

# AN ACT

To amend sections 109.57, 2911.01, 2921.33, 2923.123, 2929.04, 2929.14, 2929.20, and 2953.08 of the Revised Code to expand the offense of aggravated robbery to specifically include disarming or attempting to disarm a law enforcement officer, to increase the penalty for resisting arrest when the offender causes physical harm to a law enforcement officer or brandishes a deadly weapon, to expand the types of law enforcement officers within the scope of the "killing a peace officer" aggravating circumstance for capital offenses, and to exempt under certain circumstances county and municipal prosecutors, their assistants, and secret service officers appointed by a county prosecutor from the offenses of illegal conveyance of a deadly weapon or dangerous ordnance in a courthouse and illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 109.57, 2911.01, 2921.33, 2923.123, 2929.04, 2929.14, 2929.20, and 2953.08 of the Revised Code be amended to read as follows:

Sec. 109.57. (A)(1) As used in this section:

(a) "Designated delinquent act or juvenile offense" means any of the following:

(i) Any "category one offense" or "category two offense";

(ii) Any violation of section 2907.03, 2907.04, or 2907.05 of the Revised Code;

(iii) Any violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996;

(iv) Any attempt to commit a violation of section 2907.02, 2907.03,

2907.04, or 2907.05 of the Revised Code or to commit a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996;

(v) A violation of any law that arose out of the same facts and circumstances as did a charge against the child of a violation of section 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code that previously was dismissed or as did a charge against the child of a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996, that previously was dismissed;

(iv) Any violation of section 2905.02 or 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date.

(b) "Category one offense" and "category two offense" have the same meanings as in section 2151.26 of the Revised Code.

(2) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony or any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, of all children fourteen years of age or older and under eighteen years of age who have been adjudicated delinquent children for committing within this state a designated delinquent act or juvenile offense or who have been convicted of or pleaded guilty to committing within this state a designated delinquent act or juvenile offense, and of all well-known and habitual criminals. The person in charge of any state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony or any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses or having custody of a child fourteen years of age or older and under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed a designated delinquent act or juvenile offense shall furnish such material to the superintendent of the bureau upon request. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that is a category one offense or a category two offense, has not been adjudicated a delinquent child for committing a designated delinquent act or juvenile offense, has not been convicted of or pleaded guilty to committing a designated delinquent act or juvenile offense, and is not a child with respect to whom there is probable cause to believe

that the child may have committed a designated delinquent act or juvenile offense shall not be procured by the superintendent or furnished by any person in charge of any state correctional institution, except as authorized in section 2151.313 of the Revised Code. Every court of record in this state shall send to the superintendent of the bureau a weekly report containing a summary of each case involving a felony, involving any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or involving an adjudication that a child under eighteen years of age is a delinquent child for committing a designated delinquent act or juvenile offense. The summary shall include the style and number of the case, the dates of arrest, commencement of trial, and conviction or adjudication of delinquency, a statement of the offense and the conduct that constituted it, and the sentence or terms of probation imposed, or other disposition of the offender or the delinquent child. ~~The~~ If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the court shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.

The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony or any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses and of all children fourteen years of age or older and under eighteen years of age arrested or otherwise taken into custody for committing a designated delinquent act or juvenile offense. The superintendent also shall file for record the fingerprint impressions of all persons confined in a workhouse, jail, or state correctional institution for the violation of state laws and of all children fourteen years of age or older and under eighteen years of age who are confined in a workhouse, jail, or state correctional institution or in any facility for delinquent children for committing a designated delinquent act or juvenile offense, and any other information that the superintendent may receive from law enforcement officials of the state and its political subdivisions.

The superintendent shall carry out Chapter 2950. of the Revised Code with respect to the registration of persons who are convicted of or plead guilty to a sexually oriented offense and with respect to all other duties imposed on the bureau under that chapter.

(B) The superintendent shall prepare and furnish to every state correctional institution and to every court of record in this state standard

forms for reporting the information required under division (A)(2) of this section.

(C) The superintendent may operate a center for electronic, automated, or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under eighteen years of age who are adjudicated delinquent children for committing a designated delinquent act or juvenile offense, criminal activity, crime prevention, law enforcement, and criminal justice, and may establish and operate a statewide communications network to gather and disseminate information, data, and statistics for the use of law enforcement agencies. The superintendent may gather, store, retrieve, and disseminate information, data, and statistics that pertain to children who are under eighteen years of age and that are gathered pursuant to sections 109.57 to 109.61 of the Revised Code together with information, data, and statistics that pertain to adults and that are gathered pursuant to those sections.

(D) The information and materials furnished to the superintendent pursuant to division (A)(2) of this section and information and materials furnished to any board or person under division (F) or (G) of this section are not public records under section 149.43 of the Revised Code.

(E) The attorney general shall adopt rules, in accordance with Chapter 119. of the Revised Code, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A)(2) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed in division (A)(1), (3), (4), or (5) of section 109.572 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.

(F)(1) As used in division (F)(2) of this section, "head start agency" means an entity in this state that has been approved to be an agency for purposes of subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, as amended.

(2)(a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5126.28, 5126.281, or 5153.111 of the Revised Code, the board of education of any school district; any county board of mental retardation and developmental disabilities; any entity under contract with a county board of mental retardation and developmental disabilities; the chief administrator of any chartered nonpublic school; the

chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed or certified under Chapter 5104. of the Revised Code; the administrator of any type C family day-care home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general assembly; the chief administrator of any head start agency; or the executive director of a public children services agency may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual's own self, whether the bureau has any information gathered under division (A)(2) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. Within thirty days of the date that the superintendent receives a request, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(b) When a board of education is required to receive information under this section as a prerequisite to employment of an individual pursuant to section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the bureau in order to make a photocopy of it for that individual's employment application documents and shall return the certified copy to the individual. In a case of that nature, a district only shall accept a certified copy of records of that nature within one year after the date of their issuance by the bureau.

(3) The state board of education may request, with respect to any individual who has applied for employment after October 2, 1989, in any position with the state board or the department of education, any information that a school district board of education is authorized to request

under division (F)(2) of this section, and the superintendent of the bureau shall proceed as if the request has been received from a school district board of education under division (F)(2) of this section.

(4) When the superintendent of the bureau receives a request for information that is authorized under section 3319.291 of the Revised Code, the superintendent shall proceed as if the request has been received from a school district board of education under division (F)(2) of this section.

(G) In addition to or in conjunction with any request that is required to be made under section 173.41, 3701.881, 3712.09, 3721.121, or 3722.151 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult, the chief administrator of a PASSPORT agency that provides services through the PASSPORT program created under section 173.40 of the Revised Code, home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code, or adult care facility may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after ~~the effective date of this amendment~~ January 27, 1997, for employment in a position that does not involve providing direct care to an older adult, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, on request of the administrator requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to that individual. Within thirty days of the date a request is received, the superintendent shall send to the administrator a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the administrator a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(H) Information obtained by a board, administrator, or other person under this section is confidential and shall not be released or disseminated.

(I) The superintendent may charge a reasonable fee for providing information or criminal records under division (F)(2) or (G) of this section.

Sec. 2911.01. (A) No person, in attempting or committing a theft offense, as defined in section 2913.01 of the Revised Code, or in fleeing immediately after the attempt or offense, shall do any of the following:

(1) Have a deadly weapon on or about the offender's person or under the

offender's control and either display the weapon, brandish it, indicate that the offender possesses it, or use it;

(2) Have a dangerous ordnance on or about the offender's person or under the offender's control;

(3) Inflict, or attempt to inflict, serious physical harm on another.

(B) No person, without privilege to do so, shall knowingly remove or attempt to remove a deadly weapon from the person of a law enforcement officer, or shall knowingly deprive or attempt to deprive a law enforcement officer of a deadly weapon, when both of the following apply:

(1) The law enforcement officer, at the time of the removal, attempted removal, deprivation, or attempted deprivation, is acting within the course and scope of the officer's duties;

(2) The offender knows or has reasonable cause to know that the law enforcement officer is a law enforcement officer.

(C) Whoever violates this section is guilty of aggravated robbery, a felony of the first degree.

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

(1) "Deadly weapon" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(2) "Law enforcement officer" has the same meaning as in section 2901.01 of the Revised Code and also includes employees of the department of rehabilitation and correction who are authorized to carry weapons within the course and scope of their duties.

Sec. 2921.33. (A) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another.

(B) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the resistance or interference, cause physical harm to a law enforcement officer.

(C) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person if either of the following applies:

(1) The offender, during the course of or as a result of the resistance or interference, recklessly causes physical harm to a law enforcement officer by means of a deadly weapon;

(2) The offender, during the course of the resistance or interference, brandishes a deadly weapon.

(D) Whoever violates this section is guilty of resisting arrest. A violation of division (A) of this section is a misdemeanor of the second degree. If the offense is committed by an offender who brandishes a deadly

~~weapon or who attempts to gain control of a deadly weapon that is in the possession of a law enforcement officer, resisting arrest~~ a violation of division (B) of this section is a misdemeanor of the first degree. A violation of division (C) of this section is a felony of the ~~fifth~~ fourth degree.

~~(C)~~(E) As used in this section, "deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

Sec. 2923.123. (A) No person shall knowingly convey or attempt to convey a deadly weapon or dangerous ordnance into a courthouse or into another building or structure in which a courtroom is located.

(B) No person shall knowingly possess or have under the person's control a deadly weapon or dangerous ordnance in a courthouse or in another building or structure in which a courtroom is located.

(C) This section does not apply to any of the following:

(1) A judge of a court of record of this state or a magistrate, unless a rule of superintendence or another type of rule adopted by the supreme court pursuant to Article IV, Ohio Constitution or an applicable local rule of court prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or into another building or structure in which a courtroom is located or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse or in another building or structure in which a courtroom is located;

(2) A peace officer, or an officer of a law enforcement agency of another state, a political subdivision of another state, or the United States, who is authorized to carry a deadly weapon or dangerous ordnance, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control, unless a rule of superintendence or another type of rule adopted by the supreme court pursuant to Article IV, Ohio Constitution or an applicable local rule of court prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or into another building or structure in which a courtroom is located or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse or in another building or structure in which a courtroom is located;

(3) A person who conveys, attempts to convey, possesses, or has under the person's control a deadly weapon or dangerous ordnance that is to be used as evidence in a pending criminal or civil action or proceeding;

(4) A bailiff or deputy bailiff of a court of record of this state who is authorized to carry a firearm pursuant to section 109.77 of the Revised

Code, who possesses or has under that individual's control a firearm as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control, unless a rule of superintendence or another type of rule adopted by the supreme court pursuant to Article IV, Ohio Constitution, or an applicable local rule of court prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or into another building or structure in which a courtroom is located or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse or in another building or structure in which a courtroom is located;

(5) A prosecutor, or a secret service officer appointed by a county prosecuting attorney, who is authorized to carry a deadly weapon or dangerous ordnance in the performance of the individual's duties, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control, unless a rule of superintendence or another type of rule adopted by the supreme court pursuant to Article IV of the Ohio Constitution or an applicable local rule of court prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or into another building or structure in which a courtroom is located or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse or in another building or structure in which a courtroom is located.

(D)(1) Whoever violates division (A) of this section is guilty of illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse. Except as otherwise provided in this division, illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse is a felony of the fifth degree. If the offender previously has been convicted of a violation of division (A) or (B) of this section, illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse is a felony of the fourth degree.

(2) Whoever violates division (B) of this section is guilty of illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse. Except as otherwise provided in this division, illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse is a felony of the fifth degree. If the offender previously has been convicted of a violation of division (A) or (B) of this section, illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse is a felony of the fourth degree.

(E) As used in this section:

(1) "Magistrate" means an individual who is appointed by a court of record of this state and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40.

(2) "Peace officer" ~~has~~ and "prosecutor" ~~have~~ the same ~~meaning~~ meanings as in section 2935.01 of the Revised Code.

Sec. 2929.04. (A) Imposition of the death penalty for aggravated murder is precluded, unless one or more of the following is specified in the indictment or count in the indictment pursuant to section 2941.14 of the Revised Code and proved beyond a reasonable doubt:

(1) The offense was the assassination of the president of the United States or a person in line of succession to the presidency, ~~or of~~ the governor or lieutenant governor of this state, ~~or of~~ the president-elect or vice president-elect of the United States, ~~or of~~ the governor-elect or lieutenant governor-elect of this state, or of a candidate for any of the ~~foregoing~~ described in this division. For purposes of this division, a person is a candidate if ~~he~~ the person has been nominated for election according to law, ~~or if he~~ the person has filed a petition or petitions according to law to have ~~his~~ the person's name placed on the ballot in a primary or general election, or if ~~he~~ the person campaigns as a write-in candidate in a primary or general election.

(2) The offense was committed for hire.

(3) The offense was committed for the purpose of escaping detection, apprehension, trial, or punishment for another offense committed by the offender.

(4) The offense was committed while the offender was a prisoner in a detention facility, as defined in section 2921.01 of the Revised Code.

(5) Prior to the offense at bar, the offender was convicted of an offense an essential element of which was the purposeful killing of or attempt to kill another, or the offense at bar was part of a course of conduct involving the purposeful killing of or attempt to kill two or more persons by the offender.

(6) The victim of the offense was a ~~peace officer~~ law enforcement officer, as defined in section ~~2935.01~~ 2911.01 of the Revised Code, whom the offender had reasonable cause to know or knew to be ~~such a law enforcement officer as so defined~~, and either the victim, at the time of the commission of the offense, was engaged in ~~his~~ the victim's duties, or it was the offender's specific purpose to kill a ~~peace officer~~ law enforcement officer as so defined.

(7) The offense was committed while the offender was committing, attempting to commit, or fleeing immediately after committing or attempting to commit kidnapping, rape, aggravated arson, aggravated

robbery, or aggravated burglary, and either the offender was the principal offender in the commission of the aggravated murder or, if not the principal offender, committed the aggravated murder with prior calculation and design.

(8) The victim of the aggravated murder was a witness to an offense who was purposely killed to prevent ~~his~~ the victim's testimony in any criminal proceeding and the aggravated murder was not committed during the commission, attempted commission, or flight immediately after the commission or attempted commission of the offense to which the victim was a witness, or the victim of the aggravated murder was a witness to an offense and was purposely killed in retaliation for ~~his~~ the victim's testimony in any criminal proceeding.

(B) If one or more of the aggravating circumstances listed in division (A) of this section is specified in the indictment or count in the indictment and proved beyond a reasonable doubt, and if the offender did not raise the matter of age pursuant to section 2929.023 of the Revised Code or if the offender, after raising the matter of age, was found at trial to have been eighteen years of age or older at the time of the commission of the offense, the court, trial jury, or panel of three judges shall consider, and weigh against the aggravating circumstances proved beyond a reasonable doubt, the nature and circumstances of the offense, the history, character, and background of the offender, and all of the following factors:

(1) Whether the victim of the offense induced or facilitated it;

(2) Whether it is unlikely that the offense would have been committed, but for the fact that the offender was under duress, coercion, or strong provocation;

(3) Whether, at the time of committing the offense, the offender, because of a mental disease or defect, lacked substantial capacity to appreciate the criminality of ~~his~~ the offender's conduct or to conform ~~his~~ the offender's conduct to the requirements of the law;

(4) The youth of the offender;

(5) The offender's lack of a significant history of prior criminal convictions and delinquency adjudications;

(6) If the offender was a participant in the offense but not the principal offender, the degree of the offender's participation in the offense and the degree of the offender's participation in the acts that led to the death of the victim;

(7) Any other factors that are relevant to the issue of whether the offender should be sentenced to death.

(C) The defendant shall be given great latitude in the presentation of

evidence of the factors listed in division (B) of this section and of any other factors in mitigation of the imposition of the sentence of death.

The existence of any of the mitigating factors listed in division (B) of this section does not preclude the imposition of a sentence of death on the offender; but shall be weighed pursuant to divisions (D)(2) and (3) of section 2929.03 of the Revised Code by the trial court, trial jury, or the panel of three judges against the aggravating circumstances the offender was found guilty of committing.

Sec. 2929.14. (A) Except as provided in division (C), (D)(2), (D)(3), ~~or (D)(4)~~, or (G) of this section and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter and is not prohibited by division (G)(1) of section 2929.13 of the Revised Code from imposing a prison term on the offender, the court shall impose a definite prison term that shall be one of the following:

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

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

(3) For a felony of the third degree, the prison term shall be one, two, three, four, or five years.

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

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

(B) Except as provided in division (C), (D)(2), (D)(3), or (G) of this section or in Chapter 2925. of the Revised Code, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender and if the offender previously has not served a prison term, the court shall impose the shortest prison term authorized for the offense pursuant to division (A) of this section, unless the court finds on the record that the shortest prison term will demean the seriousness of the offender's conduct or will not adequately protect the public from future crime by the offender or others.

(C) Except as provided in division (G) of this section or in Chapter 2925. of the Revised Code, the court imposing a sentence upon an offender for a felony may impose the longest prison term authorized for the offense pursuant to division (A) of this section only upon offenders who committed

the worst forms of the offense, upon offenders who pose the greatest likelihood of committing future crimes, upon certain major drug offenders under division (D)(3) of this section, and upon certain repeat violent offenders in accordance with division (D)(2) of this section.

(D)(1)(a)(i) Except as provided in division (D)(1)(b) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or silencer on or about the offender's person or under the offender's control while committing the felony, a specification of the type described in section 2941.145 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using it to facilitate the offense, or a specification of the type described in section 2941.141 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the felony, the court, after imposing a prison term on the offender for the felony under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term, determined pursuant to this division, that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. If the specification is of the type described in section 2941.144 of the Revised Code, the additional prison term shall be six years. If the specification is of the type described in section 2941.145 of the Revised Code, the additional prison term shall be three years. If the specification is of the type described in section 2941.141 of the Revised Code, the additional prison term shall be one year. A court shall not impose more than one additional prison term on an offender under this division for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under division (D)(1)(a)(ii) of this section, the court is not precluded from imposing an additional prison term under this division.

(ii) Except as provided in division (D)(1)(b) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.161 of the Revised Code or to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another, also is convicted of or pleads guilty to a specification of the type described in section 2941.146 of the Revised Code

that charges the offender with committing the offense by discharging a firearm from a motor vehicle, as defined in section 4501.01 of the Revised Code, other than a manufactured home, as defined in section 4501.01 of the Revised Code, the court, after imposing a prison term on the offender for the violation of section 2923.161 of the Revised Code or for the other felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of five years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under this division for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under this division relative to an offense, the court also shall impose an additional prison term under division (D)(1)(a)(i) of this section relative to the same offense, provided the criteria specified in that division for imposing an additional prison term are satisfied relative to the offender and the offense.

(b) The court shall not impose any of the additional prison terms described in division (D)(1)(a) of this section upon an offender for a violation of section 2923.12 of the Revised Code. The court shall not impose any of the additional prison terms described in that division upon an offender for a violation of section 2923.13 of the Revised Code unless all of the following apply:

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

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

(2)(a) If an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender, the court shall impose a prison term from the range of terms authorized for the offense under division (A) of this section that may be the longest term in the range and that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. If the court finds that the repeat violent offender, in committing the offense, caused any physical harm that carried a substantial risk of death to a person or that involved substantial permanent incapacity or substantial permanent disfigurement of a person, the court shall impose the longest prison term from the range of terms authorized for the offense under division (A) of this section.

(b) If the court imposing a prison term on a repeat violent offender

imposes the longest prison term from the range of terms authorized for the offense under division (A) of this section, the court may impose on the offender an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if the court finds that both of the following apply with respect to the prison terms imposed on the offender pursuant to division (D)(2)(a) of this section and, if applicable, divisions (D)(1) and (3) of this section:

(i) The terms so imposed are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that section indicating a lesser likelihood of recidivism.

(ii) The terms so imposed are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense.

(3)(a) 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, 2925.04, or 2925.11 of the Revised Code and that section requires the imposition of a ten-year prison term on the offender or if a court imposing a sentence upon an offender for a felony finds that the offender is guilty of a specification of the type described in section 2941.1410 of the Revised Code, that the offender is a major drug 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 is guilty of an attempted forcible violation of section 2907.02 of the Revised Code with the victim being under thirteen years of age and that attempted violation is the felony for which sentence is being imposed, the court shall impose upon the offender for the felony violation a ten-year prison term that cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 5120. of the Revised Code.

(b) The court imposing a prison term on an offender under division (D)(3)(a) of this section may impose an additional prison term of one, two, three, four, five, six, seven, eight, nine, or ten years, if the court, with respect to the term imposed under division (D)(3)(a) of this section and, if applicable, divisions (D)(1) and (2) of this section, makes both of the findings set forth in divisions (D)(2)(b)(i) and (ii) of this section.

(4) If the offender is being sentenced for a fourth degree felony OMVI offense and if division (G)(2) of section 2929.13 of the Revised Code requires the sentencing court to impose upon the offender a mandatory prison term, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(4) of this section minus the sixty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (D)(4) of this section plus the sixty days imposed as the mandatory prison term shall equal one of the authorized prison terms specified in division (A)(4) of this section. If the court imposes an additional prison term under division (D)(4) of this section, the offender shall serve the additional prison term after the offender has served the mandatory prison term required for the offense. The court shall not sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code.

(E)(1) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony or if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(b) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, the offender shall serve the mandatory prison term consecutively to and prior to the prison term imposed for the underlying felony pursuant to division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(2) If an offender who is an inmate in a jail, prison, or other residential detention facility violates section 2917.02, 2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender who is under detention at a detention facility commits a felony violation of section 2923.131 of the Revised Code, or if an offender who is an inmate in a jail, prison, or other residential detention facility or is under detention at a detention facility commits another felony while the offender is an escapee in violation of section 2921.34 of the Revised Code, any prison term imposed upon the offender for one of those violations shall be served by the offender consecutively to the prison term or term of imprisonment the offender was serving when the offender committed that offense and to any other prison term previously or subsequently imposed upon the offender. As used in this division, "detention" and "detention facility" have the same meanings as in section

2921.01 of the Revised Code.

(3) If a prison term is imposed for a violation of division (B) of section 2911.01 of the Revised Code, the offender shall serve that prison term consecutively to any other prison term.

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

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

(b) The harm caused by the multiple offenses was so great or unusual that no single prison term for any of the offenses committed as part of a single course of conduct adequately reflects the seriousness of the offender's conduct.

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

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

(F) If a court imposes a prison term of a type described in division (B) of section 2967.28 of the Revised Code, 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 prison term of a type described in division (C) of that section, 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 the parole board determines that a period of post-release control is necessary.

(G) If a person is convicted of or pleads guilty to a sexually violent 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, the court shall impose sentence upon the offender in accordance with section 2971.03 of the Revised Code, and Chapter 2971. of the Revised Code applies regarding the

prison term or term of life imprisonment without parole imposed upon the offender and the service of that term of imprisonment.

Sec. 2929.20. (A)(1) As used in this section, "eligible offender" means any of the following:

(a) A person who has been convicted of or pleaded guilty to a felony, who is serving a stated prison term of ten years or less, and who is not serving a mandatory prison term;

(b) A person who has been convicted of or pleaded guilty to a felony, who was sentenced to a mandatory prison term and another prison term of ten years or less, and who has served the mandatory prison term;

(c) A person who has been convicted of or pleaded guilty to a felony, who was sentenced to a mandatory prison term pursuant to division (D)(1) of section 2929.14 of the Revised Code and another prison term of ten years or less, who is required by division (E)(1) of section 2929.14 of the Revised Code to serve the mandatory prison term and the other prison term consecutively, and who has served the mandatory prison term.

(2) "Eligible offender" does not include any of the following:

(a) A person who has been convicted of or pleaded guilty to a felony, who was sentenced to a mandatory prison term pursuant to division (D)(2) or (3) of section 2929.14 of the Revised Code and another prison term of ten years or less, and who is required by division (E)(2) ~~or~~ (3), or (4) of section 2929.14 of the Revised Code to serve the mandatory prison term and the other prison term consecutively, whether or not the person has served the mandatory prison term.

(b) A person who has been convicted of or pleaded guilty to a felony, who was sentenced to a mandatory prison term pursuant to divisions (D)(1) and (2), or division (D)(3) of section 2929.14 of the Revised Code and another prison term of ten years or less, and who is required by division (E)(1), (2), ~~or~~ (3), or (4) of section 2929.14 of the Revised Code to serve any of the mandatory prison terms and the other prison term consecutively, whether or not the person has served the mandatory prison terms.

(B) Upon the filing of a motion by the eligible offender or upon its own motion, a sentencing court may reduce the offender's stated prison term through a judicial release in accordance with this section. An eligible offender may file a motion for judicial release with the sentencing court within the following applicable period of time:

(1) If the stated prison term was imposed for a felony of the fourth or fifth degree, the eligible offender shall file the motion not earlier than thirty days or later than ninety days after the offender is delivered to a state correctional institution.

(2) Except as otherwise provided in division (B)(3) of this section, if the stated prison term was imposed for a felony of the first, second, or third degree, the eligible offender shall file the motion not earlier than one hundred eighty days after the offender is delivered to a state correctional institution.

(3) If the stated prison term is five years or more and less than ten years, the eligible offender shall file the motion after the eligible offender has served five years of the stated prison term.

(4) If the offender was sentenced to a mandatory prison term pursuant to division (D)(1) of section 2929.14 of the Revised Code and a consecutive prison term other than a mandatory prison term that is ten years or less, the offender shall file the motion within the time authorized under division (B)(1), (2), or (3) of this section for the felony for which the prison term other than the mandatory prison term was imposed, but the time for filing the motion does not begin to run until after the expiration of the mandatory prison term.

(C) Upon receipt of a timely motion for judicial release filed by an eligible offender under division (B) of this section or upon the sentencing court's own motion made within the appropriate time period specified in that division, the court may schedule a hearing on the motion. The court may deny the motion without a hearing but shall not grant the motion in any case without a hearing. If a court denies without a hearing a motion filed by an eligible offender or on its own motion that relates to an eligible offender, the court may consider a subsequent judicial release for that eligible offender on its own motion or a subsequent motion for judicial release filed by that eligible offender. If a court denies after a hearing a motion filed by an eligible offender or its own motion that relates to an eligible offender, the court shall not consider a subsequent motion for that eligible offender. The court shall hold only one hearing for any eligible offender.

A hearing under this section shall be conducted in open court within sixty days after the date on which the motion is filed, provided that the court may delay the hearing for a period not to exceed one hundred eighty additional days. If the court schedules a hearing on the motion, 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.

(D) If a court schedules a hearing on the motion filed by an eligible offender under this section or on its own motion, the court shall notify the eligible offender of the hearing. The eligible offender promptly shall serve a copy of the notice of the hearing on the head of the state correctional

institution in which the eligible offender is confined. 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 notify the victim of the offense for which the stated prison term was imposed or the victim's representative, pursuant to section 2930.16 of the Revised Code, of the hearing.

(E) Prior to the date of the hearing on a motion for judicial release under this section, the head of the state correctional institution in which the eligible offender in question is confined shall send to the court a report on the eligible offender's conduct in the institution and in any institution from which the eligible offender may have been transferred. The report shall cover the eligible offender's participation in school, vocational training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the eligible offender. The report shall be made part of the record of the hearing.

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

(G) At the hearing on a motion for judicial release under this section, the court shall afford the eligible offender and the eligible offender's counsel an opportunity to present written information relevant to the motion and shall afford the eligible offender, if present, and the eligible offender's attorney to present oral information relevant to the motion. The court shall afford a similar opportunity to the prosecuting attorney, the victim or the victim's 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. The court shall consider any statement of a victim made pursuant to section 2930.14 or 2930.17 of the Revised Code and any victim impact statement prepared pursuant to section 2947.051 of the Revised Code. After ruling on the motion, the court shall notify the victim of the ruling in accordance with sections 2930.03 and 2930.16 of the Revised Code.

(H)(1) A court shall not grant a judicial release under this section to an eligible offender who is imprisoned for a felony of the first or second

degree, or to an eligible offender who committed an offense contained in Chapter 2925. or 3719. of the Revised Code and for whom there was a presumption under section 2929.13 of the Revised Code in favor of a prison term, unless the court, with reference to factors under section 2929.12 of the Revised Code, finds both of the following:

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

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

(2) A court that grants a judicial release to an eligible offender under division (H)(1) of this section shall specify on the record both findings required in that division and also shall list all the factors described in that division that were presented at the hearing.

(I) If the court grants a motion for judicial release under this section, the court shall order the release of the eligible offender, shall place the eligible offender under an appropriate community control sanction, under a mandatory condition of the type described in division (A) of section 2967.131 of the Revised Code, and under the supervision of the department of probation serving the court, and shall reserve the right to reimpose the sentence that it reduced pursuant to the judicial release if the offender violates the sanction. If the court reimposes the reduced sentence pursuant to this reserved right, it may do so either concurrently with, or consecutive to, any new sentence imposed upon the eligible offender as a result of the violation. The period of the community control sanction shall be no longer than five years. The court, in its discretion, may reduce the period of the community control sanction by the amount of time the eligible offender spent in jail for the offense and in prison. If the court made any findings pursuant to division (H)(1) of this section, the court shall serve a copy of the findings upon counsel for the parties within fifteen days after the date on which the court grants the motion for judicial release.

Prior to being released pursuant to a judicial release granted under this section, the eligible offender shall serve any extension of sentence that was imposed under section 2967.11 of the Revised Code.

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 of the Revised Code and was not imposed pursuant to division (D)(3)(b) of section 2929.14 of the Revised Code, and the court imposed it 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, the offense for which it was imposed is a felony of the fourth or fifth degree or is a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to division (B) of section 2929.13 of the Revised Code for purposes of sentencing, and the court did not specify at sentencing that it found one or more factors specified in ~~division~~ divisions (B)(1)(a) to ~~(h)~~ of section 2929.13 of the Revised Code to apply relative to the defendant. If the court specifies that it found one or more of those factors to apply relative to the defendant, the defendant is not entitled under this division to appeal as a matter of right the sentence imposed upon the offender.

(3) The person was convicted of or pleaded guilty to a sexually violent offense, was adjudicated as being a sexually violent predator, and was sentenced pursuant to division (A)(3) of section 2971.03 of the Revised Code, if the minimum term of the indefinite term imposed pursuant to division (A)(3) of section 2971.03 of the Revised Code is the longest term available for the offense from among the range of terms listed in section 2929.14 of the Revised Code. As used in this division, "sexually violent offense" and "sexually violent predator" have the same meanings as in section 2971.01 of the Revised Code.

(4) The sentence is contrary to law.

~~(4)~~(5) The sentence consisted of an additional prison term of ten years imposed pursuant to division (D)(3)(b) of section 2929.14 of the Revised Code.

(B) In addition to any other right to appeal and except as provided in division (D) of this section, a prosecuting attorney, a city director of law, village solicitor, or similar chief legal officer of a municipal corporation, or

the attorney general, if one of those persons prosecuted the case, may appeal as a matter of right a sentence imposed upon a defendant who is convicted of or pleads guilty to a felony or, in the circumstances described in division (B)(3) of this section the modification of a sentence imposed upon such a defendant, on any of the following grounds:

(1) The sentence did not include a prison term despite a presumption favoring a prison term for the offense for which it was imposed, as set forth in section 2929.13 or Chapter 2925. of the Revised Code.

(2) The sentence is contrary to law.

(3) The sentence is a modification under section 2929.20 of the Revised Code of a sentence that was imposed for a felony of the first or second degree.

(C) In addition to the right to appeal a sentence granted under division (A) or (B) of this section, a defendant who is convicted of or pleads guilty to a felony may seek leave to appeal a sentence imposed upon the defendant on the basis that the sentencing judge has imposed consecutive sentences under division (E)(3) or (4) of section 2929.14 of the Revised Code and that the consecutive sentences exceed the maximum prison term allowed by division (A) of that section for the most serious offense of which the defendant was convicted. Upon the filing of a motion under this division, the court of appeals may grant leave to appeal the sentence if the court determines that the allegation included as the basis of the motion is true.

(D) A sentence imposed upon a defendant is not subject to review under this section if the sentence is authorized by law, has been recommended jointly by the defendant and the prosecution in the case, and is imposed by a sentencing judge. A sentence imposed for aggravated murder or murder pursuant to sections 2929.02 to 2929.06 of the Revised Code is not subject to review under this section.

(E) A defendant, prosecuting attorney, city director of law, village solicitor, or chief municipal legal officer shall file an appeal of a sentence under this section to a court of appeals within the time limits specified in Rule 4(B) of the Rules of Appellate Procedure, provided that if the appeal is pursuant to division (B)(3) of this section, the time limits specified in that rule shall not commence running until the court grants the motion that makes the sentence modification in question. A sentence appeal under this section shall be consolidated with any other appeal in the case. If no other appeal is filed, the court of appeals may review only the portions of the trial record that pertain to sentencing.

(F) On the appeal of a sentence under this section, the record to be reviewed shall include all of the following, as applicable:

(1) Any presentence, psychiatric, or other investigative report that was submitted to the court in writing before the sentence was imposed. An appellate court that reviews a presentence investigation report prepared pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in connection with the appeal of a sentence under this section shall comply with division (D)(3) of section 2951.03 of the Revised Code when the appellate court is not using the presentence investigation report, and the appellate court's use of a presentence investigation report of that nature in connection with the appeal of a sentence under this section does not affect the otherwise confidential character of the contents of that report as described in division (D)(1) of section 2951.03 of the Revised Code and does not cause that report to become a public record, as defined in section 149.43 of the Revised Code, following the appellate court's use of the report.

(2) The trial record in the case in which the sentence was imposed;

(3) Any oral or written statements made to or by the court at the sentencing hearing at which the sentence was imposed;

(4) Any written findings that the court was required to make in connection with the modification of the sentence pursuant to a judicial release under division (H) of section 2929.20 of the Revised Code.

(G)(1) The court hearing an appeal of a sentence under division (A) or (B)(1) or (2) of this section 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 trial court for resentencing if the court clearly and convincingly finds any of the following:

(a) That the record does not support the sentence;

(b) That the sentence included a prison term, that the offense for which it was imposed is a felony of the fourth or fifth degree or is a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to division (B) of section 2929.13 of the Revised Code for purposes of sentencing, that the court did not specify in the finding it makes at sentencing that it found one or more of the factors specified in ~~division~~ divisions (B)(1)(a) to ~~(h)~~ of section 2929.13 of the Revised Code to apply relative to the defendant who brought the appeal, and either that the procedures set forth in division (B) of section 2929.13 of the Revised Code for determining whether to impose a prison term for such an offense were not followed or that those procedures were followed but there is an insufficient basis for imposing a prison term for the offense;

(c) That the sentence did not include a prison term, that the offense for

which it was imposed is a felony of the first or second degree or is a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, and either that the procedures set forth in division (D) of section 2929.13 of the Revised Code that set forth the only circumstances in which the presumption may be overridden and a sanction other than a prison term may be imposed in lieu of a prison term were not followed or that those procedures were followed but there is an insufficient basis for overriding the presumption and imposing a sanction other than a prison term for the offense;

(d) That the sentence is otherwise contrary to law.

(2) The court hearing an appeal under division (B)(3) of this section of a trial court's modification pursuant to section 2929.20 of the Revised Code of a sentence that was imposed upon a defendant for a felony of a first or second degree may overturn the modification and reinstate the original sentence, or may vacate the modification of the sentence and remand the matter to the trial court for reconsideration, only if the court clearly and convincingly finds any of the following:

(a) That the record does not support the modification based on the criteria for modification set forth in division (H) of section 2929.20 of the Revised Code;

(b) That the modification was not made in accordance with the procedures set forth in section 2929.20 of the Revised Code, that the defendant was not eligible for the modification under that section, or that the modification otherwise was 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.

(I)(1) There is hereby established the felony sentence appeal cost oversight committee, consisting of eight members. One member shall be the chief justice of the supreme court or a representative of the court designated by the chief justice, one member shall be a member of the senate appointed by the president of the senate, one member shall be a member of the house of representatives appointed by the speaker of the house of representatives, one member shall be the director of budget and management or a representative of the office of budget and management designated by the director, one member shall be a judge of a court of appeals, court of common pleas, municipal court, or county court appointed by the chief justice of the supreme court, one member shall be the state public defender or a representative of the office of the state public defender designated by the state public defender, one member shall be a prosecuting attorney

appointed by the Ohio prosecuting attorneys association, and one member shall be a county commissioner appointed by the county commissioners association of Ohio. No more than three of the appointed members of the committee may be members of the same political party.

The president of the senate, the speaker of the house of representatives, the chief justice of the supreme court, the Ohio prosecuting attorneys association, and the county commissioners association of Ohio shall make the initial appointments to the committee of the appointed members no later than ninety days after July 1, 1996. Of those initial appointments to the committee, the members appointed by the speaker of the house of representatives and the Ohio prosecuting attorneys association shall serve a term ending two years after July 1, 1996, the member appointed by the chief justice of the supreme court shall serve a term ending three years after July 1, 1996, and the members appointed by the president of the senate and the county commissioners association of Ohio shall serve terms ending four years after July 1, 1996. Thereafter, terms of office of the appointed members shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. Members may be reappointed. Vacancies shall be filled in the same manner provided for original appointments. A member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall hold office as a member for the remainder of the predecessor's term. An appointed member shall continue in office subsequent to the expiration date of that member's term until that member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

If the chief justice of the supreme court, the director of the office of budget and management, or the state public defender serves as a member of the committee, that person's term of office as a member shall continue for as long as that person holds office as chief justice, director of the office of budget and management, or state public defender. If the chief justice of the supreme court designates a representative of the court to serve as a member, the director of budget and management designates a representative of the office of budget and management to serve as a member, or the state public defender designates a representative of the office of the state public defender to serve as a member, the person so designated shall serve as a member of the commission for as long as the official who made the designation holds office as chief justice, director of the office of budget and management, or state public defender or until that official revokes the designation.

The chief justice of the supreme court or the representative of the

supreme court appointed by the chief justice shall serve as chairperson of the committee. The committee shall meet within two weeks after all appointed members have been appointed and shall organize as necessary. Thereafter, the committee shall meet at least once every six months or more often upon the call of the chairperson or the written request of three or more members, provided that the committee shall not meet unless moneys have been appropriated to the judiciary budget administered by the supreme court specifically for the purpose of providing financial assistance to counties under division (I)(2) of this section and the moneys so appropriated then are available for that purpose.

The members of the committee shall serve without compensation, but, if moneys have been appropriated to the judiciary budget administered by the supreme court specifically for the purpose of providing financial assistance to counties under division (I)(2) of this section, each member shall be reimbursed out of the moneys so appropriated that then are available for actual and necessary expenses incurred in the performance of official duties as a committee member.

(2) The state criminal sentencing commission periodically shall provide to the felony sentence appeal cost oversight committee all data the commission collects pursuant to division (A)(5) of section 181.25 of the Revised Code. Upon receipt of the data from the state criminal sentencing commission, the felony sentence appeal cost oversight committee periodically shall review the data; determine whether any money has been appropriated to the judiciary budget administered by the supreme court specifically for the purpose of providing state financial assistance to counties in accordance with this division for the increase in expenses the counties experience as a result of the felony sentence appeal provisions set forth in this section or as a result of a postconviction relief proceeding brought under division (A)(2) of section 2953.21 of the Revised Code or an appeal of a judgment in that proceeding; if it determines that any money has been so appropriated, determine the total amount of moneys that have been so appropriated specifically for that purpose and that then are available for that purpose; and develop a recommended method of distributing those moneys to the counties. The committee shall send a copy of its recommendation to the supreme court. Upon receipt of the committee's recommendation, the supreme court shall distribute to the counties, based upon that recommendation, the moneys that have been so appropriated specifically for the purpose of providing state financial assistance to counties under this division and that then are available for that purpose.

SECTION 2. That existing sections 109.57, 2911.01, 2921.33, 2923.123, 2929.04, 2929.14, 2929.20, and 2953.08 of the Revised Code are hereby repealed.

SECTION 3. Section 109.57 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 160 and Am. Sub. H.B. 124 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 2929.14 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 88, Am. Sub. H.B. 445, Sub. H.B. 154, Am. Sub. S.B. 166, Am. Sub. S.B. 269, and Am. Sub. H.B. 180 of the 121st General Assembly, with the new language of none of the acts shown in capital letters. Section 2953.08 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 269 and Am. Sub. H.B. 180 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_