

# AN ACT

To amend sections 2743.51 and 2929.01 of the Revised Code to include terrorism as criminally injurious conduct for purposes of the Crime Victims Reparations Awards Law.

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

SECTION 1. That sections 2743.51 and 2929.01 of the Revised Code be amended to read as follows:

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 reparations under sections 2743.51 to 2743.72 of the Revised Code:

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

(i) A resident of the United States;

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

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

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

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

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

(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:

(i) Had a permanent place of employment in this state;  
(ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;

(iii) Was retired and receiving social security or any other retirement income;

(iv) Was sixty years of age or older;

(v) Was temporarily in another state for the purpose of receiving medical treatment;

(vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;

(vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of employment or employee benefits;

(viii) Was a full-time student at an academic institution, college, or university located in another state;

(ix) Had not departed the geographical boundaries of this state for a period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

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

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

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

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

(1) The offender;

(2) The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess

or secondary to benefits under sections 2743.51 to 2743.72 of the Revised Code;

- (3) Social security, medicare, and medicaid;
- (4) State-required, temporary, nonoccupational disability insurance;
- (5) Workers' compensation;
- (6) Wage continuation programs of any employer;
- (7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;
- (8) A contract providing prepaid hospital and other health care services, or benefits for disability;
- (9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;
- (10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.

"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code.

(C) "Criminally injurious conduct" means ~~either one~~ one of the following:

(1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

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

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

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

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

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

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

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

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

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

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

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

(E) "Economic loss" means economic detriment consisting only of allowable expense, work loss, funeral expense, unemployment benefits loss, and replacement services loss. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement services loss. Noneconomic detriment is not economic loss; however, economic loss may be caused by pain and suffering or physical impairment.

(F) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, and

other remedial treatment and care and including replacement costs for eyeglasses and other corrective lenses. It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations, unless accommodations other than semiprivate accommodations are medically required.

(G) "Work loss" means loss of income from work that the injured person would have performed if the person had not been injured and expenses reasonably incurred by the person to obtain services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by the person, or by income the person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.

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

(I) "Dependent's economic loss" means loss after a victim's death of contributions of things of economic value to the victim's dependents, not including services they would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death.

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

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

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

- (1) Criminally injurious conduct;
- (2) The good faith effort of any person to prevent criminally injurious conduct;
- (3) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.

(M) "Contributory misconduct" means any conduct of the claimant or of the victim through whom the claimant claims an award of reparations that is

unlawful or intentionally tortious and that, without regard to the conduct's proximity in time or space to the criminally injurious conduct, has a causal relationship to the criminally injurious conduct that is the basis of the claim.

(N) "Funeral expense" means any reasonable charges that are not in excess of two thousand five hundred dollars and that are incurred for expenses directly related to the victim's funeral, cremation, or burial.

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

(P) "OMVI violation" means any of the following:

(1) A violation of section 4511.19 of the Revised Code, of any municipal ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of any municipal ordinance prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine;

(2) A violation of section 2903.06 of the Revised Code, if the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, at the time of the commission of the offense;

(3) A violation of section 2903.07 of the Revised Code or of a municipal ordinance substantially similar to that section, if the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, at the time of the commission of the offense;

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

(Q) "Pendency of the claim" for an original reparations application or supplemental reparations application means the period of time from the date the criminally injurious conduct upon which the application is based occurred until the date a final order from the court of claims concerning that original reparations application or supplemental reparations application is issued.

(R) "terrorism" means any activity to which all of the following apply:

(1) the activity involves A violent act or an act that is dangerous to

human life.

(2) the act described in division (R)(1) of this section is committed within the territorial jurisdiction of the united states and is a violation of the criminal laws of the United States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the united states and would be a violation of the criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States.

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

(a) intimidate or coerce a civilian population;

(b) influence the policy of any government by intimidation or coercion;

(c) affect the conduct of any government by assassination or kidnapping.

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

(S) "transcends the national boundaries of the united states" means occurring outside the territorial jurisdiction of the united states in addition to occurring within the territorial jurisdiction of the united states.

Sec. 2929.01. As used in this chapter:

(A) "Alternative residential facility" means any facility other than an offender's home or residence in which an offender is assigned to live and that provides programs through which the offender may seek or maintain employment or may receive education, training, treatment, or habilitation. "Alternative residential facility" does not include a community-based correctional facility, jail, halfway house, or prison.

(B) "Bad time" means the time by which the parole board administratively extends an offender's stated prison term or terms pursuant to section 2967.11 of the Revised Code because the parole board finds by clear and convincing evidence that the offender, while serving the prison term or terms, committed an act that is a criminal offense under the law of this state or the United States, whether or not the offender is prosecuted for the commission of that act.

(C) "Basic supervision" means a requirement that the offender maintain contact with a person appointed to supervise the offender in accordance with sanctions imposed by the court or imposed by the parole board pursuant to section 2967.28 of the Revised Code.

(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and "unit dose" have the same meanings as in section 2925.01 of the Revised Code.

(E) "Community-based correctional facility" means a community-based correctional facility and program or district community-based correctional facility and program developed pursuant to sections 2301.51 to 2301.56 of the Revised Code.

(F) "Community control sanction" means a sanction that is not a prison term and that is described in section 2929.15, 2929.16, 2929.17, or 2929.18 of the Revised Code.

(G) "Criminally injurious conduct" means any conduct of the type that is described in division (C)(1) or (2) of section 2743.51 of the Revised Code and that occurs on or after July 1, 1996, or any activity that is described in divisions (C)(3) and (R) of section 2743.51 Of the Revised Code and that occurs on or after the effective date of this amendment.

(H) "Controlled substance," "marihuana," "schedule I," and "schedule II" have the same meanings as in section 3719.01 of the Revised Code.

(I) "Curfew" means a requirement that an offender during a specified period of time be at a designated place.

(J) "Day reporting" means a sanction pursuant to which an offender is required each day to report to and leave a center or other approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center.

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

(L) "Drug and alcohol use monitoring" means a program under which an offender agrees to submit to random chemical analysis of the offender's blood, breath, or urine to determine whether the offender has ingested any alcohol or other drugs.

(M) "Drug treatment program" means any program under which a person undergoes assessment and treatment designed to reduce or completely eliminate the person's physical or emotional reliance upon alcohol, another drug, or alcohol and another drug and under which the person may be required to receive assessment and treatment on an outpatient basis or may be required to reside at a facility other than the person's home or residence while undergoing assessment and treatment.

(N) "Economic loss" means any economic detriment suffered by a victim as a result of criminally injurious conduct and includes any loss of income due to lost time at work because of any injury caused to the victim, and any property loss, medical cost, or funeral expense incurred as a result

of the criminally injurious conduct.

(O) "Education or training" includes study at, or in conjunction with a program offered by, a university, college, or technical college or vocational study and also includes the completion of primary school, secondary school, and literacy curriculums or their equivalent.

(P) "Electronically monitored house arrest" has the same meaning as in section 2929.23 of the Revised Code.

(Q) "Eligible offender" has the same meaning as in section 2929.23 of the Revised Code except as otherwise specified in section 2929.20 of the Revised Code.

(R) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(S) "Halfway house" means a facility licensed by the division of parole and community services of the department of rehabilitation and correction pursuant to section 2967.14 of the Revised Code as a suitable facility for the care and treatment of adult offenders.

(T) "House arrest" means a period of confinement of an eligible offender that is in the eligible offender's home or in other premises specified by the sentencing court or by the parole board pursuant to section 2967.28 of the Revised Code, that may be electronically monitored house arrest, and during which all of the following apply:

(1) The eligible offender is required to remain in the eligible offender's home or other specified premises for the specified period of confinement, except for periods of time during which the eligible offender is at the eligible offender's place of employment or at other premises as authorized by the sentencing court or by the parole board.

(2) The eligible offender is required to report periodically to a person designated by the court or parole board.

(3) The eligible offender is subject to any other restrictions and requirements that may be imposed by the sentencing court or by the parole board.

(U) "Intensive supervision" means a requirement that an offender maintain frequent contact with a person appointed by the court, or by the parole board pursuant to section 2967.28 of the Revised Code, to supervise the offender while the offender is seeking or maintaining necessary employment and participating in training, education, and treatment programs as required in the court's or parole board's order.

(V) "Jail" means a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or a combination of

political subdivisions of this state.

(W) "Delinquent child" has the same meaning as in section 2151.02 of the Revised Code.

(X) "License violation report" means a report that is made by a sentencing court, or by the parole board pursuant to section 2967.28 of the Revised Code, to the regulatory or licensing board or agency that issued an offender a professional license or a license or permit to do business in this state and that specifies that the offender has been convicted of or pleaded guilty to an offense that may violate the conditions under which the offender's professional license or license or permit to do business in this state was granted or an offense for which the offender's professional license or license or permit to do business in this state may be revoked or suspended.

(Y) "Major drug offender" means an offender who is convicted of or pleads guilty to the possession of, sale of, or offer to sell any drug, compound, mixture, preparation, or substance that consists of or contains at least one thousand grams of hashish; at least one hundred grams of crack cocaine; at least one thousand grams of cocaine that is not crack cocaine; at least two hundred fifty grams of heroin; at least five thousand unit doses of L.S.D.; or at least one hundred times the amount of any other schedule I or II controlled substance other than marihuana that is necessary to commit a felony of the third degree pursuant to section 2925.03, 2925.04, 2925.05, 2925.06, or 2925.11 of the Revised Code that is based on the possession of, sale of, or offer to sell the controlled substance.

(Z) "Mandatory prison term" means ~~either~~ one of the following:

(1) Subject to division ~~(CC)~~(DD)(2) of this section, the term in prison that must be imposed for the offenses or circumstances set forth in divisions (F)(1) to ~~(8)~~(9) of section 2929.13 and division (D) of section 2929.14 of the Revised Code. Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, and 2925.11 of the Revised Code, unless the maximum or another specific term is required under section 2929.14 of the Revised Code, a mandatory prison term described in this division may be any prison term authorized for the level of offense.

(2) The term of sixty days in prison that a sentencing court is required to impose for a fourth degree felony OMVI offense pursuant to division (G)(2) of section 2929.13 and division (A)(4) of section 4511.99 of the Revised Code.

~~(2)~~(3) The term in prison imposed pursuant to section 2971.03 of the Revised Code and that term as modified or terminated pursuant to section 2971.05 of the Revised Code.

(AA) "Monitored time" means a period of time during which an offender continues to be under the control of the sentencing court or parole board, subject to no conditions other than leading a law abiding life.

(BB) "Offender" means a person who, in this state, is convicted of or pleads guilty to a felony or a misdemeanor.

(CC) "Prison" means a residential facility used for the confinement of convicted felony offenders that is under the control of the department of rehabilitation and correction.

(DD) "Prison term" includes any of the following sanctions for an offender:

(1) A stated prison term;

(2) A term in a prison shortened by, or with the approval of, the sentencing court pursuant to section 2929.20, 2967.26, 2967.27, 5120.031, 5120.032, or 5120.073 of the Revised Code;

(3) A term in prison extended by bad time imposed pursuant to section 2967.11 of the Revised Code or imposed for a violation of post-release control pursuant to section 2967.28 of the Revised Code.

(EE) "Repeat violent offender" means a person about whom both of the following apply:

(1) The person has been convicted of or has pleaded guilty to, and is being sentenced for committing, for complicity in committing, or for an attempt to commit, aggravated murder, murder, involuntary manslaughter, a felony of the first degree other than one set forth in Chapter 2925. of the Revised Code, a felony of the first degree set forth in Chapter 2925. of the Revised Code that involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person, or a felony of the second degree that involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person.

(2) Either of the following applies:

(a) The person previously was convicted of or pleaded guilty to, and served a prison term for, any of the following:

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

(ii) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense listed under division (EE)(2)(a)(i) of this section.

(b) The person previously was adjudicated a delinquent child for committing an act that if committed by an adult would have been an offense listed in division (EE)(2)(a)(i) or (ii) of this section, the person was committed to the department of youth services for that delinquent act, and the juvenile court in which the person was adjudicated a delinquent child made a specific finding that the adjudication should be considered a conviction for purposes of a determination in the future pursuant to this chapter as to whether the person is a repeat violent offender.

(FF) "Sanction" means any penalty imposed upon an offender who is convicted of or pleads guilty to an offense, as punishment for the offense. "Sanction" includes any sanction imposed pursuant to any provision of sections 2929.14 to 2929.18 of the Revised Code.

(GG) "Sentence" means the sanction or combination of sanctions imposed by the sentencing court on an offender who is convicted of or pleads guilty to a felony.

(HH) "Stated prison term" means the prison term, mandatory prison term, or combination of all prison terms and mandatory prison terms imposed by the sentencing court pursuant to section 2929.14 or 2971.03 of the Revised Code. "Stated prison term" includes any credit received by the offender for time spent in jail awaiting trial, sentencing, or transfer to prison for the offense; and any time spent under house arrest or electronically monitored house arrest imposed after earning credits pursuant to section 2967.193 of the Revised Code.

(II) "Victim-offender mediation" means a reconciliation or mediation program that involves an offender and the victim of the offense committed by the offender and that includes a meeting in which the offender and the victim may discuss the offense, discuss restitution, and consider other sanctions for the offense.

~~(OO)~~(JJ) "Fourth degree felony OMVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under section 4511.99 of the Revised Code, is a felony of the fourth degree.

~~(PP)~~(KK) "Mandatory term of local incarceration" means the term of sixty days in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility that a sentencing court is required to impose upon a person who is convicted of or pleads guilty to a fourth degree felony OMVI offense pursuant to division (G)(1) of section 2929.13 of the Revised Code and division (A)(4) of section 4511.99 of the Revised Code.

~~(OO)~~(LL) "Designated homicide, assault, or kidnapping offense," "sexual motivation specification," "sexually violent offense," "sexually

violent predator," and "sexually violent predator specification" have the same meanings as in section 2971.01 of the Revised Code.

~~(PP)~~(MM) "Habitual sex offender," "sexually oriented offense," and "sexual predator" have the same meanings as in section 2950.01 of the Revised Code.

SECTION 2. That existing sections 2743.51 and 2929.01 of the Revised Code are hereby repealed.

SECTION 3. Section 2929.01 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 180, Am. Sub. H.B. 445, Sub. H.B. 480, Am. Sub. S.B. 166, and Am. Sub. S.B. 269 of the 121st General Assembly, with the new language of none 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 \_\_\_\_\_