief, with respect to each claim contained in the petition.~~ The court also may make supplementary orders to the relief granted, concerning such matters as rearraignment, retrial, custody, and bail. If the trial court's order granting the petition is reversed on appeal and if the direct appeal of the case has been remanded from an appellate court pursuant to a request under division ~~(F)~~ (E) of this section, the appellate court reversing the order granting the petition shall notify the appellate court in which the direct appeal of the case was pending at the time of the remand of the reversal and remand of the trial court's order. Upon the reversal and remand of the trial court's order granting the petition, regardless of whether notice is sent or received, the direct appeal of the case that was remanded is reinstated.

~~(I) Upon the filing of a petition pursuant to division (A) of this section by a person sentenced to death, only the supreme court may stay execution of the sentence of death.~~ 7468  
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~~(J) (1) If a person sentenced to death intends to file a petition under this section, the court shall appoint counsel to represent the person upon a finding that the person is indigent and that the person either accepts the appointment of counsel or is unable to make a competent decision whether to accept or reject the appointment of counsel. The court may decline to 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.~~ 7471  
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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.~~ 7481  
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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~~ 7495  
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~~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.~~

~~(K)~~ (H) Subject to the appeal of a sentence for a felony that is authorized by section 2953.08 of the Revised Code, the remedy set forth in this section is the exclusive remedy by which a person may bring a collateral challenge to the validity of a conviction or sentence in a criminal case or to the validity of an adjudication of a child as a delinquent child for the commission of an act that would be a criminal offense if committed by an adult or the validity of a related order of disposition.

**Sec. 2953.23.** (A) Whether a hearing is or is not held on a petition filed pursuant to section 2953.21 of the Revised Code, a court may not entertain a petition filed after the expiration of the period prescribed in division (A) of that section or a second petition or successive petitions for similar relief on behalf of a petitioner unless division (A) (1) or (2) of this section applies:

(1) Both of the following apply:

(a) Either the petitioner shows that the petitioner was unavoidably prevented from discovery of the facts upon which the petitioner must rely to present the claim for relief, or, subsequent to the period prescribed in division (A) (2) of section 2953.21 of the Revised Code or to the filing of an earlier petition, the United States Supreme Court recognized a

new federal or state right that applies retroactively to persons 7528  
in the petitioner's situation, and the petition asserts a claim 7529  
based on that right. 7530

(b) The petitioner shows by clear and convincing evidence 7531  
that, but for constitutional error at trial, no reasonable 7532  
factfinder would have found the petitioner guilty of the offense 7533  
of which the petitioner was convicted ~~or, if the claim~~ 7534  
~~challenges a sentence of death that, but for constitutional~~ 7535  
~~error at the sentencing hearing, no reasonable factfinder would~~ 7536  
~~have found the petitioner eligible for the death sentence.~~ 7537

(2) The petitioner was convicted of a felony, the 7538  
petitioner is an offender for whom DNA testing was performed 7539  
under sections 2953.71 to 2953.81 of the Revised Code or under 7540  
former section 2953.82 of the Revised Code and analyzed in the 7541  
context of and upon consideration of all available admissible 7542  
evidence related to the inmate's case as described in division 7543  
(D) of section 2953.74 of the Revised Code, and the results of 7544  
the DNA testing establish, by clear and convincing evidence, 7545  
actual innocence of that felony offense ~~or, if the person was~~ 7546  
~~sentenced to death, establish, by clear and convincing evidence,~~ 7547  
~~actual innocence of the aggravating circumstance or~~ 7548  
~~circumstances the person was found guilty of committing and that~~ 7549  
~~is or are the basis of that sentence of death.~~ 7550

As used in this division, "actual innocence" has the same 7551  
meaning as in division (A) (1) (b) of section 2953.21 of the 7552  
Revised Code, and "former section 2953.82 of the Revised Code" 7553  
has the same meaning as in division (A) (1) (c) of section 2953.21 7554  
of the Revised Code. 7555

(B) An order awarding or denying relief sought in a 7556  
petition filed pursuant to section 2953.21 of the Revised Code 7557

is a final judgment and may be appealed pursuant to Chapter 7558  
2953. of the Revised Code. 7559

~~If a petition filed pursuant to section 2953.21 of the 7560  
Revised Code by a person who has been sentenced to death is 7561  
denied and the person appeals the judgment, notwithstanding any 7562  
law or court rule to the contrary, there is no limit on the 7563  
number of pages in, or on the length of, a notice of appeal or 7564  
briefs related to an appeal filed by the person. If any court 7565  
rule specifies a limit on the number of pages in, or on the 7566  
length of, a notice of appeal or briefs described in this 7567  
division or on a prosecuting attorney's response or briefs with 7568  
respect to such an appeal and a person who has been sentenced to 7569  
death files a notice of appeal or briefs that exceed the limit 7570  
specified for the petition, the prosecuting attorney may file a 7571  
response or briefs that exceed the limit specified for the 7572  
answer or briefs. 7573~~

**Sec. 2953.71.** As used in sections 2953.71 to 2953.83 of 7574  
the Revised Code: 7575

(A) "Application" or "application for DNA testing" means a 7576  
request through postconviction relief for the state to do DNA 7577  
testing on biological material from the case in which the 7578  
offender was convicted of the offense for which the offender is 7579  
an eligible offender and is requesting the DNA testing under 7580  
sections 2953.71 to 2953.81 of the Revised Code. 7581

(B) "Biological material" means any product of a human 7582  
body containing DNA. 7583

(C) "Chain of custody" means a record or other evidence 7584  
that tracks a subject sample of biological material from the 7585  
time the biological material was first obtained until the time 7586

it currently exists in its place of storage and, in relation to 7587  
a DNA sample, a record or other evidence that tracks the DNA 7588  
sample from the time it was first obtained until it currently 7589  
exists in its place of storage. For purposes of this division, 7590  
examples of when biological material or a DNA sample is first 7591  
obtained include, but are not limited to, obtaining the material 7592  
or sample at the scene of a crime, from a victim, from an 7593  
offender, or in any other manner or time as is appropriate in 7594  
the facts and circumstances present. 7595

(D) "Custodial agency" means the group or entity that has 7596  
the responsibility to maintain biological material in question. 7597

(E) "Custodian" means the person who is the primary 7598  
representative of a custodial agency. 7599

(F) "Eligible offender" means an offender who is eligible 7600  
under division (C) of section 2953.72 of the Revised Code to 7601  
request DNA testing to be conducted under sections 2953.71 to 7602  
2953.81 of the Revised Code. 7603

(G) "Exclusion" or "exclusion result" means a result of 7604  
DNA testing that scientifically precludes or forecloses the 7605  
subject offender as a contributor of biological material 7606  
recovered from the crime scene or victim in question, in 7607  
relation to the offense for which the offender is an eligible 7608  
offender and for which the ~~sentence of death or prison~~ term was 7609  
imposed upon the offender. 7610

(H) "Extracting personnel" means medically approved 7611  
personnel who are employed to physically obtain an offender's 7612  
DNA specimen for purposes of DNA testing under sections 2953.71 7613  
to 2953.81 of the Revised Code. 7614

(I) "Inclusion" or "inclusion result" means a result of 7615



DNA testing that scientifically cannot exclude, or that holds 7616  
accountable, the subject offender as a contributor of biological 7617  
material recovered from the crime scene or victim in question, 7618  
in relation to the offense for which the offender is an eligible 7619  
offender and for which the ~~sentence of death or prison~~ term was 7620  
imposed upon the offender. 7621

(J) "Inconclusive" or "inconclusive result" means a result 7622  
of DNA testing that is rendered when a scientifically 7623  
appropriate and definitive DNA analysis or result, or both, 7624  
cannot be determined. 7625

(K) "Offender" means a criminal offender who was sentenced 7626  
by a court, or by a jury and a court, of this state. 7627

(L) "Outcome determinative" means that had the results of 7628  
DNA testing of the subject offender been presented at the trial 7629  
of the subject offender requesting DNA testing and been found 7630  
relevant and admissible with respect to the felony offense for 7631  
which the offender is an eligible offender and is requesting the 7632  
DNA testing, and had those results been analyzed in the context 7633  
of and upon consideration of all available admissible evidence 7634  
related to the offender's case as described in division (D) of 7635  
section 2953.74 of the Revised Code, there is a strong 7636  
probability that no reasonable factfinder would have found the 7637  
offender guilty of that offense ~~or, if the offender was~~ 7638  
~~sentenced to death relative to that offense, would have found~~ 7639  
~~the offender guilty of the aggravating circumstance or~~ 7640  
~~circumstances the offender was found guilty of committing and~~ 7641  
~~that is or are the basis of that sentence of death.~~ 7642

(M) "Parent sample" means the biological material first 7643  
obtained from a crime scene or a victim of an offense for which 7644  
an offender is an eligible offender, and from which a sample 7645

will be presently taken to do a DNA comparison to the DNA of the 7646  
subject offender under sections 2953.71 to 2953.81 of the 7647  
Revised Code. 7648

(N) "Prison" and "community control sanction" have the 7649  
same meanings as in section 2929.01 of the Revised Code. 7650

(O) "Prosecuting attorney" means the prosecuting attorney 7651  
who, or whose office, prosecuted the case in which the subject 7652  
offender was convicted of the offense for which the offender is 7653  
an eligible offender and is requesting the DNA testing. 7654

(P) "Prosecuting authority" means the prosecuting attorney 7655  
or the attorney general. 7656

(Q) "Reasonable diligence" means a degree of diligence 7657  
that is comparable to the diligence a reasonable person would 7658  
employ in searching for information regarding an important 7659  
matter in the person's own life. 7660

(R) "Testing authority" means a laboratory at which DNA 7661  
testing will be conducted under sections 2953.71 to 2953.81 of 7662  
the Revised Code. 7663

(S) "Parole" and "post-release control" have the same 7664  
meanings as in section 2967.01 of the Revised Code. 7665

(T) "Sexually oriented offense" and "child-victim oriented 7666  
offense" have the same meanings as in section 2950.01 of the 7667  
Revised Code. 7668

(U) "Definitive DNA test" means a DNA test that clearly 7669  
establishes that biological material from the perpetrator of the 7670  
crime was recovered from the crime scene and also clearly 7671  
establishes whether or not the biological material is that of 7672  
the eligible offender. A prior DNA test is not definitive if the 7673

eligible offender proves by a preponderance of the evidence that 7674  
because of advances in DNA technology there is a possibility of 7675  
discovering new biological material from the perpetrator that 7676  
the prior DNA test may have failed to discover. Prior testing 7677  
may have been a prior "definitive DNA test" as to some 7678  
biological evidence but may not have been a prior "definitive 7679  
DNA test" as to other biological evidence. 7680

**Sec. 2953.72.** (A) Any eligible offender who wishes to 7681  
request DNA testing under sections 2953.71 to 2953.81 of the 7682  
Revised Code shall submit an application for the testing to the 7683  
court of common pleas specified in section 2953.73 of the 7684  
Revised Code, on a form prescribed by the attorney general for 7685  
this purpose. The eligible offender shall submit the application 7686  
in accordance with the procedures set forth in section 2953.73 7687  
of the Revised Code. The eligible offender shall specify on the 7688  
application the offense or offenses for which the offender is an 7689  
eligible offender and is requesting the DNA testing. Along with 7690  
the application, the eligible offender shall submit an 7691  
acknowledgment that is on a form prescribed by the attorney 7692  
general for this purpose and that is signed by the offender. The 7693  
acknowledgment shall set forth all of the following: 7694

(1) That sections 2953.71 to 2953.81 of the Revised Code 7695  
contemplate applications for DNA testing of an eligible offender 7696  
at a stage of a prosecution or case after the offender has been 7697  
sentenced, that any exclusion or inclusion result of DNA testing 7698  
rendered pursuant to those sections may be used by a party in 7699  
any proceeding as described in section 2953.81 of the Revised 7700  
Code, and that all requests for any DNA testing made at trial 7701  
will continue to be handled by the prosecuting attorney in the 7702  
case; 7703

(2) That the process of conducting postconviction DNA testing for an eligible offender under sections 2953.71 to 2953.81 of the Revised Code begins when the offender submits an application under section 2953.73 of the Revised Code and the acknowledgment described in this section;

(3) That the eligible offender must submit the application and acknowledgment to the court of common pleas that heard the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing;

(4) That the state has established a set of criteria set forth in section 2953.74 of the Revised Code by which eligible offender applications for DNA testing will be screened and that a judge of a court of common pleas upon receipt of a properly filed application and accompanying acknowledgment will apply those criteria to determine whether to accept or reject the application;

(5) That the results of DNA testing conducted under sections 2953.71 to 2953.81 of the Revised Code will be provided as described in section 2953.81 of the Revised Code to all parties in the postconviction proceedings and will be reported to various courts;

(6) That, if DNA testing is conducted with respect to an offender under sections 2953.71 to 2953.81 of the Revised Code, the state will not offer the offender a retest if an inclusion result is achieved relative to the testing and that, if the state were to offer a retest after an inclusion result, the policy would create an atmosphere in which endless testing could occur and in which postconviction proceedings could be stalled for many years;

(7) That, if the court rejects an eligible offender's application for DNA testing because the offender does not satisfy the acceptance criteria described in division (A) (4) of this section, the court will not accept or consider subsequent applications;

(8) That the acknowledgment memorializes the provisions of sections 2953.71 to 2953.81 of the Revised Code with respect to the application of postconviction DNA testing to offenders, that those provisions do not give any offender any additional constitutional right that the offender did not already have, that the court has no duty or obligation to provide postconviction DNA testing to offenders, that the court of common pleas has the sole discretion subject to an appeal as described in this division to determine whether an offender is an eligible offender and whether an eligible offender's application for DNA testing satisfies the acceptance criteria described in division (A) (4) of this section and whether the application should be accepted or rejected, that if the court of common pleas rejects an eligible offender's application, the offender may ~~seek leave of the supreme court to appeal the rejection to that court if the offender was sentenced to death for the offense for which the offender is requesting the DNA testing and, if the offender was not sentenced to death for that offense, may~~ appeal the rejection to the court of appeals, and that no determination otherwise made by the court of common pleas in the exercise of its discretion regarding the eligibility of an offender or regarding postconviction DNA testing under those provisions is reviewable by or appealable to any court;

(9) That the manner in which sections 2953.71 to 2953.81 of the Revised Code with respect to the offering of

postconviction DNA testing to offenders are carried out does not 7765  
confer any constitutional right upon any offender, that the 7766  
state has established guidelines and procedures relative to 7767  
those provisions to ensure that they are carried out with both 7768  
justice and efficiency in mind, and that an offender who 7769  
participates in any phase of the mechanism contained in those 7770  
provisions, including, but not limited to, applying for DNA 7771  
testing and being rejected, having an application for DNA 7772  
testing accepted and not receiving the test, or having DNA 7773  
testing conducted and receiving unfavorable results, does not 7774  
gain as a result of the participation any constitutional right 7775  
to challenge, or, except as provided in division (A) (8) of this 7776  
section, any right to any review or appeal of, the manner in 7777  
which those provisions are carried out; 7778

(10) That the most basic aspect of sections 2953.71 to 7779  
2953.81 of the Revised Code is that, in order for DNA testing to 7780  
occur, there must be an offender sample against which other 7781  
evidence may be compared, that, if an eligible offender's 7782  
application is accepted but the offender subsequently refuses to 7783  
submit to the collection of the sample of biological material 7784  
from the offender or hinders the state from obtaining a sample 7785  
of biological material from the offender, the goal of those 7786  
provisions will be frustrated, and that an offender's refusal or 7787  
hindrance shall cause the court to rescind its prior acceptance 7788  
of the application for DNA testing for the offender and deny the 7789  
application. 7790

(B) The attorney general shall prescribe a form to be used 7791  
to make an application for DNA testing under division (A) of 7792  
this section and section 2953.73 of the Revised Code and a form 7793  
to be used to provide the acknowledgment described in division 7794  
(A) of this section. The forms shall include all information 7795

described in division (A) of this section, spaces for an 7796  
offender to insert all information necessary to complete the 7797  
forms, including, but not limited to, specifying the offense or 7798  
offenses for which the offender is an eligible offender and is 7799  
requesting the DNA testing, and any other information or 7800  
material the attorney general determines is necessary or 7801  
relevant. The attorney general shall distribute copies of the 7802  
prescribed forms to the department of rehabilitation and 7803  
correction, the department shall ensure that each prison in 7804  
which offenders are housed has a supply of copies of the forms, 7805  
and the department shall ensure that copies of the forms are 7806  
provided free of charge to any offender who requests them. 7807

(C) (1) An offender is eligible to request DNA testing to 7808  
be conducted under sections 2953.71 to 2953.81 of the Revised 7809  
Code only if all of the following apply: 7810

(a) The offense for which the offender claims to be an 7811  
eligible offender is a felony, and the offender was convicted by 7812  
a judge or jury of that offense. 7813

(b) One of the following applies: 7814

(i) The offender was sentenced to a prison term ~~or~~ 7815  
~~sentence of death~~ for the felony described in division (C) (1) (a) 7816  
of this section, and the offender is in prison serving that 7817  
prison term ~~or under that sentence of death~~, has been paroled or 7818  
is on probation regarding that felony, is under post-release 7819  
control regarding that felony, or has been released from that 7820  
prison term and is under a community control sanction regarding 7821  
that felony. 7822

(ii) The offender was not sentenced to a prison term ~~or~~ 7823  
~~sentence of death~~ for the felony described in division (C) (1) (a) 7824

of this section, but was sentenced to a community control 7825  
sanction for that felony and is under that community control 7826  
sanction. 7827

(iii) The felony described in division (C) (1) (a) of this 7828  
section was a sexually oriented offense or child-victim oriented 7829  
offense, and the offender has a duty to comply with sections 7830  
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7831  
relative to that felony. 7832

(2) An offender is not an eligible offender under division 7833  
(C) (1) of this section regarding any offense to which the 7834  
offender pleaded guilty or no contest. 7835

(3) An offender is not an eligible offender under division 7836  
(C) (1) of this section regarding any offense if the offender 7837  
dies prior to submitting an application for DNA testing related 7838  
to that offense under section 2953.73 of the Revised Code. 7839

**Sec. 2953.73.** (A) An eligible offender who wishes to 7840  
request DNA testing to be conducted under sections 2953.71 to 7841  
2953.81 of the Revised Code shall submit an application for DNA 7842  
testing on a form prescribed by the attorney general for this 7843  
purpose and shall submit the form to the court of common pleas 7844  
that sentenced the offender for the offense for which the 7845  
offender is an eligible offender and is requesting DNA testing. 7846

(B) If an eligible offender submits an application for DNA 7847  
testing under division (A) of this section, upon the submission 7848  
of the application, all of the following apply: 7849

(1) The eligible offender shall serve a copy of the 7850  
application on the prosecuting attorney and the attorney 7851  
general. 7852

(2) The application shall be assigned to the judge of that 7853



court of common pleas who was the trial judge in the case in 7854  
which the eligible offender was convicted of the offense for 7855  
which the offender is requesting DNA testing, or, if that judge 7856  
no longer is a judge of that court, it shall be assigned 7857  
according to court rules. The judge to whom the application is 7858  
assigned shall decide the application. The application shall 7859  
become part of the file in the case. 7860

(C) If an eligible offender submits an application for DNA 7861  
testing under division (A) of this section, regardless of 7862  
whether the offender has commenced any federal habeas corpus 7863  
proceeding relative to the case in which the offender was 7864  
convicted of the offense for which the offender is an eligible 7865  
offender and is requesting DNA testing, any response to the 7866  
application by the prosecuting attorney or the attorney general 7867  
shall be filed not later than forty-five days after the date on 7868  
which the eligible offender submits the application. The 7869  
prosecuting attorney or the attorney general, or both, may, but 7870  
are not required to, file a response to the application. If the 7871  
prosecuting attorney or the attorney general files a response 7872  
under this division, the prosecuting attorney or attorney 7873  
general, whoever filed the response, shall serve a copy of the 7874  
response on the eligible offender. 7875

(D) If an eligible offender submits an application for DNA 7876  
testing under division (A) of this section, the court shall make 7877  
the determination as to whether the application should be 7878  
accepted or rejected. The court shall expedite its review of the 7879  
application. The court shall make the determination in 7880  
accordance with the criteria and procedures set forth in 7881  
sections 2953.74 to 2953.81 of the Revised Code and, in making 7882  
the determination, shall consider the application, the 7883  
supporting affidavits, and the documentary evidence and, in 7884

addition to those materials, shall consider all the files and 7885  
records pertaining to the proceedings against the applicant, 7886  
including, but not limited to, the indictment, the court's 7887  
journal entries, the journalized records of the clerk of the 7888  
court, and the court reporter's transcript and all responses to 7889  
the application filed under division (C) of this section by a 7890  
prosecuting attorney or the attorney general, unless the 7891  
application and the files and records show the applicant is not 7892  
entitled to DNA testing, in which case the application may be 7893  
denied. The court is not required to conduct an evidentiary 7894  
hearing in conducting its review of, and in making its 7895  
determination as to whether to accept or reject, the 7896  
application. Upon making its determination, the court shall 7897  
enter a judgment and order that either accepts or rejects the 7898  
application and that includes within the judgment and order the 7899  
reasons for the acceptance or rejection as applied to the 7900  
criteria and procedures set forth in sections 2953.71 to 2953.81 7901  
of the Revised Code. The court shall send a copy of the judgment 7902  
and order to the eligible offender who filed it, the prosecuting 7903  
attorney, and the attorney general. 7904

(E) A judgment and order of a court entered under division 7905  
(D) of this section is appealable only as provided in this 7906  
division. If an eligible offender submits an application for DNA 7907  
testing under section 2953.73 of the Revised Code and the court 7908  
of common pleas rejects the application under division (D) of 7909  
this section, ~~one of the following applies:~~ 7910

~~(1) If the offender was sentenced to death for the offense~~ 7911  
~~for which the offender claims to be an eligible offender and is~~ 7912  
~~requesting DNA testing, the offender may seek leave of the~~ 7913  
~~supreme court to appeal the rejection to the supreme court.~~ 7914  
~~Courts of appeals do not have jurisdiction to review any~~ 7915

~~rejection if the offender was sentenced to death for the offense~~ 7916  
~~for which the offender claims to be an eligible offender and is~~ 7917  
~~requesting DNA testing.~~ 7918

~~(2) If the offender was not sentenced to death for the~~ 7919  
~~offense for which the offender claims to be an eligible offender~~ 7920  
~~and is requesting DNA testing,~~ the rejection is a final 7921  
appealable order, and the offender may appeal it to the court of 7922  
appeals of the district in which is located that court of common 7923  
pleas. 7924

(F) Notwithstanding any provision of law regarding fees 7925  
and costs, no filing fee shall be required of, and no court 7926  
costs shall be assessed against, an eligible offender who is 7927  
indigent and who submits an application under this section. 7928

(G) If a court rejects an eligible offender's application 7929  
for DNA testing under division (D) of this section, unless the 7930  
rejection is overturned on appeal, no court shall require the 7931  
state to administer a DNA test under sections 2953.71 to 2953.81 7932  
of the Revised Code on the eligible offender. 7933

**Sec. 2953.81.** If an eligible offender submits an 7934  
application for DNA testing under section 2953.73 of the Revised 7935  
Code and if DNA testing is performed based on that application, 7936  
upon completion of the testing, all of the following apply: 7937

(A) The court or a designee of the court shall require the 7938  
state to maintain the results of the testing and to maintain and 7939  
preserve both the parent sample of the biological material used 7940  
and the offender sample of the biological material used. The 7941  
testing authority may be designated as the person to maintain 7942  
the results of the testing or to maintain and preserve some or 7943  
all of the samples, or both. The results of the testing remain 7944

state's evidence. The samples shall be preserved during the 7945  
entire period of time for which the offender is imprisoned or 7946  
confined relative to the sentence in question, is on parole or 7947  
probation relative to that sentence, is under post-release 7948  
control or a community control sanction relative to that 7949  
sentence, or has a duty to comply with sections 2950.04, 7950  
2950.041, 2950.05, and 2950.06 of the Revised Code relative to 7951  
that sentence. Additionally, if the prison term or confinement 7952  
under the sentence in question expires, ~~if the sentence in~~ 7953  
~~question is a sentence of death and the offender is executed,~~ or 7954  
if the parole or probation period, the period of post-release 7955  
control, the community control sanction, or the duty to comply 7956  
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 7957  
Revised Code under the sentence in question ends, the samples 7958  
shall be preserved for a reasonable period of time of not less 7959  
than twenty-four months after the term or confinement expires, ~~7960~~  
~~the offender is executed,~~ or the parole or probation period, the 7961  
period of post-release control, the community control sanction, 7962  
or the duty to comply with sections 2950.04, 2950.041, 2950.05, 7963  
and 2950.06 of the Revised Code ends, whichever is applicable. 7964  
The court shall determine the period of time that is reasonable 7965  
for purposes of this division, provided that the period shall 7966  
not be less than twenty-four months after the term or 7967  
confinement expires, ~~the offender is executed,~~ or the parole or 7968  
probation period, the period of post-release control, the 7969  
community control sanction, or the duty to comply with sections 7970  
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7971  
ends, whichever is applicable. 7972

(B) The results of the testing are a public record. 7973

(C) The court or the testing authority shall provide a 7974  
copy of the results of the testing to the prosecuting attorney, 7975

the attorney general, and the subject offender. 7976

(D) If the postconviction proceeding in question is 7977  
pending at that time in a court of this state, the court of 7978  
common pleas that decided the DNA application or the testing 7979  
authority shall provide a copy of the results of the testing to 7980  
any court of this state, and, if it is pending in a federal 7981  
court, the court of common pleas that decided the DNA 7982  
application or the testing authority shall provide a copy of the 7983  
results of the testing to that federal court. 7984

(E) The testing authority shall provide a copy of the 7985  
results of the testing to the court of common pleas that decided 7986  
the DNA application. 7987

(F) The offender or the state may enter the results of the 7988  
testing into any proceeding. 7989

**Sec. 2967.03.** The adult parole authority may exercise its 7990  
functions and duties in relation to the pardon, commutation of 7991  
sentence, or reprieve of a convict upon direction of the 7992  
governor or upon its own initiative. It may exercise its 7993  
functions and duties in relation to the parole of a prisoner who 7994  
is eligible for parole upon the initiative of the head of the 7995  
institution in which the prisoner is confined or upon its own 7996  
initiative. When a prisoner becomes eligible for parole, the 7997  
head of the institution in which the prisoner is confined shall 7998  
notify the authority in the manner prescribed by the authority. 7999  
The authority may investigate and examine, or cause the 8000  
investigation and examination of, prisoners confined in state 8001  
correctional institutions concerning their conduct in the 8002  
institutions, their mental and moral qualities and 8003  
characteristics, their knowledge of a trade or profession, their 8004  
former means of livelihood, their family relationships, and any 8005

other matters affecting their fitness to be at liberty without 8006  
being a threat to society. 8007

The authority may recommend to the governor the pardon, 8008  
commutation of sentence, or reprieve of any convict or prisoner 8009  
or grant a parole to any prisoner for whom parole is authorized, 8010  
if in its judgment there is reasonable ground to believe that 8011  
granting a pardon, commutation, or reprieve to the convict or 8012  
paroling the prisoner would further the interests of justice and 8013  
be consistent with the welfare and security of society. However, 8014  
the authority shall not recommend a pardon or commutation of 8015  
sentence, or grant a parole to, any convict or prisoner until 8016  
the authority has complied with the applicable notice 8017  
requirements of sections 2930.16 and 2967.12 of the Revised Code 8018  
and until it has considered any statement made by a victim or a 8019  
victim's representative that is relevant to the convict's or 8020  
prisoner's case and that was sent to the authority pursuant to 8021  
section 2930.17 of the Revised Code, any other statement made by 8022  
a victim or a victim's representative that is relevant to the 8023  
convict's or prisoner's case and that was received by the 8024  
authority after it provided notice of the pendency of the action 8025  
under sections 2930.16 and 2967.12 of the Revised Code, and any 8026  
written statement of any person submitted to the court pursuant 8027  
to division ~~(I)~~(H) of section 2967.12 of the Revised Code. If a 8028  
victim, victim's representative, or the victim's spouse, parent, 8029  
sibling, or child appears at a full board hearing of the parole 8030  
board and gives testimony as authorized by section 5149.101 of 8031  
the Revised Code, the authority shall consider the testimony in 8032  
determining whether to grant a parole. The trial judge and 8033  
prosecuting attorney of the trial court in which a person was 8034  
convicted shall furnish to the authority, at the request of the 8035  
authority, a summarized statement of the facts proved at the 8036

trial and of all other facts having reference to the propriety 8037  
of recommending a pardon or commutation or granting a parole, 8038  
together with a recommendation for or against a pardon, 8039  
commutation, or parole, and the reasons for the recommendation. 8040  
The trial judge, the prosecuting attorney, specified law 8041  
enforcement agency members, and a representative of the prisoner 8042  
may appear at a full board hearing of the parole board and give 8043  
testimony in regard to the grant of a parole to the prisoner as 8044  
authorized by section 5149.101 of the Revised Code. All state 8045  
and local officials shall furnish information to the authority, 8046  
when so requested by it in the performance of its duties. 8047

The adult parole authority shall exercise its functions 8048  
and duties in relation to the release of prisoners who are 8049  
serving a stated prison term in accordance with section 2967.28 8050  
of the Revised Code. 8051

**Sec. 2967.05.** (A) As used in this section: 8052

(1) "Imminent danger of death" means that the inmate has a 8053  
medically diagnosable condition that will cause death to occur 8054  
within a short period of time. 8055

As used in division (A) (1) of this section, "within a 8056  
short period of time" means generally within six months. 8057

(2) (a) "Medically incapacitated" means any diagnosable 8058  
medical condition, including mental dementia and severe, 8059  
permanent medical or cognitive disability, that prevents the 8060  
inmate from completing activities of daily living without 8061  
significant assistance, that incapacitates the inmate to the 8062  
extent that institutional confinement does not offer additional 8063  
restrictions, that is likely to continue throughout the entire 8064  
period of parole, and that is unlikely to improve noticeably. 8065

(b) "Medically incapacitated" does not include conditions 8066  
related solely to mental illness unless the mental illness is 8067  
accompanied by injury, disease, or organic defect. 8068

(3) (a) "Terminal illness" means a condition that satisfies 8069  
all of the following criteria: 8070

(i) The condition is irreversible and incurable and is 8071  
caused by disease, illness, or injury from which the inmate is 8072  
unlikely to recover. 8073

(ii) In accordance with reasonable medical standards and a 8074  
reasonable degree of medical certainty, the condition is likely 8075  
to cause death to the inmate within twelve months. 8076

(iii) Institutional confinement of the inmate does not 8077  
offer additional protections for public safety or against the 8078  
inmate's risk to reoffend. 8079

(b) The department of rehabilitation and correction shall 8080  
adopt rules pursuant to Chapter 119. of the Revised Code to 8081  
implement the definition of "terminal illness" in division (A) 8082  
(3) (a) of this section. 8083

(B) Upon the recommendation of the director of 8084  
rehabilitation and correction, accompanied by a certificate of 8085  
the attending physician that an inmate is terminally ill, 8086  
medically incapacitated, or in imminent danger of death, the 8087  
governor may order the inmate's release as if on parole, 8088  
reserving the right to return the inmate to the institution 8089  
pursuant to this section. If, subsequent to the inmate's 8090  
release, the inmate's health improves so that the inmate is no 8091  
longer terminally ill, medically incapacitated, or in imminent 8092  
danger of death, the inmate shall be returned, by order of the 8093  
governor, to the institution from which the inmate was released. 8094



If the inmate violates any rules or conditions applicable to the 8095  
inmate, the inmate may be returned to an institution under the 8096  
control of the department of rehabilitation and correction. The 8097  
governor may direct the adult parole authority to investigate or 8098  
cause to be investigated the inmate and make a recommendation. 8099  
An inmate released under this section shall be subject to 8100  
supervision by the adult parole authority in accordance with any 8101  
recommendation of the adult parole authority that is approved by 8102  
the governor. The adult parole authority shall adopt rules 8103  
pursuant to section 119.03 of the Revised Code to establish the 8104  
procedure for medical release of an inmate when an inmate is 8105  
terminally ill, medically incapacitated, or in imminent danger 8106  
of death. 8107

(C) No inmate is eligible for release under this section 8108  
if the inmate is serving ~~a death sentence,~~ a sentence of life 8109  
without parole, a sentence under Chapter 2971. of the Revised 8110  
Code for a felony of the first or second degree, a sentence for 8111  
aggravated murder or murder, or a mandatory prison term for an 8112  
offense of violence or any specification described in Chapter 8113  
2941. of the Revised Code. 8114

**Sec. 2967.12.** (A) Except as provided in division (G) of 8115  
this section, at least sixty days before the adult parole 8116  
authority recommends any pardon or commutation of sentence, or 8117  
grants any parole, the authority shall provide a notice of the 8118  
pendency of the pardon, commutation, or parole, setting forth 8119  
the name of the person on whose behalf it is made, the offense 8120  
of which the person was convicted or to which the person pleaded 8121  
guilty, the time of conviction or the guilty plea, and the term 8122  
of the person's sentence, to the prosecuting attorney and the 8123  
judge of the court of common pleas of the county in which the 8124  
indictment against the person was found. If there is more than 8125

one judge of that court of common pleas, the authority shall 8126  
provide the notice to the presiding judge. Upon the request of 8127  
the prosecuting attorney or of any law enforcement agency, the 8128  
authority shall provide to the requesting prosecuting attorney 8129  
and law enforcement agencies an institutional summary report 8130  
that covers the subject person's participation while confined in 8131  
a state correctional institution in training, work, and other 8132  
rehabilitative activities and any disciplinary action taken 8133  
against the person while so confined. The department of 8134  
rehabilitation and correction may utilize electronic means to 8135  
provide this notice. The department of rehabilitation and 8136  
correction, at the same time that it provides the notice to the 8137  
prosecuting attorney and judge under this division, also shall 8138  
post on the database it maintains pursuant to section 5120.66 of 8139  
the Revised Code the offender's name and all of the information 8140  
specified in division (A) (1) (c) (iii) of that section. 8141

(B) If a request for notification has been made pursuant 8142  
to section 2930.16 of the Revised Code or if division (H) of 8143  
this section applies, the office of victim services or the adult 8144  
parole authority also shall provide notice to the victim or the 8145  
victim's representative at least sixty days prior to 8146  
recommending any pardon or commutation of sentence for, or 8147  
granting any parole to, the person. The notice shall include the 8148  
information required by division (A) of this section and may be 8149  
provided by telephone or through electronic means. The notice 8150  
also shall inform the victim or the victim's representative that 8151  
the victim or representative may send a written statement 8152  
relative to the victimization and the pending action to the 8153  
adult parole authority and that, if the authority receives any 8154  
written statement prior to recommending a pardon or commutation 8155  
or granting a parole for a person, the authority will consider 8156

the statement before it recommends a pardon or commutation or 8157  
grants a parole. If the person is being considered for parole, 8158  
the notice shall inform the victim or the victim's 8159  
representative that a full board hearing of the parole board may 8160  
be held and that the victim or victim's representative may 8161  
contact the office of victims' services for further information. 8162  
If the person being considered for parole was convicted of or 8163  
pleaded guilty to a violation of section 2903.01 or 2903.02 of 8164  
the Revised Code, an offense of violence that is a felony of the 8165  
first, second, or third degree, or an offense punished by a 8166  
sentence of life imprisonment, the notice shall inform the 8167  
victim of that offense, the victim's representative, or a member 8168  
of the victim's immediate family that the victim, the victim's 8169  
representative, and the victim's immediate family have the right 8170  
to give testimony at a full board hearing of the parole board 8171  
and that the victim or victim's representative may contact the 8172  
office of victims' services for further information. 8173

(C) When notice of the pendency of any pardon, commutation 8174  
of sentence, or parole has been provided to a judge or 8175  
prosecutor or posted on the database as required in division (A) 8176  
of this section and a hearing on the pardon, commutation, or 8177  
parole is continued to a date certain, the authority shall 8178  
provide notice of the further consideration of the pardon, 8179  
commutation, or parole at least sixty days before the further 8180  
consideration. The notice of the further consideration shall be 8181  
provided to the proper judge and prosecuting attorney at least 8182  
sixty days before the further consideration, and may be provided 8183  
using electronic means, and, if the initial notice was posted on 8184  
the database as provided in division (A) of this section, the 8185  
notice of the further consideration shall be posted on the 8186  
database at least sixty days before the further consideration. 8187

If the prosecuting attorney or a law enforcement agency was 8188  
provided a copy of the institutional summary report relative to 8189  
the subject person under division (A) of this section, the 8190  
authority shall include with the notice of the further 8191  
consideration sent to the prosecuting attorney any new 8192  
information with respect to the person that relates to 8193  
activities and actions of the person that are of a type covered 8194  
by the report and shall send to the law enforcement agency a 8195  
report that provides notice of the further consideration and 8196  
includes any such new information with respect to the person. 8197  
When notice of the pendency of any pardon, commutation, or 8198  
parole has been given as provided in division (B) of this 8199  
section and the hearing on it is continued to a date certain, 8200  
the authority shall give notice of the further consideration to 8201  
the victim or the victim's representative in accordance with 8202  
section 2930.03 of the Revised Code. 8203

~~(D) In case of an application for the pardon or 8204  
commutation of sentence of a person sentenced to capital- 8205  
punishment, the governor may modify the requirements of- 8206  
notification and publication if there is not sufficient time for- 8207  
compliance with the requirements before the date fixed for the- 8208  
execution of sentence. 8209~~

~~(E)~~ If an offender is serving a prison term imposed under 8210  
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8211  
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8212  
Code and if the parole board terminates its control over the 8213  
offender's service of that term pursuant to section 2971.04 of 8214  
the Revised Code, the parole board immediately shall provide 8215  
written notice of its termination of control or the transfer of 8216  
control to the entities and persons specified in section 2971.04 8217  
of the Revised Code. 8218

~~(F)~~(E) The failure of the adult parole authority to 8219  
comply with the notice or posting provisions of division (A), 8220  
(B), or (C) of this section or the failure of the parole board 8221  
to comply with the notice provisions of division ~~(E)~~(D) of this 8222  
section do not give any rights or any grounds for appeal or 8223  
post-conviction relief to the person serving the sentence. 8224

~~(G)~~(F) Divisions (A), (B), and (C) of this section do not 8225  
apply to any release of a person that is of the type described 8226  
in division (B) (2) (b) of section 5120.031 of the Revised Code. 8227

~~(H)~~(G) If a defendant is incarcerated for the commission 8228  
of aggravated murder, murder, or an offense of violence that is 8229  
a felony of the first, second, or third degree or is under a 8230  
sentence of life imprisonment, except as otherwise provided in 8231  
this division, the notice described in division (B) of this 8232  
section shall be given to the victim or victim's representative 8233  
regardless of whether the victim or victim's representative has 8234  
made a request for notification. The notice described in 8235  
division (B) of this section shall not be given under this 8236  
division to a victim or victim's representative if the victim or 8237  
victim's representative has requested pursuant to division (B) 8238  
(2) of section 2930.03 of the Revised Code that the victim or 8239  
the victim's representative not be provided the notice. The 8240  
notice described in division (B) of this section does not have 8241  
to be given under this division to a victim or victim's 8242  
representative if notice was given to the victim or victim's 8243  
representative with respect to at least two prior considerations 8244  
of pardon, commutation, or parole of a person and the victim or 8245  
victim's representative did not provide any written statement 8246  
relative to the victimization and the pending action, did not 8247  
attend any hearing conducted relative to the pending action, and 8248  
did not otherwise respond to the office with respect to the 8249

pending action. Regardless of whether the victim or victim's 8250  
representative has requested that the notice described in 8251  
division (B) of this section be provided or not be provided, the 8252  
office of victim services or adult parole authority shall give 8253  
similar notice to the law enforcement agency that arrested the 8254  
defendant if any officer of that agency was a victim of the 8255  
offense and to any member of the victim's immediate family who 8256  
requests notification. If notice is to be given under this 8257  
division, the office or authority may give the notice by any 8258  
reasonable means, including regular mail, telephone, and 8259  
electronic mail, in accordance with division (D) (1) of section 8260  
2930.16 of the Revised Code. If the notice is based on an 8261  
offense committed prior to ~~the effective date of this amendment~~ 8262  
March 22, 2013, the notice to the victim or victim's 8263  
representative also shall include the opt-out information 8264  
described in division (D) (1) of section 2930.16 of the Revised 8265  
Code. The office or authority, in accordance with division (D) 8266  
(2) of section 2930.16 of the Revised Code, shall keep a record 8267  
of all attempts to provide the notice, and of all notices 8268  
provided, under this division. 8269

Division ~~(H)~~ (G) of this section, and the notice-related 8270  
provisions of divisions (E) (2) and (K) of section 2929.20, 8271  
division (D) (1) of section 2930.16, division (E) (1) (b) of 8272  
section 2967.19, division (A) (3) (b) of section 2967.26, division 8273  
(D) (1) of section 2967.28, and division (A) (2) of section 8274  
5149.101 of the Revised Code enacted in the act in which 8275  
division ~~(H)~~ (G) of this section was enacted, shall be known as 8276  
"Roberta's Law." 8277

~~(I)~~ (H) In addition to and independent of the right of a 8278  
victim to make a statement as described in division (A) of this 8279  
section or pursuant to section 2930.17 of the Revised Code or to 8280

otherwise make a statement, the authority for a judge or 8281  
prosecuting attorney to furnish statements and information, make 8282  
recommendations, and give testimony as described in division (A) 8283  
of this section, the right of a prosecuting attorney, judge, or 8284  
victim to give testimony or submit a statement at a full parole 8285  
board hearing pursuant to section 5149.101 of the Revised Code, 8286  
and any other right or duty of a person to present information 8287  
or make a statement, any person may send to the adult parole 8288  
authority at any time prior to the authority's recommending a 8289  
pardon or commutation or granting a parole for the offender a 8290  
written statement relative to the offense and the pending 8291  
action. 8292

~~(J)~~(I) As used in this section, "victim's immediate 8293  
family" means the mother, father, spouse, sibling, or child of 8294  
the victim, provided that in no case does "victim's immediate 8295  
family" include the offender with respect to whom the notice in 8296  
question applies. 8297

**Sec. 2967.13.** (A) Except as provided in division (G) of 8298  
this section, a prisoner serving a sentence of imprisonment for 8299  
life for an offense committed on or after July 1, 1996, is not 8300  
entitled to any earned credit under section 2967.193 of the 8301  
Revised Code and becomes eligible for parole as follows: 8302

(1) If a sentence of imprisonment for life was imposed for 8303  
the offense of murder, at the expiration of the prisoner's 8304  
minimum term; 8305

(2) If a sentence of imprisonment for life with parole 8306  
eligibility after serving twenty years of imprisonment was 8307  
imposed pursuant to section 2929.02 or former section 2929.022 8308  
or 2929.03 of the Revised Code, after serving a term of twenty 8309  
years; 8310

(3) If a sentence of imprisonment for life with parole 8311  
eligibility after serving twenty-five full years of imprisonment 8312  
was imposed pursuant to section 2929.02 or former section 8313  
2929.022 or 2929.03 of the Revised Code, after serving a term of 8314  
twenty-five full years; 8315

(4) If a sentence of imprisonment for life with parole 8316  
eligibility after serving thirty full years of imprisonment was 8317  
imposed pursuant to section 2929.02 or former section 2929.022 8318  
or 2929.03 of the Revised Code, after serving a term of thirty 8319  
full years; 8320

(5) If a sentence of imprisonment for life was imposed for 8321  
rape, after serving a term of ten full years' imprisonment; 8322

(6) If a sentence of imprisonment for life with parole 8323  
eligibility after serving fifteen years of imprisonment was 8324  
imposed for a violation of section 2927.24 of the Revised Code, 8325  
after serving a term of fifteen years. 8326

(B) Except as provided in division (G) of this section, a 8327  
prisoner serving a sentence of imprisonment for life with parole 8328  
eligibility after serving twenty years of imprisonment or a 8329  
sentence of imprisonment for life with parole eligibility after 8330  
serving twenty-five full years or thirty full years of 8331  
imprisonment imposed pursuant to section 2929.02 or former 8332  
section 2929.022 or 2929.03 of the Revised Code for an offense 8333  
committed on or after July 1, 1996, consecutively to any other 8334  
term of imprisonment, becomes eligible for parole after serving 8335  
twenty years, twenty full years, or thirty full years, as 8336  
applicable, as to each such sentence of life imprisonment, which 8337  
shall not be reduced for earned credits under section 2967.193 8338  
of the Revised Code, plus the term or terms of the other 8339  
sentences consecutively imposed or, if one of the other 8340



sentences is another type of life sentence with parole 8341  
eligibility, the number of years before parole eligibility for 8342  
that sentence. 8343

(C) Except as provided in division (G) of this section, a 8344  
prisoner serving consecutively two or more sentences in which an 8345  
indefinite term of imprisonment is imposed becomes eligible for 8346  
parole upon the expiration of the aggregate of the minimum terms 8347  
of the sentences. 8348

(D) Except as provided in division (G) of this section, a 8349  
prisoner serving a term of imprisonment who is described in 8350  
division (A) of section 2967.021 of the Revised Code becomes 8351  
eligible for parole as described in that division or, if the 8352  
prisoner is serving a definite term of imprisonment, shall be 8353  
released as described in that division. 8354

(E) A prisoner serving a sentence of life imprisonment 8355  
without parole imposed pursuant to section 2907.02 or 2929.02 or 8356  
former section 2929.03 or 2929.06 of the Revised Code is not 8357  
eligible for parole and shall be imprisoned until death. 8358

(F) A prisoner serving a stated prison term shall be 8359  
released in accordance with section 2967.28 of the Revised Code. 8360

(G) A prisoner serving a prison term or term of life 8361  
imprisonment without parole imposed pursuant to section 2971.03 8362  
of the Revised Code never becomes eligible for parole during 8363  
that term of imprisonment. 8364

**Sec. 2967.19.** (A) As used in this section: 8365

(1) "Deadly weapon" and "dangerous ordnance" have the same 8366  
meanings as in section 2923.11 of the Revised Code. 8367

(2) "Disqualifying prison term" means any of the 8368

following:	8369
(a) A prison term imposed for aggravated murder, murder,	8370
voluntary manslaughter, involuntary manslaughter, felonious	8371
assault, kidnapping, rape, aggravated arson, aggravated	8372
burglary, or aggravated robbery;	8373
(b) A prison term imposed for complicity in, an attempt to	8374
commit, or conspiracy to commit any offense listed in division	8375
(A) (2) (a) of this section;	8376
(c) A prison term of life imprisonment, including any term	8377
of life imprisonment that has parole eligibility;	8378
(d) A prison term imposed for any felony other than	8379
carrying a concealed weapon an essential element of which is any	8380
conduct or failure to act expressly involving any deadly weapon	8381
or dangerous ordnance;	8382
(e) A prison term imposed for any violation of section	8383
2925.03 of the Revised Code that is a felony of the first or	8384
second degree;	8385
(f) A prison term imposed for engaging in a pattern of	8386
corrupt activity in violation of section 2923.32 of the Revised	8387
Code;	8388
(g) A prison term imposed pursuant to section 2971.03 of	8389
the Revised Code;	8390
(h) A prison term imposed for any sexually oriented	8391
offense.	8392
(3) "Eligible prison term" means any prison term that is	8393
not a disqualifying prison term and is not a restricting prison	8394
term.	8395

(4) "Restricting prison term" means any of the following:	8396
(a) A mandatory prison term imposed under division (B) (1)	8397
(a), (B) (1) (c), (B) (1) (f), (B) (1) (g), (B) (2), or (B) (7) of	8398
section 2929.14 of the Revised Code for a specification of the	8399
type described in that division;	8400
(b) In the case of an offender who has been sentenced to a	8401
mandatory prison term for a specification of the type described	8402
in division (A) (4) (a) of this section, the prison term imposed	8403
for the felony offense for which the specification was stated at	8404
the end of the body of the indictment, count in the indictment,	8405
or information charging the offense;	8406
(c) A prison term imposed for trafficking in persons;	8407
(d) A prison term imposed for any offense that is	8408
described in division (A) (4) (d) (i) of this section if division	8409
(A) (4) (d) (ii) of this section applies to the offender:	8410
(i) The offense is a felony of the first or second degree	8411
that is an offense of violence and that is not described in	8412
division (A) (2) (a) or (b) of this section, an attempt to commit	8413
a felony of the first or second degree that is an offense of	8414
violence and that is not described in division (A) (2) (a) or (b)	8415
of this section if the attempt is a felony of the first or	8416
second degree, or an offense under an existing or former law of	8417
this state, another state, or the United States that is or was	8418
substantially equivalent to any other offense described in this	8419
division.	8420
(ii) The offender previously was convicted of or pleaded	8421
guilty to any offense listed in division (A) (2) or (A) (4) (d) (i)	8422
of this section.	8423
(5) "Sexually oriented offense" has the same meaning as in	8424

section 2950.01 of the Revised Code. 8425

(B) The director of the department of rehabilitation and 8426  
correction may recommend in writing to the sentencing court that 8427  
the court consider releasing from prison any offender who, on or 8428  
after September 30, 2011, is confined in a state correctional 8429  
institution, who is serving a stated prison term of one year or 8430  
more, and who is eligible under division (C) of this section for 8431  
a release under this section. If the director wishes to 8432  
recommend that the sentencing court consider releasing an 8433  
offender under this section, the director shall notify the 8434  
sentencing court in writing of the offender's eligibility not 8435  
earlier than ninety days prior to the date on which the offender 8436  
becomes eligible as described in division (C) of this section. 8437  
The director's submission of the written notice constitutes a 8438  
recommendation by the director that the court strongly consider 8439  
release of the offender consistent with the purposes and 8440  
principles of sentencing set forth in sections 2929.11 and 8441  
2929.13 of the Revised Code. Only an offender recommended by the 8442  
director under division (B) of this section may be considered 8443  
for early release under this section. 8444

(C) (1) An offender serving a stated prison term of one 8445  
year or more and who has commenced service of that stated prison 8446  
term becomes eligible for release from prison under this section 8447  
only as described in this division. An offender serving a stated 8448  
prison term that includes a disqualifying prison term is not 8449  
eligible for release from prison under this section. An offender 8450  
serving a stated prison term that consists solely of one or more 8451  
restricting prison terms is not eligible for release under this 8452  
section. An offender serving a stated prison term of one year or 8453  
more that includes one or more restricting prison terms and one 8454  
or more eligible prison terms becomes eligible for release under 8455

this section after having fully served all restricting prison 8456  
terms and having served eighty per cent of the stated prison 8457  
term that remains to be served after all restricting prison 8458  
terms have been fully served. An offender serving a stated 8459  
prison term that consists solely of one or more eligible prison 8460  
terms becomes eligible for release under this section after 8461  
having served eighty per cent of that stated prison term. For 8462  
purposes of determining an offender's eligibility for release 8463  
under this section, if the offender's stated prison term 8464  
includes consecutive prison terms, any restricting prison terms 8465  
shall be deemed served prior to any eligible prison terms that 8466  
run consecutively to the restricting prison terms, and the 8467  
eligible prison terms are deemed to commence after all of the 8468  
restricting prison terms have been fully served. 8469

An offender serving a stated prison term of one year or 8470  
more that includes a mandatory prison term that is not a 8471  
disqualifying prison term and is not a restricting prison term 8472  
is not automatically ineligible as a result of the offender's 8473  
service of that mandatory term for release from prison under 8474  
this section, and the offender's eligibility for release from 8475  
prison under this section is determined in accordance with this 8476  
division. 8477

(2) If an offender confined in a state correctional 8478  
institution under a stated prison term is eligible for release 8479  
under this section as described in division (C)(1) of this 8480  
section, the director of the department of rehabilitation and 8481  
correction may recommend in writing that the sentencing court 8482  
consider releasing the offender from prison under this section 8483  
by submitting to the sentencing court the written notice 8484  
described in division (B) of this section. 8485

(D) The director shall include with any notice submitted 8486  
to the sentencing court under division (B) of this section an 8487  
institutional summary report that covers the offender's 8488  
participation while confined in a state correctional institution 8489  
in school, training, work, treatment, and other rehabilitative 8490  
activities and any disciplinary action taken against the 8491  
offender while so confined. The director shall include with the 8492  
notice any other documentation requested by the court, if 8493  
available. 8494

(E) (1) When the director submits a written notice to a 8495  
sentencing court that an offender is eligible to be considered 8496  
for early release under this section, the department promptly 8497  
shall provide to the prosecuting attorney of the county in which 8498  
the offender was indicted a copy of the written notice, a copy 8499  
of the institutional summary report, and any other information 8500  
provided to the court and shall provide a copy of the 8501  
institutional summary report to any law enforcement agency that 8502  
requests the report. The department also promptly shall do 8503  
whichever of the following is applicable: 8504

(a) Subject to division (E) (1) (b) of this section, give 8505  
written notice of the submission to any victim of the offender 8506  
or victim's representative of any victim of the offender who is 8507  
registered with the office of victim's services. 8508

(b) If the offense was aggravated murder, murder, an 8509  
offense of violence that is a felony of the first, second, or 8510  
third degree, or an offense punished by a sentence of life 8511  
imprisonment, except as otherwise provided in this division, 8512  
notify the victim or the victim's representative of the filing 8513  
of the petition regardless of whether the victim or victim's 8514  
representative has registered with the office of victim's 8515

services. The notice of the filing of the petition shall not be 8516  
given under this division to a victim or victim's representative 8517  
if the victim or victim's representative has requested pursuant 8518  
to division (B) (2) of section 2930.03 of the Revised Code that 8519  
the victim or the victim's representative not be provided the 8520  
notice. If notice is to be provided to a victim or victim's 8521  
representative under this division, the department may give the 8522  
notice by any reasonable means, including regular mail, 8523  
telephone, and electronic mail, in accordance with division (D) 8524  
(1) of section 2930.16 of the Revised Code. If the notice is 8525  
based on an offense committed prior to ~~the effective date of~~ 8526  
~~this amendment~~ March 22, 2013, the notice also shall include the 8527  
opt-out information described in division (D) (1) of section 8528  
2930.16 of the Revised Code. The department, in accordance with 8529  
division (D) (2) of section 2930.16 of the Revised Code, shall 8530  
keep a record of all attempts to provide the notice, and of all 8531  
notices provided, under this division. 8532

Division (E) (1) (b) of this section, and the notice-related 8533  
provisions of divisions (E) (2) and (K) of section 2929.20, 8534  
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 8535  
2967.12, division (A) (3) (b) of section 2967.26, division (D) (1) 8536  
of section 2967.28, and division (A) (2) of section 5149.101 of 8537  
the Revised Code enacted in the act in which division (E) (2) of 8538  
this section was enacted, shall be known as "Roberta's Law." 8539

(2) When the director submits a petition under this 8540  
section, the department also promptly shall post a copy of the 8541  
written notice on the database it maintains under section 8542  
5120.66 of the Revised Code and include information on where a 8543  
person may send comments regarding the recommendation of early 8544  
release. 8545

The information provided to the court, the prosecutor, and 8546  
the victim or victim's representative under divisions (D) and 8547  
(E) of this section shall include the name and contact 8548  
information of a specific department of rehabilitation and 8549  
correction employee who is available to answer questions about 8550  
the offender who is the subject of the written notice submitted 8551  
by the director, including, but not limited to, the offender's 8552  
institutional conduct and rehabilitative activities while 8553  
incarcerated. 8554

(F) Upon receipt of a written notice submitted by the 8555  
director under division (B) of this section, the court either 8556  
shall, on its own motion, schedule a hearing to consider 8557  
releasing the offender who is the subject of the notice or shall 8558  
inform the department that it will not be conducting a hearing 8559  
relative to the offender. The court shall not grant an early 8560  
release to an offender without holding a hearing. If a court 8561  
declines to hold a hearing relative to an offender with respect 8562  
to a written notice submitted by the director, the court may 8563  
later consider release of that offender under this section on 8564  
its own motion by scheduling a hearing for that purpose. Within 8565  
thirty days after the written notice is submitted, the court 8566  
shall inform the department whether or not the court is 8567  
scheduling a hearing on the offender who is the subject of the 8568  
notice. 8569

(G) If the court schedules a hearing upon receiving a 8570  
written notice submitted under division (B) of this section or 8571  
upon its own motion under division (F) of this section, the 8572  
court shall notify the head of the state correctional 8573  
institution in which the offender is confined of the hearing 8574  
prior to the hearing. If the court makes a journal entry 8575  
ordering the offender to be conveyed to the hearing, except as 8576



otherwise provided in this division, the head of the 8577  
correctional institution shall deliver the offender to the 8578  
sheriff of the county in which the hearing is to be held, and 8579  
the sheriff shall convey the offender to and from the hearing. 8580  
Upon the court's own motion or the motion of the offender or the 8581  
prosecuting attorney of the county in which the offender was 8582  
indicted, the court may permit the offender to appear at the 8583  
hearing by video conferencing equipment if equipment of that 8584  
nature is available and compatible. 8585

Upon receipt of notice from a court of a hearing on the 8586  
release of an offender under this division, the head of the 8587  
state correctional institution in which the offender is confined 8588  
immediately shall notify the appropriate person at the 8589  
department of rehabilitation and correction of the hearing, and 8590  
the department within twenty-four hours after receipt of the 8591  
notice shall post on the database it maintains pursuant to 8592  
section 5120.66 of the Revised Code the offender's name and all 8593  
of the information specified in division (A)(1)(c)(i) of that 8594  
section. If the court schedules a hearing under this section, 8595  
the court promptly shall give notice of the hearing to the 8596  
prosecuting attorney of the county in which the offender was 8597  
indicted. Upon receipt of the notice from the court, the 8598  
prosecuting attorney shall notify pursuant to section 2930.16 of 8599  
the Revised Code any victim of the offender or the victim's 8600  
representative of the hearing. 8601

(H) If the court schedules a hearing under this section, 8602  
at the hearing, the court shall afford the offender and the 8603  
offender's attorney an opportunity to present written 8604  
information and, if present, oral information relevant to the 8605  
offender's early release. The court shall afford a similar 8606  
opportunity to the prosecuting attorney, victim or victim's 8607

representative, as defined in section 2930.01 of the Revised Code, and any other person the court determines is likely to present additional relevant information. If the court pursuant to division (G) of this section permits the offender to appear at the hearing by video conferencing equipment, the offender's opportunity to present oral information shall be as a part of the video conferencing. The court shall consider any statement of a victim made under section 2930.14 or 2930.17 of the Revised Code, any victim impact statement prepared under section 2947.051 of the Revised Code, and any report and other documentation submitted by the director under division (D) of this section. After ruling on whether to grant the offender early release, the court shall notify the victim in accordance with sections 2930.03 and 2930.16 of the Revised Code.

(I) If the court grants an offender early release under this section, it shall order the release of the offender, shall place the offender under one or more appropriate community control sanctions, under appropriate conditions, and under the supervision of the department of probation that serves the court, and shall reserve the right to reimpose the sentence that it reduced and from which the offender was released if the offender violates the sanction. The court shall not make a release under this section effective prior to the date on which the offender becomes eligible as described in division (C) of this section. If the sentence under which the offender is confined in a state correctional institution and from which the offender is being released was imposed for a felony of the first or second degree, the court shall consider ordering that the offender be monitored by means of a global positioning device. If the court reimposes the sentence that it reduced and from which the offender was released and if the violation of the

sanction is a new offense, the court may order that the 8639  
reimposed sentence be served either concurrently with, or 8640  
consecutive to, any new sentence imposed upon the offender as a 8641  
result of the violation that is a new offense. The period of all 8642  
community control sanctions imposed under this division shall 8643  
not exceed five years. The court, in its discretion, may reduce 8644  
the period of community control sanctions by the amount of time 8645  
the offender spent in jail or prison for the offense. 8646

If the court grants an offender early release under this 8647  
section, it shall notify the appropriate person at the 8648  
department of rehabilitation and correction of the release, and 8649  
the department shall post notice of the release on the database 8650  
it maintains pursuant to section 5120.66 of the Revised Code. 8651

(J) The department shall adopt under Chapter 119. of the 8652  
Revised Code any rules necessary to implement this section. 8653

**Sec. 2967.193.** (A) (1) Except as provided in division (C) 8654  
of this section and subject to the maximum aggregate total 8655  
specified in division (A) (2) of this section, a person confined 8656  
in a state correctional institution or placed in the substance 8657  
use disorder treatment program may provisionally earn one day or 8658  
five days of credit, based on the category set forth in division 8659  
(D) (1), (2), (3), (4), or (5) of this section in which the 8660  
person is included, toward satisfaction of the person's stated 8661  
prison term for each completed month during which the person, if 8662  
confined in a state correctional institution, productively 8663  
participates in an education program, vocational training, 8664  
employment in prison industries, treatment for substance abuse, 8665  
or any other constructive program developed by the department 8666  
with specific standards for performance by prisoners or during 8667  
which the person, if placed in the substance use disorder 8668

treatment program, productively participates in the program. 8669  
Except as provided in division (C) of this section and subject 8670  
to the maximum aggregate total specified in division (A) (2) of 8671  
this section, a person so confined in a state correctional 8672  
institution who successfully completes two programs or 8673  
activities of that type may, in addition, provisionally earn up 8674  
to five days of credit toward satisfaction of the person's 8675  
stated prison term for the successful completion of the second 8676  
program or activity. The person shall not be awarded any 8677  
provisional days of credit for the successful completion of the 8678  
first program or activity or for the successful completion of 8679  
any program or activity that is completed after the second 8680  
program or activity. At the end of each calendar month in which 8681  
a person productively participates in a program or activity 8682  
listed in this division or successfully completes a program or 8683  
activity listed in this division, the department of 8684  
rehabilitation and correction shall determine and record the 8685  
total number of days credit that the person provisionally earned 8686  
in that calendar month. If the person in a state correctional 8687  
institution violates prison rules or the person in the substance 8688  
use disorder treatment program violates program or department 8689  
rules, the department may deny the person a credit that 8690  
otherwise could have been provisionally awarded to the person or 8691  
may withdraw one or more credits previously provisionally earned 8692  
by the person. Days of credit provisionally earned by a person 8693  
shall be finalized and awarded by the department subject to 8694  
administrative review by the department of the person's conduct. 8695

(2) The aggregate days of credit provisionally earned by a 8696  
person for program or activity participation and program and 8697  
activity completion under this section and the aggregate days of 8698  
credit finally credited to a person under this section shall not 8699

exceed eight per cent of the total number of days in the 8700  
person's stated prison term. 8701

(B) The department of rehabilitation and correction shall 8702  
adopt rules that specify the programs or activities for which 8703  
credit may be earned under this section, the criteria for 8704  
determining productive participation in, or completion of, the 8705  
programs or activities and the criteria for awarding credit, 8706  
including criteria for awarding additional credit for successful 8707  
program or activity completion, and the criteria for denying or 8708  
withdrawing previously provisionally earned credit as a result 8709  
of a violation of prison rules, or program or department rules, 8710  
whichever is applicable. 8711

(C) No person confined in a state correctional institution 8712  
or placed in a substance use disorder treatment program to whom 8713  
any of the following applies shall be awarded any days of credit 8714  
under division (A) of this section: 8715

(1) The person is serving a prison term that section 8716  
2929.13 or section 2929.14 of the Revised Code specifies cannot 8717  
be reduced pursuant to this section or this chapter or is 8718  
serving a sentence for which section 2967.13 or division (B) of 8719  
section 2929.143 of the Revised Code specifies that the person 8720  
is not entitled to any earned credit under this section. 8721

(2) The person is ~~sentenced to death or is~~ serving a 8722  
prison term or a term of life imprisonment for aggravated 8723  
murder, murder, or a conspiracy or attempt to commit, or 8724  
complicity in committing, aggravated murder or murder. 8725

(3) The person is serving a sentence of life imprisonment 8726  
without parole imposed pursuant to section 2929.02 or former 8727  
section 2929.03 or 2929.06 of the Revised Code, a prison term or 8728

a term of life imprisonment without parole imposed pursuant to 8729  
section 2971.03 of the Revised Code, or a sentence for a 8730  
sexually oriented offense that was committed on or after 8731  
September 30, 2011. 8732

(D) This division does not apply to a determination of 8733  
whether a person confined in a state correctional institution or 8734  
placed in a substance use disorder treatment program may earn 8735  
any days of credit under division (A) of this section for 8736  
successful completion of a second program or activity. The 8737  
determination of whether a person confined in a state 8738  
correctional institution may earn one day of credit or five days 8739  
of credit under division (A) of this section for each completed 8740  
month during which the person productively participates in a 8741  
program or activity specified under that division shall be made 8742  
in accordance with the following: 8743

(1) The offender may earn one day of credit under division 8744  
(A) of this section, except as provided in division (C) of this 8745  
section, if the most serious offense for which the offender is 8746  
confined is any of the following that is a felony of the first 8747  
or second degree: 8748

(a) A violation of division (A) of section 2903.04 or of 8749  
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 8750  
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 8751  
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.151, 2919.22, 8752  
2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, or 8753  
2927.24 of the Revised Code; 8754

(b) A conspiracy or attempt to commit, or complicity in 8755  
committing, any other offense for which the maximum penalty is 8756  
imprisonment for life or any offense listed in division (D)(1) 8757  
(a) of this section. 8758

(2) The offender may earn one day of credit under division 8759  
(A) of this section, except as provided in division (C) of this 8760  
section, if the offender is serving a stated prison term that 8761  
includes a prison term imposed for a sexually oriented offense 8762  
that the offender committed prior to September 30, 2011. 8763

(3) The offender may earn one day of credit under division 8764  
(A) of this section, except as provided in division (C) of this 8765  
section, if the offender is serving a stated prison term that 8766  
includes a prison term imposed for a felony other than carrying 8767  
a concealed weapon an essential element of which is any conduct 8768  
or failure to act expressly involving any deadly weapon or 8769  
dangerous ordnance. 8770

(4) Except as provided in division (C) of this section, if 8771  
the most serious offense for which the offender is confined is a 8772  
felony of the first or second degree and divisions (D) (1), (2), 8773  
and (3) of this section do not apply to the offender, the 8774  
offender may earn one day of credit under division (A) of this 8775  
section if the offender committed that offense prior to 8776  
September 30, 2011, and the offender may earn five days of 8777  
credit under division (A) of this section if the offender 8778  
committed that offense on or after September 30, 2011. 8779

(5) Except as provided in division (C) of this section, if 8780  
the most serious offense for which the offender is confined is a 8781  
felony of the third, fourth, or fifth degree or an unclassified 8782  
felony and neither division (D) (2) nor (3) of this section 8783  
applies to the offender, the offender may earn one day of credit 8784  
under division (A) of this section if the offender committed 8785  
that offense prior to September 30, 2011, and the offender may 8786  
earn five days of credit under division (A) of this section if 8787  
the offender committed that offense on or after September 30, 8788

2011. 8789

(E) The department annually shall seek and consider the 8790  
written feedback of the Ohio prosecuting attorneys association, 8791  
the Ohio judicial conference, the Ohio public defender, the Ohio 8792  
association of criminal defense lawyers, and other organizations 8793  
and associations that have an interest in the operation of the 8794  
corrections system and the earned credits program under this 8795  
section as part of its evaluation of the program and in 8796  
determining whether to modify the program. 8797

(F) As used in this section: 8798

(1) "Sexually oriented offense" has the same meaning as in 8799  
section 2950.01 of the Revised Code. 8800

(2) "Substance use disorder treatment program" means the 8801  
substance use disorder treatment program established by the 8802  
department of rehabilitation and correction under section 8803  
5120.035 of the Revised Code. 8804

**Sec. 2967.26.** (A) (1) The department of rehabilitation and 8805  
correction, by rule, may establish a transitional control 8806  
program for the purpose of closely monitoring a prisoner's 8807  
adjustment to community supervision during the final one hundred 8808  
eighty days of the prisoner's confinement. If the department 8809  
establishes a transitional control program under this division, 8810  
the division of parole and community services of the department 8811  
of rehabilitation and correction may transfer eligible prisoners 8812  
to transitional control status under the program during the 8813  
final one hundred eighty days of their confinement and under the 8814  
terms and conditions established by the department, shall 8815  
provide for the confinement as provided in this division of each 8816  
eligible prisoner so transferred, and shall supervise each 8817



eligible prisoner so transferred in one or more community 8818  
control sanctions. Each eligible prisoner who is transferred to 8819  
transitional control status under the program shall be confined 8820  
in a suitable facility that is licensed pursuant to division (C) 8821  
of section 2967.14 of the Revised Code, or shall be confined in 8822  
a residence the department has approved for this purpose and be 8823  
monitored pursuant to an electronic monitoring device, as 8824  
defined in section 2929.01 of the Revised Code. If the 8825  
department establishes a transitional control program under this 8826  
division, the rules establishing the program shall include 8827  
criteria that define which prisoners are eligible for the 8828  
program, criteria that must be satisfied to be approved as a 8829  
residence that may be used for confinement under the program of 8830  
a prisoner that is transferred to it and procedures for the 8831  
department to approve residences that satisfy those criteria, 8832  
and provisions of the type described in division (C) of this 8833  
section. At a minimum, the criteria that define which prisoners 8834  
are eligible for the program shall provide all of the following: 8835

(a) That a prisoner is eligible for the program if the 8836  
prisoner is serving a prison term or term of imprisonment for an 8837  
offense committed prior to March 17, 1998, and if, at the time 8838  
at which eligibility is being determined, the prisoner would 8839  
have been eligible for a furlough under this section as it 8840  
existed immediately prior to March 17, 1998, or would have been 8841  
eligible for conditional release under former section 2967.23 of 8842  
the Revised Code as that section existed immediately prior to 8843  
March 17, 1998; 8844

(b) That no prisoner who is serving a mandatory prison 8845  
term is eligible for the program until after expiration of the 8846  
mandatory term; 8847

(c) That no prisoner who is serving a prison term or term 8848  
of life imprisonment without parole imposed pursuant to section 8849  
2971.03 of the Revised Code is eligible for the program. 8850

(2) At least sixty days prior to transferring to 8851  
transitional control under this section a prisoner who is 8852  
serving a term of imprisonment or prison term of two years or 8853  
less for an offense committed on or after July 1, 1996, the 8854  
division of parole and community services of the department of 8855  
rehabilitation and correction shall give notice of the pendency 8856  
of the transfer to transitional control to the court of common 8857  
pleas of the county in which the indictment against the prisoner 8858  
was found and of the fact that the court may disapprove the 8859  
transfer of the prisoner to transitional control and shall 8860  
include the institutional summary report prepared by the head of 8861  
the state correctional institution in which the prisoner is 8862  
confined. The head of the state correctional institution in 8863  
which the prisoner is confined, upon the request of the division 8864  
of parole and community services, shall provide to the division 8865  
for inclusion in the notice sent to the court under this 8866  
division an institutional summary report on the prisoner's 8867  
conduct in the institution and in any institution from which the 8868  
prisoner may have been transferred. The institutional summary 8869  
report shall cover the prisoner's participation in school, 8870  
vocational training, work, treatment, and other rehabilitative 8871  
activities and any disciplinary action taken against the 8872  
prisoner. If the court disapproves of the transfer of the 8873  
prisoner to transitional control, the court shall notify the 8874  
division of the disapproval within thirty days after receipt of 8875  
the notice. If the court timely disapproves the transfer of the 8876  
prisoner to transitional control, the division shall not proceed 8877  
with the transfer. If the court does not timely disapprove the 8878

transfer of the prisoner to transitional control, the division 8879  
may transfer the prisoner to transitional control. 8880

(3) (a) If the victim of an offense for which a prisoner 8881  
was sentenced to a prison term or term of imprisonment has 8882  
requested notification under section 2930.16 of the Revised Code 8883  
and has provided the department of rehabilitation and correction 8884  
with the victim's name and address or if division (A) (3) (b) of 8885  
this section applies, the division of parole and community 8886  
services, at least sixty days prior to transferring the prisoner 8887  
to transitional control pursuant to this section, shall notify 8888  
the victim of the pendency of the transfer and of the victim's 8889  
right to submit a statement to the division regarding the impact 8890  
of the transfer of the prisoner to transitional control. If the 8891  
victim subsequently submits a statement of that nature to the 8892  
division, the division shall consider the statement in deciding 8893  
whether to transfer the prisoner to transitional control. 8894

(b) If a prisoner is incarcerated for the commission of 8895  
aggravated murder, murder, or an offense of violence that is a 8896  
felony of the first, second, or third degree or under a sentence 8897  
of life imprisonment, except as otherwise provided in this 8898  
division, the notice described in division (A) (3) (a) of this 8899  
section shall be given regardless of whether the victim has 8900  
requested the notification. The notice described in division (A) 8901  
(3) (a) of this section shall not be given under this division to 8902  
a victim if the victim has requested pursuant to division (B) (2) 8903  
of section 2930.03 of the Revised Code that the victim not be 8904  
provided the notice. If notice is to be provided to a victim 8905  
under this division, the authority may give the notice by any 8906  
reasonable means, including regular mail, telephone, and 8907  
electronic mail, in accordance with division (D) (1) of section 8908  
2930.16 of the Revised Code. If the notice is based on an 8909

offense committed prior to March 22, 2013, the notice also shall 8910  
include the opt-out information described in division (D) (1) of 8911  
section 2930.16 of the Revised Code. The authority, in 8912  
accordance with division (D) (2) of section 2930.16 of the 8913  
Revised Code, shall keep a record of all attempts to provide the 8914  
notice, and of all notices provided, under this division. 8915

Division (A) (3) (b) of this section, and the notice-related 8916  
provisions of divisions (E) (2) and (K) of section 2929.20, 8917  
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 8918  
2967.12, division (E) (1) (b) of section 2967.19, division (D) (1) 8919  
of section 2967.28, and division (A) (2) of section 5149.101 of 8920  
the Revised Code enacted in the act in which division (A) (3) (b) 8921  
of this section was enacted, shall be known as "Roberta's Law." 8922

(4) The department of rehabilitation and correction, at 8923  
least sixty days prior to transferring a prisoner to 8924  
transitional control pursuant to this section, shall post on the 8925  
database it maintains pursuant to section 5120.66 of the Revised 8926  
Code the prisoner's name and all of the information specified in 8927  
division (A) (1) (c) (iv) of that section. In addition to and 8928  
independent of the right of a victim to submit a statement as 8929  
described in division (A) (3) of this section or to otherwise 8930  
make a statement and in addition to and independent of any other 8931  
right or duty of a person to present information or make a 8932  
statement, any person may send to the division of parole and 8933  
community services at any time prior to the division's transfer 8934  
of the prisoner to transitional control a written statement 8935  
regarding the transfer of the prisoner to transitional control. 8936  
In addition to the information, reports, and statements it 8937  
considers under divisions (A) (2) and (3) of this section or that 8938  
it otherwise considers, the division shall consider each 8939  
statement submitted in accordance with this division in deciding 8940

whether to transfer the prisoner to transitional control. 8941

(B) Each prisoner transferred to transitional control 8942  
under this section shall be confined in the manner described in 8943  
division (A) of this section during any period of time that the 8944  
prisoner is not actually working at the prisoner's approved 8945  
employment, engaged in a vocational training or another 8946  
educational program, engaged in another program designated by 8947  
the director, or engaged in other activities approved by the 8948  
department. 8949

(C) The department of rehabilitation and correction shall 8950  
adopt rules for transferring eligible prisoners to transitional 8951  
control, supervising and confining prisoners so transferred, 8952  
administering the transitional control program in accordance 8953  
with this section, and using the moneys deposited into the 8954  
transitional control fund established under division (E) of this 8955  
section. 8956

(D) The department of rehabilitation and correction may 8957  
adopt rules for the issuance of passes for the limited purposes 8958  
described in this division to prisoners who are transferred to 8959  
transitional control under this section. If the department 8960  
adopts rules of that nature, the rules shall govern the granting 8961  
of the passes and shall provide for the supervision of prisoners 8962  
who are temporarily released pursuant to one of those passes. 8963  
Upon the adoption of rules under this division, the department 8964  
may issue passes to prisoners who are transferred to 8965  
transitional control status under this section in accordance 8966  
with the rules and the provisions of this division. All passes 8967  
issued under this division shall be for a maximum of forty-eight 8968  
hours and may be issued only for the following purposes: 8969

(1) To visit a relative in imminent danger of death; 8970

(2) To have a private viewing of the body of a deceased relative; 8971  
8972

(3) To visit with family; 8973

(4) To otherwise aid in the rehabilitation of the prisoner. 8974  
8975

(E) The division of parole and community services may 8976  
require a prisoner who is transferred to transitional control to 8977  
pay to the division the reasonable expenses incurred by the 8978  
division in supervising or confining the prisoner while under 8979  
transitional control. Inability to pay those reasonable expenses 8980  
shall not be grounds for refusing to transfer an otherwise 8981  
eligible prisoner to transitional control. Amounts received by 8982  
the division of parole and community services under this 8983  
division shall be deposited into the transitional control fund, 8984  
which is hereby created in the state treasury and which hereby 8985  
replaces and succeeds the furlough services fund that formerly 8986  
existed in the state treasury. All moneys that remain in the 8987  
furlough services fund on March 17, 1998, shall be transferred 8988  
on that date to the transitional control fund. The transitional 8989  
control fund shall be used solely to pay costs related to the 8990  
operation of the transitional control program established under 8991  
this section. The director of rehabilitation and correction 8992  
shall adopt rules in accordance with section 111.15 of the 8993  
Revised Code for the use of the fund. 8994

(F) A prisoner who violates any rule established by the 8995  
department of rehabilitation and correction under division (A), 8996  
(C), or (D) of this section may be transferred to a state 8997  
correctional institution pursuant to rules adopted under 8998  
division (A), (C), or (D) of this section, but the prisoner 8999  
shall receive credit towards completing the prisoner's sentence 9000

for the time spent under transitional control. 9001

If a prisoner is transferred to transitional control under 9002  
this section, upon successful completion of the period of 9003  
transitional control, the prisoner may be released on parole or 9004  
under post-release control pursuant to section 2967.13 or 9005  
2967.28 of the Revised Code and rules adopted by the department 9006  
of rehabilitation and correction. If the prisoner is released 9007  
under post-release control, the duration of the post-release 9008  
control, the type of post-release control sanctions that may be 9009  
imposed, the enforcement of the sanctions, and the treatment of 9010  
prisoners who violate any sanction applicable to the prisoner 9011  
are governed by section 2967.28 of the Revised Code. 9012

**Sec. 2967.28.** (A) As used in this section: 9013

(1) "Monitored time" means the monitored time sanction 9014  
specified in section 2929.17 of the Revised Code. 9015

(2) "Deadly weapon" and "dangerous ordnance" have the same 9016  
meanings as in section 2923.11 of the Revised Code. 9017

(3) "Felony sex offense" means a violation of a section 9018  
contained in Chapter 2907. of the Revised Code that is a felony. 9019

(4) "Risk reduction sentence" means a prison term imposed 9020  
by a court, when the court recommends pursuant to section 9021  
2929.143 of the Revised Code that the offender serve the 9022  
sentence under section 5120.036 of the Revised Code, and the 9023  
offender may potentially be released from imprisonment prior to 9024  
the expiration of the prison term if the offender successfully 9025  
completes all assessment and treatment or programming required 9026  
by the department of rehabilitation and correction under section 9027  
5120.036 of the Revised Code. 9028

(5) "Victim's immediate family" has the same meaning as in 9029

section 2967.12 of the Revised Code. 9030

(6) "Minor drug possession offense" has the same meaning 9031  
as in section 2925.11 of the Revised Code. 9032

(B) Each sentence to a prison term for a felony of the 9033  
first degree, for a felony of the second degree, for a felony 9034  
sex offense, or for a felony of the third degree that is an 9035  
offense of violence and is not a felony sex offense shall 9036  
include a requirement that the offender be subject to a period 9037  
of post-release control imposed by the parole board after the 9038  
offender's release from imprisonment. This division applies with 9039  
respect to all prison terms of a type described in this 9040  
division, including a term of any such type that is a risk 9041  
reduction sentence. If a court imposes a sentence including a 9042  
prison term of a type described in this division on or after 9043  
July 11, 2006, the failure of a sentencing court to notify the 9044  
offender pursuant to division (B) (2) (c) of section 2929.19 of 9045  
the Revised Code of this requirement or to include in the 9046  
judgment of conviction entered on the journal a statement that 9047  
the offender's sentence includes this requirement does not 9048  
negate, limit, or otherwise affect the mandatory period of 9049  
supervision that is required for the offender under this 9050  
division. Section 2929.191 of the Revised Code applies if, prior 9051  
to July 11, 2006, a court imposed a sentence including a prison 9052  
term of a type described in this division and failed to notify 9053  
the offender pursuant to division (B) (2) (c) of section 2929.19 9054  
of the Revised Code regarding post-release control or to include 9055  
in the judgment of conviction entered on the journal or in the 9056  
sentence pursuant to division (D) (1) of section 2929.14 of the 9057  
Revised Code a statement regarding post-release control. Unless 9058  
reduced by the parole board pursuant to division (D) of this 9059  
section when authorized under that division, a period of post- 9060



release control required by this division for an offender shall 9061  
be of one of the following periods: 9062

(1) For a felony of the first degree or for a felony sex 9063  
offense, five years; 9064

(2) For a felony of the second degree that is not a felony 9065  
sex offense, three years; 9066

(3) For a felony of the third degree that is an offense of 9067  
violence and is not a felony sex offense, three years. 9068

(C) Any sentence to a prison term for a felony of the 9069  
third, fourth, or fifth degree that is not subject to division 9070  
(B)(1) or (3) of this section shall include a requirement that 9071  
the offender be subject to a period of post-release control of 9072  
up to three years after the offender's release from 9073  
imprisonment, if the parole board, in accordance with division 9074  
(D) of this section, determines that a period of post-release 9075  
control is necessary for that offender. This division applies 9076  
with respect to all prison terms of a type described in this 9077  
division, including a term of any such type that is a risk 9078  
reduction sentence. Section 2929.191 of the Revised Code applies 9079  
if, prior to July 11, 2006, a court imposed a sentence including 9080  
a prison term of a type described in this division and failed to 9081  
notify the offender pursuant to division (B)(2)(d) of section 9082  
2929.19 of the Revised Code regarding post-release control or to 9083  
include in the judgment of conviction entered on the journal or 9084  
in the sentence pursuant to division (D)(2) of section 2929.14 9085  
of the Revised Code a statement regarding post-release control. 9086  
Pursuant to an agreement entered into under section 2967.29 of 9087  
the Revised Code, a court of common pleas or parole board may 9088  
impose sanctions or conditions on an offender who is placed on 9089  
post-release control under this division. 9090

(D) (1) Before the prisoner is released from imprisonment, 9091  
the parole board or, pursuant to an agreement under section 9092  
2967.29 of the Revised Code, the court shall impose upon a 9093  
prisoner described in division (B) of this section, shall impose 9094  
upon a prisoner described in division (C) of this section who is 9095  
to be released before the expiration of the prisoner's stated 9096  
prison term under a risk reduction sentence, may impose upon a 9097  
prisoner described in division (C) of this section who is not to 9098  
be released before the expiration of the prisoner's stated 9099  
prison term under a risk reduction sentence, and shall impose 9100  
upon a prisoner described in division (B) (2) (b) of section 9101  
5120.031 or in division (B) (1) of section 5120.032 of the 9102  
Revised Code, one or more post-release control sanctions to 9103  
apply during the prisoner's period of post-release control. 9104  
Whenever the board or court imposes one or more post-release 9105  
control sanctions upon a prisoner, the board or court, in 9106  
addition to imposing the sanctions, also shall include as a 9107  
condition of the post-release control that the offender not 9108  
leave the state without permission of the court or the 9109  
offender's parole or probation officer and that the offender 9110  
abide by the law. The board or court may impose any other 9111  
conditions of release under a post-release control sanction that 9112  
the board or court considers appropriate, and the conditions of 9113  
release may include any community residential sanction, 9114  
community nonresidential sanction, or financial sanction that 9115  
the sentencing court was authorized to impose pursuant to 9116  
sections 2929.16, 2929.17, and 2929.18 of the Revised Code. 9117  
Prior to the release of a prisoner for whom it will impose one 9118  
or more post-release control sanctions under this division, the 9119  
parole board or court shall review the prisoner's criminal 9120  
history, results from the single validated risk assessment tool 9121  
selected by the department of rehabilitation and correction 9122

under section 5120.114 of the Revised Code, all juvenile court 9123  
adjudications finding the prisoner, while a juvenile, to be a 9124  
delinquent child, and the record of the prisoner's conduct while 9125  
imprisoned. The parole board or court shall consider any 9126  
recommendation regarding post-release control sanctions for the 9127  
prisoner made by the office of victims' services. After 9128  
considering those materials, the board or court shall determine, 9129  
for a prisoner described in division (B) of this section, 9130  
division (B) (2) (b) of section 5120.031, or division (B) (1) of 9131  
section 5120.032 of the Revised Code and for a prisoner 9132  
described in division (C) of this section who is to be released 9133  
before the expiration of the prisoner's stated prison term under 9134  
a risk reduction sentence, which post-release control sanction 9135  
or combination of post-release control sanctions is reasonable 9136  
under the circumstances or, for a prisoner described in division 9137  
(C) of this section who is not to be released before the 9138  
expiration of the prisoner's stated prison term under a risk 9139  
reduction sentence, whether a post-release control sanction is 9140  
necessary and, if so, which post-release control sanction or 9141  
combination of post-release control sanctions is reasonable 9142  
under the circumstances. In the case of a prisoner convicted of 9143  
a felony of the fourth or fifth degree other than a felony sex 9144  
offense, the board or court shall presume that monitored time is 9145  
the appropriate post-release control sanction unless the board 9146  
or court determines that a more restrictive sanction is 9147  
warranted. A post-release control sanction imposed under this 9148  
division takes effect upon the prisoner's release from 9149  
imprisonment. 9150

Regardless of whether the prisoner was sentenced to the 9151  
prison term prior to, on, or after July 11, 2006, prior to the 9152  
release of a prisoner for whom it will impose one or more post- 9153

release control sanctions under this division, the parole board 9154  
shall notify the prisoner that, if the prisoner violates any 9155  
sanction so imposed or any condition of post-release control 9156  
described in division (B) of section 2967.131 of the Revised 9157  
Code that is imposed on the prisoner, the parole board may 9158  
impose a prison term of up to one-half of the stated prison term 9159  
originally imposed upon the prisoner. 9160

At least thirty days before the prisoner is released from 9161  
imprisonment, except as otherwise provided in this paragraph, 9162  
the department of rehabilitation and correction shall notify the 9163  
victim and the victim's immediate family of the date on which 9164  
the prisoner will be released, the period for which the prisoner 9165  
will be under post-release control supervision, and the terms 9166  
and conditions of the prisoner's post-release control regardless 9167  
of whether the victim or victim's immediate family has requested 9168  
the notification. The notice described in this paragraph shall 9169  
not be given to a victim or victim's immediate family if the 9170  
victim or the victim's immediate family has requested pursuant 9171  
to division (B) (2) of section 2930.03 of the Revised Code that 9172  
the notice not be provided to the victim or the victim's 9173  
immediate family. At least thirty days before the prisoner is 9174  
released from imprisonment and regardless of whether the victim 9175  
or victim's immediate family has requested that the notice 9176  
described in this paragraph be provided or not be provided to 9177  
the victim or the victim's immediate family, the department also 9178  
shall provide notice of that nature to the prosecuting attorney 9179  
in the case and the law enforcement agency that arrested the 9180  
prisoner if any officer of that agency was a victim of the 9181  
offense. 9182

If the notice given under the preceding paragraph to the 9183  
victim or the victim's immediate family is based on an offense 9184

committed prior to March 22, 2013, and if the department of 9185  
rehabilitation and correction has not previously successfully 9186  
provided any notice to the victim or the victim's immediate 9187  
family under division (B), (C), or (D) of section 2930.16 of the 9188  
Revised Code with respect to that offense and the offender who 9189  
committed it, the notice also shall inform the victim or the 9190  
victim's immediate family that the victim or the victim's 9191  
immediate family may request that the victim or the victim's 9192  
immediate family not be provided any further notices with 9193  
respect to that offense and the offender who committed it and 9194  
shall describe the procedure for making that request. The 9195  
department may give the notices to which the preceding paragraph 9196  
applies by any reasonable means, including regular mail, 9197  
telephone, and electronic mail. If the department attempts to 9198  
provide notice to any specified person under the preceding 9199  
paragraph but the attempt is unsuccessful because the department 9200  
is unable to locate the specified person, is unable to provide 9201  
the notice by its chosen method because it cannot determine the 9202  
mailing address, electronic mail address, or telephone number at 9203  
which to provide the notice, or, if the notice is sent by mail, 9204  
the notice is returned, the department shall make another 9205  
attempt to provide the notice to the specified person. If the 9206  
second attempt is unsuccessful, the department shall make at 9207  
least one more attempt to provide the notice. If the notice is 9208  
based on an offense committed prior to March 22, 2013, in each 9209  
attempt to provide the notice to the victim or victim's 9210  
immediate family, the notice shall include the opt-out 9211  
information described in this paragraph. The department, in the 9212  
manner described in division (D) (2) of section 2930.16 of the 9213  
Revised Code, shall keep a record of all attempts to provide the 9214  
notice, and of all notices provided, under this paragraph and 9215  
the preceding paragraph. The record shall be considered as if it 9216

was kept under division (D) (2) of section 2930.16 of the Revised Code. This paragraph, the preceding paragraph, and the notice-related provisions of divisions (E) (2) and (K) of section 2929.20, division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of section 2967.19, division (A) (3) (b) of section 2967.26, and division (A) (2) of section 5149.101 of the Revised Code enacted in the act in which this paragraph and the preceding paragraph were enacted, shall be known as "Roberta's Law."

(2) If a prisoner who is placed on post-release control under this section is released before the expiration of the prisoner's stated prison term by reason of credit earned under section 2967.193 of the Revised Code and if the prisoner earned sixty or more days of credit, the adult parole authority shall supervise the offender with an active global positioning system device for the first fourteen days after the offender's release from imprisonment. This division does not prohibit or limit the imposition of any post-release control sanction otherwise authorized by this section.

(3) At any time after a prisoner is released from imprisonment and during the period of post-release control applicable to the releasee, the adult parole authority or, pursuant to an agreement under section 2967.29 of the Revised Code, the court may review the releasee's behavior under the post-release control sanctions imposed upon the releasee under this section. The authority or court may determine, based upon the review and in accordance with the standards established under division (E) of this section, that a more restrictive or a less restrictive sanction is appropriate and may impose a different sanction. The authority also may recommend that the parole board or court increase or reduce the duration of the

period of post-release control imposed by the court. If the 9248  
authority recommends that the board or court increase the 9249  
duration of post-release control, the board or court shall 9250  
review the releasee's behavior and may increase the duration of 9251  
the period of post-release control imposed by the court up to 9252  
eight years. If the authority recommends that the board or court 9253  
reduce the duration of control for an offense described in 9254  
division (B) or (C) of this section, the board or court shall 9255  
review the releasee's behavior and may reduce the duration of 9256  
the period of control imposed by the court. In no case shall the 9257  
board or court reduce the duration of the period of control 9258  
imposed for an offense described in division (B)(1) of this 9259  
section to a period less than the length of the stated prison 9260  
term originally imposed, and in no case shall the board or court 9261  
permit the releasee to leave the state without permission of the 9262  
court or the releasee's parole or probation officer. 9263

(E) The department of rehabilitation and correction, in 9264  
accordance with Chapter 119. of the Revised Code, shall adopt 9265  
rules that do all of the following: 9266

(1) Establish standards for the imposition by the parole 9267  
board of post-release control sanctions under this section that 9268  
are consistent with the overriding purposes and sentencing 9269  
principles set forth in section 2929.11 of the Revised Code and 9270  
that are appropriate to the needs of releasees; 9271

(2) Establish standards that provide for a period of post- 9272  
release control of up to three years for all prisoners described 9273  
in division (C) of this section who are to be released before 9274  
the expiration of their stated prison term under a risk 9275  
reduction sentence and standards by which the parole board can 9276  
determine which prisoners described in division (C) of this 9277

section who are not to be released before the expiration of 9278  
their stated prison term under a risk reduction sentence should 9279  
be placed under a period of post-release control; 9280

(3) Establish standards to be used by the parole board in 9281  
reducing the duration of the period of post-release control 9282  
imposed by the court when authorized under division (D) of this 9283  
section, in imposing a more restrictive post-release control 9284  
sanction than monitored time upon a prisoner convicted of a 9285  
felony of the fourth or fifth degree other than a felony sex 9286  
offense, or in imposing a less restrictive control sanction upon 9287  
a releasee based on the releasee's activities including, but not 9288  
limited to, remaining free from criminal activity and from the 9289  
abuse of alcohol or other drugs, successfully participating in 9290  
approved rehabilitation programs, maintaining employment, and 9291  
paying restitution to the victim or meeting the terms of other 9292  
financial sanctions; 9293

(4) Establish standards to be used by the adult parole 9294  
authority in modifying a releasee's post-release control 9295  
sanctions pursuant to division (D)(2) of this section; 9296

(5) Establish standards to be used by the adult parole 9297  
authority or parole board in imposing further sanctions under 9298  
division (F) of this section on releasees who violate post- 9299  
release control sanctions, including standards that do the 9300  
following: 9301

(a) Classify violations according to the degree of 9302  
seriousness; 9303

(b) Define the circumstances under which formal action by 9304  
the parole board is warranted; 9305

(c) Govern the use of evidence at violation hearings; 9306



(d) Ensure procedural due process to an alleged violator;	9307
(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;	9308 9309
(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.	9310 9311
(F) (1) Whenever the parole board imposes one or more post- release control sanctions upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the field services section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the adult parole authority or to the officer of the authority who supervises the offender. The authority's officers may treat the offender as if the offender were on parole and in violation of the parole, and otherwise shall comply with this section.	9312 9313 9314 9315 9316 9317 9318 9319 9320 9321 9322 9323 9324 9325 9326 9327 9328 9329
(2) If the adult parole authority or, pursuant to an agreement under section 2967.29 of the Revised Code, the court determines that a releasee has violated a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code imposed upon the releasee and that a more restrictive sanction is appropriate, the authority or court may impose a more restrictive sanction upon the releasee,	9330 9331 9332 9333 9334 9335 9336

in accordance with the standards established under division (E) 9337  
of this section or in accordance with the agreement made under 9338  
section 2967.29 of the Revised Code, or may report the violation 9339  
to the parole board for a hearing pursuant to division (F) (3) of 9340  
this section. The authority or court may not, pursuant to this 9341  
division, increase the duration of the releasee's post-release 9342  
control or impose as a post-release control sanction a 9343  
residential sanction that includes a prison term, but the 9344  
authority or court may impose on the releasee any other 9345  
residential sanction, nonresidential sanction, or financial 9346  
sanction that the sentencing court was authorized to impose 9347  
pursuant to sections 2929.16, 2929.17, and 2929.18 of the 9348  
Revised Code. 9349

(3) The parole board or, pursuant to an agreement under 9350  
section 2967.29 of the Revised Code, the court may hold a 9351  
hearing on any alleged violation by a releasee of a post-release 9352  
control sanction or any conditions described in division (A) of 9353  
section 2967.131 of the Revised Code that are imposed upon the 9354  
releasee. If after the hearing the board or court finds that the 9355  
releasee violated the sanction or condition, the board or court 9356  
may increase the duration of the releasee's post-release control 9357  
up to the maximum duration authorized by division (B) or (C) of 9358  
this section or impose a more restrictive post-release control 9359  
sanction. If a releasee was acting pursuant to division (B) (2) 9360  
(b) of section 2925.11 of the Revised Code and in so doing 9361  
violated the conditions of a post-release control sanction based 9362  
on a minor drug possession offense as defined in that section, 9363  
the board or the court may consider the releasee's conduct in 9364  
seeking or obtaining medical assistance for another in good 9365  
faith or for self or may consider the releasee being the subject 9366  
of another person seeking or obtaining medical assistance in 9367

accordance with that division as a mitigating factor before 9368  
imposing any of the penalties described in this division. When 9369  
appropriate, the board or court may impose as a post-release 9370  
control sanction a residential sanction that includes a prison 9371  
term. The board or court shall consider a prison term as a post- 9372  
release control sanction imposed for a violation of post-release 9373  
control when the violation involves a deadly weapon or dangerous 9374  
ordnance, physical harm or attempted serious physical harm to a 9375  
person, or sexual misconduct, or when the releasee committed 9376  
repeated violations of post-release control sanctions. Unless a 9377  
releasee's stated prison term was reduced pursuant to section 9378  
5120.032 of the Revised Code, the period of a prison term that 9379  
is imposed as a post-release control sanction under this 9380  
division shall not exceed nine months, and the maximum 9381  
cumulative prison term for all violations under this division 9382  
shall not exceed one-half of the stated prison term originally 9383  
imposed upon the offender as part of this sentence. If a 9384  
releasee's stated prison term was reduced pursuant to section 9385  
5120.032 of the Revised Code, the period of a prison term that 9386  
is imposed as a post-release control sanction under this 9387  
division and the maximum cumulative prison term for all 9388  
violations under this division shall not exceed the period of 9389  
time not served in prison under the sentence imposed by the 9390  
court. The period of a prison term that is imposed as a post- 9391  
release control sanction under this division shall not count as, 9392  
or be credited toward, the remaining period of post-release 9393  
control. 9394

If an offender is imprisoned for a felony committed while 9395  
under post-release control supervision and is again released on 9396  
post-release control for a period of time determined by division 9397  
(F) (4) (d) of this section, the maximum cumulative prison term 9398

for all violations under this division shall not exceed one-half 9399  
of the total stated prison terms of the earlier felony, reduced 9400  
by any prison term administratively imposed by the parole board 9401  
or court, plus one-half of the total stated prison term of the 9402  
new felony. 9403

(4) Any period of post-release control shall commence upon 9404  
an offender's actual release from prison. If an offender is 9405  
serving an indefinite prison term or a life sentence in addition 9406  
to a stated prison term, the offender shall serve the period of 9407  
post-release control in the following manner: 9408

(a) If a period of post-release control is imposed upon 9409  
the offender and if the offender also is subject to a period of 9410  
parole under a life sentence or an indefinite sentence, and if 9411  
the period of post-release control ends prior to the period of 9412  
parole, the offender shall be supervised on parole. The offender 9413  
shall receive credit for post-release control supervision during 9414  
the period of parole. The offender is not eligible for final 9415  
release under section 2967.16 of the Revised Code until the 9416  
post-release control period otherwise would have ended. 9417

(b) If a period of post-release control is imposed upon 9418  
the offender and if the offender also is subject to a period of 9419  
parole under an indefinite sentence, and if the period of parole 9420  
ends prior to the period of post-release control, the offender 9421  
shall be supervised on post-release control. The requirements of 9422  
parole supervision shall be satisfied during the post-release 9423  
control period. 9424

(c) If an offender is subject to more than one period of 9425  
post-release control, the period of post-release control for all 9426  
of the sentences shall be the period of post-release control 9427  
that expires last, as determined by the parole board or court. 9428

Periods of post-release control shall be served concurrently and 9429  
shall not be imposed consecutively to each other. 9430

(d) The period of post-release control for a releasee who 9431  
commits a felony while under post-release control for an earlier 9432  
felony shall be the longer of the period of post-release control 9433  
specified for the new felony under division (B) or (C) of this 9434  
section or the time remaining under the period of post-release 9435  
control imposed for the earlier felony as determined by the 9436  
parole board or court. 9437

**Sec. 2971.03.** (A) Notwithstanding divisions (A) and (D) of 9438  
section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or 9439  
another section of the Revised Code, other than divisions (B) 9440  
and (C) of section 2929.14 of the Revised Code, that authorizes 9441  
or requires a specified prison term or a mandatory prison term 9442  
for a person who is convicted of or pleads guilty to a felony or 9443  
that specifies the manner and place of service of a prison term 9444  
or term of imprisonment, the court shall impose a sentence upon 9445  
a person who is convicted of or pleads guilty to a violent sex 9446  
offense and who also is convicted of or pleads guilty to a 9447  
sexually violent predator specification that was included in the 9448  
indictment, count in the indictment, or information charging 9449  
that offense, and upon a person who is convicted of or pleads 9450  
guilty to a designated homicide, assault, or kidnapping offense 9451  
and also is convicted of or pleads guilty to both a sexual 9452  
motivation specification and a sexually violent predator 9453  
specification that were included in the indictment, count in the 9454  
indictment, or information charging that offense, as follows: 9455

(1) If the offense for which the sentence is being imposed 9456  
is aggravated murder ~~and if the court does not impose upon the~~ 9457  
~~offender a sentence of death,~~ it shall impose upon the offender 9458

a term of life imprisonment without parole. ~~If the court~~ 9459  
~~sentences the offender to death and the sentence of death is~~ 9460  
~~vacated, overturned, or otherwise set aside, the court shall~~ 9461  
~~impose upon the offender a term of life imprisonment without~~ 9462  
~~parole.~~ 9463

(2) If the offense for which the sentence is being imposed 9464  
is murder; or if the offense is rape committed in violation of 9465  
division (A) (1) (b) of section 2907.02 of the Revised Code when 9466  
the offender purposely compelled the victim to submit by force 9467  
or threat of force, when the victim was less than ten years of 9468  
age, when the offender previously has been convicted of or 9469  
pleaded guilty to either rape committed in violation of that 9470  
division or a violation of an existing or former law of this 9471  
state, another state, or the United States that is substantially 9472  
similar to division (A) (1) (b) of section 2907.02 of the Revised 9473  
Code, or when the offender during or immediately after the 9474  
commission of the rape caused serious physical harm to the 9475  
victim; or if the offense is an offense other than aggravated 9476  
murder or murder for which a term of life imprisonment may be 9477  
imposed, it shall impose upon the offender a term of life 9478  
imprisonment without parole. 9479

(3) (a) Except as otherwise provided in division (A) (3) (b), 9480  
(c), (d), or (e) or (A) (4) of this section, if the offense for 9481  
which the sentence is being imposed is an offense other than 9482  
aggravated murder, murder, or rape and other than an offense for 9483  
which a term of life imprisonment may be imposed, it shall 9484  
impose an indefinite prison term consisting of a minimum term 9485  
fixed by the court from among the range of terms available as a 9486  
definite term for the offense, but not less than two years, and 9487  
a maximum term of life imprisonment. 9488

(b) Except as otherwise provided in division (A) (4) of 9489  
this section, if the offense for which the sentence is being 9490  
imposed is kidnapping that is a felony of the first degree, it 9491  
shall impose an indefinite prison term as follows: 9492

(i) If the kidnapping is committed on or after January 1, 9493  
2008, and the victim of the offense is less than thirteen years 9494  
of age, except as otherwise provided in this division, it shall 9495  
impose an indefinite prison term consisting of a minimum term of 9496  
fifteen years and a maximum term of life imprisonment. If the 9497  
kidnapping is committed on or after January 1, 2008, the victim 9498  
of the offense is less than thirteen years of age, and the 9499  
offender released the victim in a safe place unharmed, it shall 9500  
impose an indefinite prison term consisting of a minimum term of 9501  
ten years and a maximum term of life imprisonment. 9502

(ii) If the kidnapping is committed prior to January 1, 9503  
2008, or division (A) (3) (b) (i) of this section does not apply, 9504  
it shall impose an indefinite term consisting of a minimum term 9505  
fixed by the court that is not less than ten years and a maximum 9506  
term of life imprisonment. 9507

(c) Except as otherwise provided in division (A) (4) of 9508  
this section, if the offense for which the sentence is being 9509  
imposed is kidnapping that is a felony of the second degree, it 9510  
shall impose an indefinite prison term consisting of a minimum 9511  
term fixed by the court that is not less than eight years, and a 9512  
maximum term of life imprisonment. 9513

(d) Except as otherwise provided in division (A) (4) of 9514  
this section, if the offense for which the sentence is being 9515  
imposed is rape for which a term of life imprisonment is not 9516  
imposed under division (A) (2) of this section or division (B) of 9517  
section 2907.02 of the Revised Code, it shall impose an 9518

indefinite prison term as follows: 9519

(i) If the rape is committed on or after January 2, 2007, 9520  
in violation of division (A) (1) (b) of section 2907.02 of the 9521  
Revised Code, it shall impose an indefinite prison term 9522  
consisting of a minimum term of twenty-five years and a maximum 9523  
term of life imprisonment. 9524

(ii) If the rape is committed prior to January 2, 2007, or 9525  
the rape is committed on or after January 2, 2007, other than in 9526  
violation of division (A) (1) (b) of section 2907.02 of the 9527  
Revised Code, it shall impose an indefinite prison term 9528  
consisting of a minimum term fixed by the court that is not less 9529  
than ten years, and a maximum term of life imprisonment. 9530

(e) Except as otherwise provided in division (A) (4) of 9531  
this section, if the offense for which sentence is being imposed 9532  
is attempted rape, it shall impose an indefinite prison term as 9533  
follows: 9534

(i) Except as otherwise provided in division (A) (3) (e) 9535  
(ii), (iii), or (iv) of this section, it shall impose an 9536  
indefinite prison term pursuant to division (A) (3) (a) of this 9537  
section. 9538

(ii) If the attempted rape for which sentence is being 9539  
imposed was committed on or after January 2, 2007, and if the 9540  
offender also is convicted of or pleads guilty to a 9541  
specification of the type described in section 2941.1418 of the 9542  
Revised Code, it shall impose an indefinite prison term 9543  
consisting of a minimum term of five years and a maximum term of 9544  
twenty-five years. 9545

(iii) If the attempted rape for which sentence is being 9546  
imposed was committed on or after January 2, 2007, and if the 9547



offender also is convicted of or pleads guilty to a 9548  
specification of the type described in section 2941.1419 of the 9549  
Revised Code, it shall impose an indefinite prison term 9550  
consisting of a minimum term of ten years and a maximum of life 9551  
imprisonment. 9552

(iv) If the attempted rape for which sentence is being 9553  
imposed was committed on or after January 2, 2007, and if the 9554  
offender also is convicted of or pleads guilty to a 9555  
specification of the type described in section 2941.1420 of the 9556  
Revised Code, it shall impose an indefinite prison term 9557  
consisting of a minimum term of fifteen years and a maximum of 9558  
life imprisonment. 9559

(4) For any offense for which the sentence is being 9560  
imposed, if the offender previously has been convicted of or 9561  
pleaded guilty to a violent sex offense and also to a sexually 9562  
violent predator specification that was included in the 9563  
indictment, count in the indictment, or information charging 9564  
that offense, or previously has been convicted of or pleaded 9565  
guilty to a designated homicide, assault, or kidnapping offense 9566  
and also to both a sexual motivation specification and a 9567  
sexually violent predator specification that were included in 9568  
the indictment, count in the indictment, or information charging 9569  
that offense, it shall impose upon the offender a term of life 9570  
imprisonment without parole. 9571

(B) (1) Notwithstanding section 2929.13, division (A) or 9572  
(D) of section 2929.14, or another section of the Revised Code 9573  
other than division (B) of section 2907.02 or divisions (B) and 9574  
(C) of section 2929.14 of the Revised Code that authorizes or 9575  
requires a specified prison term or a mandatory prison term for 9576  
a person who is convicted of or pleads guilty to a felony or 9577

that specifies the manner and place of service of a prison term 9578  
or term of imprisonment, if a person is convicted of or pleads 9579  
guilty to a violation of division (A) (1) (b) of section 2907.02 9580  
of the Revised Code committed on or after January 2, 2007, if 9581  
division (A) of this section does not apply regarding the 9582  
person, and if the court does not impose a sentence of life 9583  
without parole when authorized pursuant to division (B) of 9584  
section 2907.02 of the Revised Code, the court shall impose upon 9585  
the person an indefinite prison term consisting of one of the 9586  
following: 9587

(a) Except as otherwise required in division (B) (1) (b) or 9588  
(c) of this section, a minimum term of ten years and a maximum 9589  
term of life imprisonment. 9590

(b) If the victim was less than ten years of age, a 9591  
minimum term of fifteen years and a maximum of life 9592  
imprisonment. 9593

(c) If the offender purposely compels the victim to submit 9594  
by force or threat of force, or if the offender previously has 9595  
been convicted of or pleaded guilty to violating division (A) (1) 9596  
(b) of section 2907.02 of the Revised Code or to violating an 9597  
existing or former law of this state, another state, or the 9598  
United States that is substantially similar to division (A) (1) 9599  
(b) of that section, or if the offender during or immediately 9600  
after the commission of the offense caused serious physical harm 9601  
to the victim, a minimum term of twenty-five years and a maximum 9602  
of life imprisonment. 9603

(2) Notwithstanding section 2929.13, division (A) or (D) 9604  
of section 2929.14, or another section of the Revised Code other 9605  
than divisions (B) and (C) of section 2929.14 of the Revised 9606  
Code that authorizes or requires a specified prison term or a 9607

mandatory prison term for a person who is convicted of or pleads 9608  
guilty to a felony or that specifies the manner and place of 9609  
service of a prison term or term of imprisonment and except as 9610  
otherwise provided in division (B) of section 2907.02 of the 9611  
Revised Code, if a person is convicted of or pleads guilty to 9612  
attempted rape committed on or after January 2, 2007, and if 9613  
division (A) of this section does not apply regarding the 9614  
person, the court shall impose upon the person an indefinite 9615  
prison term consisting of one of the following: 9616

(a) If the person also is convicted of or pleads guilty to 9617  
a specification of the type described in section 2941.1418 of 9618  
the Revised Code, the court shall impose upon the person an 9619  
indefinite prison term consisting of a minimum term of five 9620  
years and a maximum term of twenty-five years. 9621

(b) If the person also is convicted of or pleads guilty to 9622  
a specification of the type described in section 2941.1419 of 9623  
the Revised Code, the court shall impose upon the person an 9624  
indefinite prison term consisting of a minimum term of ten years 9625  
and a maximum term of life imprisonment. 9626

(c) If the person also is convicted of or pleads guilty to 9627  
a specification of the type described in section 2941.1420 of 9628  
the Revised Code, the court shall impose upon the person an 9629  
indefinite prison term consisting of a minimum term of fifteen 9630  
years and a maximum term of life imprisonment. 9631

(3) Notwithstanding section 2929.13, division (A) or (D) 9632  
of section 2929.14, or another section of the Revised Code other 9633  
than divisions (B) and (C) of section 2929.14 of the Revised 9634  
Code that authorizes or requires a specified prison term or a 9635  
mandatory prison term for a person who is convicted of or pleads 9636  
guilty to a felony or that specifies the manner and place of 9637

service of a prison term or term of imprisonment, if a person is 9638  
convicted of or pleads guilty to an offense described in 9639  
division (B) (3) (a), (b), (c), or (d) of this section committed 9640  
on or after January 1, 2008, if the person also is convicted of 9641  
or pleads guilty to a sexual motivation specification that was 9642  
included in the indictment, count in the indictment, or 9643  
information charging that offense, and if division (A) of this 9644  
section does not apply regarding the person, the court shall 9645  
impose upon the person an indefinite prison term consisting of 9646  
one of the following: 9647

(a) An indefinite prison term consisting of a minimum of 9648  
ten years and a maximum term of life imprisonment if the offense 9649  
for which the sentence is being imposed is kidnapping, the 9650  
victim of the offense is less than thirteen years of age, and 9651  
the offender released the victim in a safe place unharmed; 9652

(b) An indefinite prison term consisting of a minimum of 9653  
fifteen years and a maximum term of life imprisonment if the 9654  
offense for which the sentence is being imposed is kidnapping 9655  
when the victim of the offense is less than thirteen years of 9656  
age and division (B) (3) (a) of this section does not apply; 9657

(c) An indefinite term consisting of a minimum of thirty 9658  
years and a maximum term of life imprisonment if the offense for 9659  
which the sentence is being imposed is aggravated murder, when 9660  
the victim of the offense is less than thirteen years of age, a 9661  
sentence of ~~death or life imprisonment without parole~~ is not 9662  
imposed for the offense, and division ~~(A) (2) (b) (ii) of section~~ 9663  
~~2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D)~~ 9664  
~~(2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or~~ 9665  
~~division (A) or (B) (C) of section 2929.06-2929.02~~ of the 9666  
Revised Code requires that the sentence for the offense be 9667

imposed pursuant to this division; 9668

(d) An indefinite prison term consisting of a minimum of 9669  
thirty years and a maximum term of life imprisonment if the 9670  
offense for which the sentence is being imposed is murder when 9671  
the victim of the offense is less than thirteen years of age. 9672

(C) (1) If the offender is sentenced to a prison term 9673  
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 9674  
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 9675  
parole board shall have control over the offender's service of 9676  
the term during the entire term unless the parole board 9677  
terminates its control in accordance with section 2971.04 of the 9678  
Revised Code. 9679

(2) Except as provided in division (C) (3) of this section, 9680  
an offender sentenced to a prison term or term of life 9681  
imprisonment without parole pursuant to division (A) of this 9682  
section shall serve the entire prison term or term of life 9683  
imprisonment in a state correctional institution. The offender 9684  
is not eligible for judicial release under section 2929.20 of 9685  
the Revised Code. 9686

(3) For a prison term imposed pursuant to division (A) (3), 9687  
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 9688  
(b), (c), or (d) of this section, the court, in accordance with 9689  
section 2971.05 of the Revised Code, may terminate the prison 9690  
term or modify the requirement that the offender serve the 9691  
entire term in a state correctional institution if all of the 9692  
following apply: 9693

(a) The offender has served at least the minimum term 9694  
imposed as part of that prison term. 9695

(b) The parole board, pursuant to section 2971.04 of the 9696

Revised Code, has terminated its control over the offender's 9697  
service of that prison term. 9698

(c) The court has held a hearing and found, by clear and 9699  
convincing evidence, one of the following: 9700

(i) In the case of termination of the prison term, that 9701  
the offender is unlikely to commit a sexually violent offense in 9702  
the future; 9703

(ii) In the case of modification of the requirement, that 9704  
the offender does not represent a substantial risk of physical 9705  
harm to others. 9706

(4) An offender who has been sentenced to a term of life 9707  
imprisonment without parole pursuant to division (A)(1), (2), or 9708  
(4) of this section shall not be released from the term of life 9709  
imprisonment or be permitted to serve a portion of it in a place 9710  
other than a state correctional institution. 9711

(D) If a court sentences an offender to a prison term or 9712  
term of life imprisonment without parole pursuant to division 9713  
(A) of this section and the court also imposes on the offender 9714  
one or more additional prison terms pursuant to division (B) of 9715  
section 2929.14 of the Revised Code, all of the additional 9716  
prison terms shall be served consecutively with, and prior to, 9717  
the prison term or term of life imprisonment without parole 9718  
imposed upon the offender pursuant to division (A) of this 9719  
section. 9720

(E) If the offender is convicted of or pleads guilty to 9721  
two or more offenses for which a prison term or term of life 9722  
imprisonment without parole is required to be imposed pursuant 9723  
to division (A) of this section, divisions (A) to (D) of this 9724  
section shall be applied for each offense. All minimum terms 9725

imposed upon the offender pursuant to division (A) (3) or (B) of 9726  
this section for those offenses shall be aggregated and served 9727  
consecutively, as if they were a single minimum term imposed 9728  
under that division. 9729

(F) (1) If an offender is convicted of or pleads guilty to 9730  
a violent sex offense and also is convicted of or pleads guilty 9731  
to a sexually violent predator specification that was included 9732  
in the indictment, count in the indictment, or information 9733  
charging that offense, or is convicted of or pleads guilty to a 9734  
designated homicide, assault, or kidnapping offense and also is 9735  
convicted of or pleads guilty to both a sexual motivation 9736  
specification and a sexually violent predator specification that 9737  
were included in the indictment, count in the indictment, or 9738  
information charging that offense, the conviction of or plea of 9739  
guilty to the offense and the sexually violent predator 9740  
specification automatically classifies the offender as a tier 9741  
III sex offender/child-victim offender for purposes of Chapter 9742  
2950. of the Revised Code. 9743

(2) If an offender is convicted of or pleads guilty to 9744  
committing on or after January 2, 2007, a violation of division 9745  
(A) (1) (b) of section 2907.02 of the Revised Code and either the 9746  
offender is sentenced under section 2971.03 of the Revised Code 9747  
or a sentence of life without parole is imposed under division 9748  
(B) of section 2907.02 of the Revised Code, the conviction of or 9749  
plea of guilty to the offense automatically classifies the 9750  
offender as a tier III sex offender/child-victim offender for 9751  
purposes of Chapter 2950. of the Revised Code. 9752

(3) If a person is convicted of or pleads guilty to 9753  
committing on or after January 2, 2007, attempted rape and also 9754  
is convicted of or pleads guilty to a specification of the type 9755

described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code, the conviction of or plea of guilty to the offense and the specification automatically classify the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

(4) If a person is convicted of or pleads guilty to one of the offenses described in division (B) (3) (a), (b), (c), or (d) of this section and a sexual motivation specification related to the offense and the victim of the offense is less than thirteen years of age, the conviction of or plea of guilty to the offense automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

**Sec. 2971.07.** (A) This chapter does not apply to any offender unless the offender is one of the following:

(1) The offender is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense.

(2) The offender is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or information charging that offense.

(3) The offender is convicted of or pleads guilty to a violation of division (A) (1) (b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and the



court does not sentence the offender to a term of life without 9785  
parole pursuant to division (B) of section 2907.02 of the 9786  
Revised Code or division (B) of that section prohibits the court 9787  
from sentencing the offender pursuant to section 2971.03 of the 9788  
Revised Code. 9789

(4) The offender is convicted of or pleads guilty to 9790  
attempted rape committed on or after January 2, 2007, and also 9791  
is convicted of or pleads guilty to a specification of the type 9792  
described in section 2941.1418, 2941.1419, or 2941.1420 of the 9793  
Revised Code. 9794

(5) The offender is convicted of or pleads guilty to a 9795  
violation of section 2905.01 of the Revised Code and also is 9796  
convicted of or pleads guilty to a sexual motivation 9797  
specification that was included in the indictment, count in the 9798  
indictment, or information charging that offense, and that 9799  
section requires a court to sentence the offender pursuant to 9800  
section 2971.03 of the Revised Code. 9801

(6) The offender is convicted of or pleads guilty to 9802  
aggravated murder and also is convicted of or pleads guilty to a 9803  
sexual motivation specification that was included in the 9804  
indictment, count in the indictment, or information charging 9805  
that offense, and ~~division (A) (2) (b) (ii) of section 2929.022,~~ 9806  
~~division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D)~~ 9807  
~~(3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or~~ 9808  
~~(B) (C) of section 2929.06-2929.02~~ of the Revised Code requires 9809  
a court to sentence the offender pursuant to division (B) (3) of 9810  
section 2971.03 of the Revised Code. 9811

(7) The offender is convicted of or pleads guilty to 9812  
murder and also is convicted of or pleads guilty to a sexual 9813  
motivation specification that was included in the indictment, 9814

count in the indictment, or information charging that offense, 9815  
and division ~~(B)(2)~~(C) of section 2929.02 of the Revised Code 9816  
requires a court to sentence the offender pursuant to section 9817  
2971.03 of the Revised Code. 9818

(B) This chapter does not limit or affect a court in 9819  
imposing upon an offender described in divisions (A)(1) to (9) 9820  
of this section any financial sanction under section 2929.18 or 9821  
any other section of the Revised Code, or, except as 9822  
specifically provided in this chapter, any other sanction that 9823  
is authorized or required for the offense or violation by any 9824  
other provision of law. 9825

(C) If an offender is sentenced to a prison term under 9826  
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 9827  
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 9828  
Code and if, pursuant to section 2971.05 of the Revised Code, 9829  
the court modifies the requirement that the offender serve the 9830  
entire prison term in a state correctional institution or places 9831  
the offender on conditional release that involves the placement 9832  
of the offender under the supervision of the adult parole 9833  
authority, authorized field officers of the authority who are 9834  
engaged within the scope of their supervisory duties or 9835  
responsibilities may search, with or without a warrant, the 9836  
person of the offender, the place of residence of the offender, 9837  
and a motor vehicle, another item of tangible or intangible 9838  
personal property, or any other real property in which the 9839  
offender has the express or implied permission of a person with 9840  
a right, title, or interest to use, occupy, or possess if the 9841  
field officer has reasonable grounds to believe that the 9842  
offender is not abiding by the law or otherwise is not complying 9843  
with the terms and conditions of the offender's modification or 9844  
release. The authority shall provide each offender with a 9845

written notice that informs the offender that authorized field 9846  
officers of the authority who are engaged within the scope of 9847  
their supervisory duties or responsibilities may conduct those 9848  
types of searches during the period of the modification or 9849  
release if they have reasonable grounds to believe that the 9850  
offender is not abiding by the law or otherwise is not complying 9851  
with the terms and conditions of the offender's modification or 9852  
release. 9853

**Sec. 5120.113.** (A) For each inmate committed to the 9854  
department of rehabilitation and correction, except as provided 9855  
in division (B) of this section, the department shall prepare a 9856  
written reentry plan for the inmate to help guide the inmate's 9857  
rehabilitation program during imprisonment, to assist in the 9858  
inmate's reentry into the community, and to assess the inmate's 9859  
needs upon release. 9860

(B) Division (A) of this section does not apply to an 9861  
inmate who has been sentenced to life imprisonment without 9862  
~~parole or who has been sentenced to death.~~ Division (A) of this 9863  
section does not apply to any inmate who is expected to be 9864  
imprisoned for thirty days or less, but the department may 9865  
prepare a written reentry plan of the type described in that 9866  
division if the department determines that the plan is needed. 9867

(C) The department may collect, if available, any social 9868  
and other information that will aid in the preparation of 9869  
reentry plans under this section. 9870

(D) In the event the department does not prepare a written 9871  
reentry plan as specified in division (A) of this section, or 9872  
makes a decision to not prepare a written reentry plan under 9873  
division (B) of this section or to not collect information under 9874  
division (C) of this section, that fact does not give rise to a 9875

claim for damages against the state, the department, the 9876  
director of the department, or any employee of the department. 9877

**Sec. 5120.53.** (A) If a treaty between the United States 9878  
and a foreign country provides for the transfer or exchange, 9879  
from one of the signatory countries to the other signatory 9880  
country, of convicted offenders who are citizens or nationals of 9881  
the other signatory country, the governor, subject to and in 9882  
accordance with the terms of the treaty, may authorize the 9883  
director of rehabilitation and correction to allow the transfer 9884  
or exchange of convicted offenders and to take any action 9885  
necessary to initiate participation in the treaty. If the 9886  
governor grants the director the authority described in this 9887  
division, the director may take the necessary action to initiate 9888  
participation in the treaty and, subject to and in accordance 9889  
with division (B) of this section and the terms of the treaty, 9890  
may allow the transfer or exchange to a foreign country that has 9891  
signed the treaty of any convicted offender who is a citizen or 9892  
national of that signatory country. 9893

(B) (1) No convicted offender who is serving a term of 9894  
imprisonment in this state for aggravated murder, murder, or a 9895  
felony of the first or second degree, who is serving a mandatory 9896  
prison term imposed under section 2925.03 or 2925.11 of the 9897  
Revised Code in circumstances in which the court was required to 9898  
impose as the mandatory prison term the maximum prison term 9899  
authorized for the degree of offense committed, or who is 9900  
serving a term of imprisonment in this state imposed for an 9901  
offense committed prior to ~~the effective date of this amendment~~ 9902  
July 1, 1996, that was an aggravated felony of the first or 9903  
second degree or that was aggravated trafficking in violation of 9904  
division (A) (9) or (10) of section 2925.03 of the Revised Code, ~~—~~ 9905  
~~or who has been sentenced to death in this state~~ shall be 9906

transferred or exchanged to another country pursuant to a treaty 9907  
of the type described in division (A) of this section. 9908

(2) If a convicted offender is serving a term of 9909  
imprisonment in this state and the offender is a citizen or 9910  
national of a foreign country that has signed a treaty of the 9911  
type described in division (A) of this section, if the governor 9912  
has granted the director of rehabilitation and correction the 9913  
authority described in that division, and if the transfer or 9914  
exchange of the offender is not barred by division (B) (1) of 9915  
this section, the director or the director's designee may 9916  
approve the offender for transfer or exchange pursuant to the 9917  
treaty if the director or the designee, after consideration of 9918  
the factors set forth in the rules adopted by the department 9919  
under division (D) of this section and all other relevant 9920  
factors, determines that the transfer or exchange of the 9921  
offender is appropriate. 9922

(C) Notwithstanding any provision of the Revised Code 9923  
regarding the parole eligibility of, or the duration or 9924  
calculation of a sentence of imprisonment imposed upon, an 9925  
offender, if a convicted offender is serving a term of 9926  
imprisonment in this state and the offender is a citizen or 9927  
national of a foreign country that has signed a treaty of the 9928  
type described in division (A) of this section, if the offender 9929  
is serving an indefinite term of imprisonment, if the offender 9930  
is barred from being transferred or exchanged pursuant to the 9931  
treaty due to the indefinite nature of the offender's term of 9932  
imprisonment, and if in accordance with division (B) (2) of this 9933  
section the director of rehabilitation and correction or the 9934  
director's designee approves the offender for transfer or 9935  
exchange pursuant to the treaty, the parole board, pursuant to 9936  
rules adopted by the director, shall set a date certain for the 9937

release of the offender. To the extent possible, the date 9938  
certain that is set shall be reasonably proportionate to the 9939  
indefinite term of imprisonment that the offender is serving. 9940  
The date certain that is set for the release of the offender 9941  
shall be considered only for purposes of facilitating the 9942  
international transfer or exchange of the offender, shall not be 9943  
viable or actionable for any other purpose, and shall not create 9944  
any expectation or guarantee of release. If an offender for whom 9945  
a date certain for release is set under this division is not 9946  
transferred to or exchanged with the foreign country pursuant to 9947  
the treaty, the date certain is null and void, and the 9948  
offender's release shall be determined pursuant to the laws and 9949  
rules of this state pertaining to parole eligibility and the 9950  
duration and calculation of an indefinite sentence of 9951  
imprisonment. 9952

(D) If the governor, pursuant to division (A) of this 9953  
section, authorizes the director of rehabilitation and 9954  
correction to allow any transfer or exchange of convicted 9955  
offenders as described in that division, the director shall 9956  
adopt rules under Chapter 119. of the Revised Code to implement 9957  
the provisions of this section. The rules shall include a rule 9958  
that requires the director or the director's designee, in 9959  
determining whether to approve a convicted offender who is 9960  
serving a term of imprisonment in this state for transfer or 9961  
exchange pursuant to a treaty of the type described in division 9962  
(A) of this section, to consider all of the following factors: 9963

(1) The nature of the offense for which the offender is 9964  
serving the term of imprisonment in this state; 9965

(2) The likelihood that, if the offender is transferred or 9966  
exchanged to a foreign country pursuant to the treaty, the 9967

offender will serve a shorter period of time in imprisonment in 9968  
the foreign country than the offender would serve if the 9969  
offender is not transferred or exchanged to the foreign country 9970  
pursuant to the treaty; 9971

(3) The likelihood that, if the offender is transferred or 9972  
exchanged to a foreign country pursuant to the treaty, the 9973  
offender will return or attempt to return to this state after 9974  
the offender has been released from imprisonment in the foreign 9975  
country; 9976

(4) The degree of any shock to the conscience of justice 9977  
and society that will be experienced in this state if the 9978  
offender is transferred or exchanged to a foreign country 9979  
pursuant to the treaty; 9980

(5) All other factors that the department determines are 9981  
relevant to the determination. 9982

**Sec. 5120.61.** (A) (1) Not later than ninety days after 9983  
January 1, 1997, the department of rehabilitation and correction 9984  
shall adopt standards that it will use under this section to 9985  
assess the following criminal offenders and may periodically 9986  
revise the standards: 9987

(a) A criminal offender who is convicted of or pleads 9988  
guilty to a violent sex offense or designated homicide, assault, 9989  
or kidnapping offense and is adjudicated a sexually violent 9990  
predator in relation to that offense; 9991

(b) A criminal offender who is convicted of or pleads 9992  
guilty to a violation of division (A) (1) (b) of section 2907.02 9993  
of the Revised Code committed on or after January 2, 2007, and 9994  
either who is sentenced under section 2971.03 of the Revised 9995  
Code or upon whom a sentence of life without parole is imposed 9996

under division (B) of section 2907.02 of the Revised Code; 9997

(c) A criminal offender who is convicted of or pleads 9998  
guilty to attempted rape committed on or after January 2, 2007, 9999  
and a specification of the type described in section 2941.1418, 10000  
2941.1419, or 2941.1420 of the Revised Code; 10001

(d) A criminal offender who is convicted of or pleads 10002  
guilty to a violation of section 2905.01 of the Revised Code and 10003  
also is convicted of or pleads guilty to a sexual motivation 10004  
specification that was included in the indictment, count in the 10005  
indictment, or information charging that offense, and who is 10006  
sentenced pursuant to section 2971.03 of the Revised Code; 10007

(e) A criminal offender who is convicted of or pleads 10008  
guilty to aggravated murder and also is convicted of or pleads 10009  
guilty to a sexual motivation specification that was included in 10010  
the indictment, count in the indictment, or information charging 10011  
that offense, and who pursuant to division ~~(A) (2) (b) (ii) of~~ 10012  
~~section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a)~~ 10013  
~~(ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03,~~ 10014  
~~or division (A) or (B) (C) of section 2929.06-2929.02~~ of the 10015  
Revised Code is sentenced pursuant to division (B) (3) of section 10016  
2971.03 of the Revised Code; 10017

(f) A criminal offender who is convicted of or pleads 10018  
guilty to murder and also is convicted of or pleads guilty to a 10019  
sexual motivation specification that was included in the 10020  
indictment, count in the indictment, or information charging 10021  
that offense, and who pursuant to division ~~(B) (2) (C) (1)~~ of 10022  
section 2929.02 of the Revised Code is sentenced pursuant to 10023  
section 2971.03 of the Revised Code. 10024

(2) When the department is requested by the parole board 10025



or the court to provide a risk assessment report of the offender 10026  
under section 2971.04 or 2971.05 of the Revised Code, it shall 10027  
assess the offender and complete the assessment as soon as 10028  
possible after the offender has commenced serving the prison 10029  
term or term of life imprisonment without parole imposed under 10030  
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 10031  
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10032  
Code. Thereafter, the department shall update a risk assessment 10033  
report pertaining to an offender as follows: 10034

(a) Periodically, in the discretion of the department, 10035  
provided that each report shall be updated no later than two 10036  
years after its initial preparation or most recent update; 10037

(b) Upon the request of the parole board for use in 10038  
determining pursuant to section 2971.04 of the Revised Code 10039  
whether it should terminate its control over an offender's 10040  
service of a prison term imposed upon the offender under 10041  
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 10042  
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10043  
Code; 10044

(c) Upon the request of the court. 10045

(3) After the department of rehabilitation and correction 10046  
assesses an offender pursuant to division (A) (2) of this 10047  
section, it shall prepare a report that contains its risk 10048  
assessment for the offender or, if a risk assessment report 10049  
previously has been prepared, it shall update the risk 10050  
assessment report. 10051

(4) The department of rehabilitation and correction shall 10052  
provide each risk assessment report that it prepares or updates 10053  
pursuant to this section regarding an offender to all of the 10054

following: 10055

(a) The parole board for its use in determining pursuant 10056  
to section 2971.04 of the Revised Code whether it should 10057  
terminate its control over an offender's service of a prison 10058  
term imposed upon the offender under division (A) (3), (B) (1) (a), 10059  
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 10060  
(d) of section 2971.03 of the Revised Code, if the parole board 10061  
has not terminated its control over the offender; 10062

(b) The court for use in determining, pursuant to section 10063  
2971.05 of the Revised Code, whether to modify the requirement 10064  
that the offender serve the entire prison term imposed upon the 10065  
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 10066  
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 10067  
2971.03 of the Revised Code in a state correctional institution, 10068  
whether to revise any modification previously made, or whether 10069  
to terminate the prison term; 10070

(c) The prosecuting attorney who prosecuted the case, or 10071  
the successor in office to that prosecuting attorney; 10072

(d) The offender. 10073

(B) When the department of rehabilitation and correction 10074  
provides a risk assessment report regarding an offender to the 10075  
parole board or court pursuant to division (A) (4) (a) or (b) of 10076  
this section, the department, prior to the parole board's or 10077  
court's hearing, also shall provide to the offender or to the 10078  
offender's attorney of record a copy of the report and a copy of 10079  
any other relevant documents the department possesses regarding 10080  
the offender that the department does not consider to be 10081  
confidential. 10082

(C) As used in this section: 10083

(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 those children, and issue any orders, as it considers best suited to the needs of any of those children and the interest of the public, for the treatment of each of those children;

(C) Obtain personnel necessary for the performance of its duties;

(D) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to 5139.43 of the Revised Code, and that pertain to the administration of other sections of this chapter;

(E) Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year;

(F) Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods;

(G) Develop a standard form for the disposition investigation report that a juvenile court is required pursuant to section 2152.18 of the Revised Code to complete and provide to the department when the court commits a child to the legal custody of the department;

(H) Provide the state public defender the reasonable access authorized under division ~~(F)~~ (H) of section 120.06 of the Revised Code in order to fulfill the department's constitutional obligation to provide juveniles who have been committed to the department's care access to the courts.

(I) Do all other acts necessary or desirable to carry out this chapter.

**Sec. 5149.101.** (A) (1) A board hearing officer, a board member, or the office of victims' services may petition the board for a full board hearing that relates to the proposed parole or re-parole of a prisoner. At a meeting of the board at which a majority of board members are present, the majority of those present shall determine whether a full board hearing shall be held.

(2) A victim of a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a

sentence of life imprisonment, the victim's representative, or 10142  
any person described in division (B)(5) of this section may 10143  
request the board to hold a full board hearing that relates to 10144  
the proposed parole or re-parole of the person that committed 10145  
the violation. If a victim, victim's representative, or other 10146  
person requests a full board hearing pursuant to this division, 10147  
the board shall hold a full board hearing. 10148

At least thirty days before the full hearing, except as 10149  
otherwise provided in this division, the board shall give notice 10150  
of the date, time, and place of the hearing to the victim 10151  
regardless of whether the victim has requested the notification. 10152  
The notice of the date, time, and place of the hearing shall not 10153  
be given under this division to a victim if the victim has 10154  
requested pursuant to division (B)(2) of section 2930.03 of the 10155  
Revised Code that the notice not be provided to the victim. At 10156  
least thirty days before the full board hearing and regardless 10157  
of whether the victim has requested that the notice be provided 10158  
or not be provided under this division to the victim, the board 10159  
shall give similar notice to the prosecuting attorney in the 10160  
case, the law enforcement agency that arrested the prisoner if 10161  
any officer of that agency was a victim of the offense, and, if 10162  
different than the victim, the person who requested the full 10163  
hearing. If the prosecuting attorney has not previously been 10164  
sent an institutional summary report with respect to the 10165  
prisoner, upon the request of the prosecuting attorney, the 10166  
board shall include with the notice sent to the prosecuting 10167  
attorney an institutional summary report that covers the 10168  
offender's participation while confined in a state correctional 10169  
institution in training, work, and other rehabilitative 10170  
activities and any disciplinary action taken against the 10171  
offender while so confined. Upon the request of a law 10172

enforcement agency that has not previously been sent an 10173  
institutional summary report with respect to the prisoner, the 10174  
board also shall send a copy of the institutional summary report 10175  
to the law enforcement agency. If notice is to be provided as 10176  
described in this division, the board may give the notice by any 10177  
reasonable means, including regular mail, telephone, and 10178  
electronic mail, in accordance with division (D)(1) of section 10179  
2930.16 of the Revised Code. If the notice is based on an 10180  
offense committed prior to ~~the effective date of this amendment~~ 10181  
March 22, 2013, the notice also shall include the opt-out 10182  
information described in division (D)(1) of section 2930.16 of 10183  
the Revised Code. The board, in accordance with division (D)(2) 10184  
of section 2930.16 of the Revised Code, shall keep a record of 10185  
all attempts to provide the notice, and of all notices provided, 10186  
under this division. 10187

The preceding paragraph, and the notice-related provisions 10188  
of divisions (E)(2) and (K) of section 2929.20, division (D)(1) 10189  
of section 2930.16, division ~~(H)~~ (G) of section 2967.12, 10190  
division (E)(1)(b) of section 2967.19, division (A)(3)(b) of 10191  
section 2967.26, and division (D)(1) of section 2967.28 of the 10192  
Revised Code enacted in the act in which this paragraph was 10193  
enacted, shall be known as "Roberta's Law." 10194

(B) At a full board hearing that relates to the proposed 10195  
parole or re-parole of a prisoner and that has been petitioned 10196  
for or requested in accordance with division (A) of this 10197  
section, the parole board shall permit the following persons to 10198  
appear and to give testimony or to submit written statements: 10199

(1) The prosecuting attorney of the county in which the 10200  
original indictment against the prisoner was found and members 10201  
of any law enforcement agency that assisted in the prosecution 10202

of the original offense; 10203

(2) The judge of the court of common pleas who imposed the 10204  
original sentence of incarceration upon the prisoner, or the 10205  
judge's successor; 10206

(3) The victim of the original offense for which the 10207  
prisoner is serving the sentence or the victim's representative 10208  
designated pursuant to section 2930.02 of the Revised Code; 10209

(4) The victim of any behavior that resulted in parole 10210  
being revoked; 10211

(5) With respect to a full board hearing held pursuant to 10212  
division (A)(2) of this section, all of the following: 10213

(a) The spouse of the victim of the original offense; 10214

(b) The parent or parents of the victim of the original 10215  
offense; 10216

(c) The sibling of the victim of the original offense; 10217

(d) The child or children of the victim of the original 10218  
offense. 10219

(6) Counsel or some other person designated by the 10220  
prisoner as a representative, as described in division (C) of 10221  
this section. 10222

(C) Except as otherwise provided in this division, a full 10223  
board hearing of the parole board is not subject to section 10224  
121.22 of the Revised Code. The persons who may attend a full 10225  
board hearing are the persons described in divisions (B)(1) to 10226  
(6) of this section, and representatives of the press, radio and 10227  
television stations, and broadcasting networks who are members 10228  
of a generally recognized professional media organization. 10229

At the request of a person described in division (B) (3) of 10230  
this section, representatives of the news media described in 10231  
this division shall be excluded from the hearing while that 10232  
person is giving testimony at the hearing. The prisoner being 10233  
considered for parole has no right to be present at the hearing, 10234  
but may be represented by counsel or some other person 10235  
designated by the prisoner. 10236

If there is an objection at a full board hearing to a 10237  
recommendation for the parole of a prisoner, the board may 10238  
approve or disapprove the recommendation or defer its decision 10239  
until a subsequent full board hearing. The board may permit 10240  
interested persons other than those listed in this division and 10241  
division (B) of this section to attend full board hearings 10242  
pursuant to rules adopted by the adult parole authority. 10243

(D) If the victim of the original offense died as a result 10244  
of the offense and the offense was aggravated murder, murder, an 10245  
offense of violence that is a felony of the first, second, or 10246  
third degree, or an offense punished by a sentence of life 10247  
imprisonment, the family of the victim may show at a full board 10248  
hearing a video recording not exceeding five minutes in length 10249  
memorializing the victim. 10250

(E) The adult parole authority shall adopt rules for the 10251  
implementation of this section. The rules shall specify 10252  
reasonable restrictions on the number of media representatives 10253  
that may attend a hearing, based on considerations of space, and 10254  
other procedures designed to accomplish an effective, orderly 10255  
process for full board hearings. 10256

**Sec. 5919.16.** (A) Commissioned and warrant officers in the 10257  
Ohio national guard shall be discharged by the adjutant general 10258  
upon either of the following: 10259



(1) The officer's resignation;	10260
(2) Approval of a board's recommendation for withdrawal of federal recognition by the chief of the national guard bureau.	10261 10262
(B) An officer also may be discharged under any of the following circumstances:	10263 10264
(1) Pursuant to other federal regulations;	10265
(2) If absent without leave for three months, upon recommendation of an efficiency board;	10266 10267
(3) Pursuant to sentence by court-martial;	10268
(4) If the officer has been convicted of a crime classified as a felony as described in division <u>(C) or (D)</u> <del>or (E)</del> of section 2901.02 of the Revised Code.	10269 10270 10271
<b>Section 2.</b> That existing sections 9.07, 120.03, 120.06, 120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 149.43, 1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 2929.20, 2929.61, 2930.03, 2930.06, 2930.16, 2930.19, 2937.222, 2941.021, 2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 2953.81, 2967.03, 2967.05, 2967.12, 2967.13, 2967.19, 2967.193, 2967.26, 2967.28, 2971.03, 2971.07, 5120.113, 5120.53, 5120.61, 5139.04, 5149.101, and 5919.16 and sections 109.97, 120.35, 2725.19, 2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 2949.21, 2949.22, 2949.221, 2949.222, 2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 2949.31, and 2967.08 of the Revised Code are hereby repealed.	10272 10273 10274 10275 10276 10277 10278 10279 10280 10281 10282 10283 10284 10285 10286 10287

**Section 3.** (A) An offender whose sentence of death has 10288  
been set aside, nullified, or vacated pursuant to section 10289  
2929.06 of the Revised Code as it existed immediately before the 10290  
effective date of this act but who has not been resentenced 10291  
under that section as of the effective date of this act shall be 10292  
resentenced in accordance with that section as it existed 10293  
immediately before the effective date of this act. 10294

(B) An offender who was sentenced to death before the 10295  
effective date of this act shall have the same right to 10296  
postconviction DNA testing as the offender had under sections 10297  
2953.71 to 2953.81 of the Revised Code as they existed 10298  
immediately before the effective date of this act or as they may 10299  
hereafter be amended. 10300

(C) All reports and payments relating to capital cases 10301  
that were required to be made under any provision of Chapter 10302  
120. or section 109.97 of the Revised Code as those provisions 10303  
existed immediately before the effective date of this act shall 10304  
be made for the current calendar or fiscal year, as applicable, 10305  
in accordance with those provisions as they existed immediately 10306  
before the effective date of this act. 10307

**Section 4.** The General Assembly, applying the principle 10308  
stated in division (B) of section 1.52 of the Revised Code that 10309  
amendments are to be harmonized if reasonably capable of 10310  
simultaneous operation, finds that the following sections, 10311  
presented in this act as composites of the sections as amended 10312  
by the acts indicated, are the resulting versions of the 10313  
sections in effect prior to the effective date of the sections 10314  
as presented in this act: 10315

Section 2929.14 of the Revised Code as amended by both 10316  
Sub. H.B. 470 and Sub. S.B. 319 of the 131st General Assembly. 10317

Section 2929.20 of the Revised Code as amended by both Am.	10318
Sub. H.B. 64 and Am. Sub. S.B. 97 of the 131st General Assembly.	10319
Section 2953.07 of the Revised Code as amended by both Am.	10320
Sub. S.B. 2 and Am. Sub. S.B. 4 of the 121st General Assembly.	10321
Section 2953.08 of the Revised Code as amended by Sub.	10322
H.B. 247, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the	10323
129th General Assembly.	10324
Section 2967.03 of the Revised Code as amended by Am. Sub.	10325
H.B. 487, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the	10326
129th General Assembly.	10327
<b>Section 5.</b> This act is hereby declared to be an emergency	10328
measure necessary for the immediate preservation of the public	10329
peace, health, and safety. The reason for such necessity is to	10330
preserve life by preventing the execution of death sentences	10331
imposed before the effective date of this act but not yet	10332
carried out. Therefore, this act shall go into immediate effect.	10333