

# AN ACT

To amend sections 2929.01, 2929.13, 2929.14, 2929.15, 2929.16, 2929.17, 2929.18, 2929.19, 2929.23, 2929.41, 2937.222, 3793.10, 4503.233, 4503.44, 4507.164, 4511.19, 4511.191, 4511.99, 5120.032, 5120.033, and 5120.161 of the Revised Code to establish stricter penalties for a person who commits state OMVI and has a concentration of .17 of one per cent or more by weight of alcohol in the person's blood, a concentration of .17 of one gram or more by weight of alcohol per 210 liters of the person's breath, or a concentration of .238 of one gram or more by weight of alcohol per 100 milliliters of the person's urine, to increase to a felony of the third degree the penalty for a second or subsequent felony conviction of state OMVI, in certain circumstances to eliminate for state OMVI and for driving under suspension or revocation offenses the prohibition against imposing a term of imprisonment imposed for a misdemeanor consecutively to a prison term imposed for a felony, and to provide that when an organization or person renews the registration of a motor vehicle that displays special license plates bearing the International Symbol of Access the organization or person must present a signed statement from the person's personal physician or chiropractor or documentary evidence of specified vehicle alterations every fifth year, rather than every year.

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

SECTION 1. That sections 2929.01, 2929.13, 2929.14, 2929.15, 2929.16, 2929.17, 2929.18, 2929.19, 2929.23, 2929.41, 2937.222, 3793.10, 4503.233, 4503.44, 4507.164, 4511.19, 4511.191, 4511.99, 5120.032, 5120.033, and 5120.161 of the Revised Code be amended to read as follows:

Sec. 2929.01. As used in this chapter:

(A)(1) "Alternative residential facility" means, subject to division (A)(2) of this section, any facility other than an offender's home or residence in which an offender is assigned to live and that satisfies all of the following criteria:

(a) It provides programs through which the offender may seek or maintain employment or may receive education, training, treatment, or habilitation.

(b) It has received the appropriate license or certificate for any specialized education, training, treatment, habilitation, or other service that it provides from the government agency that is responsible for licensing or certifying that type of education, training, treatment, habilitation, or service.

(2) "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~~ March 10, 1998.

(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 ~~one~~ any of the following:

(1) Subject to division ~~(D)~~(Z)(2) of this section, the term in prison that must be imposed for the offenses or circumstances set forth in divisions (F)(1) to (9) or (F)(10) 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 or one hundred twenty days in prison that a sentencing court is required to impose for a third or fourth degree felony OMVI offense pursuant to division (G)(2) of section 2929.13 and division (A)(4) or (8) of section 4511.99 of the Revised Code.

(3) The term in prison imposed pursuant to section 2971.03 of the Revised Code for the offenses and in the circumstances described in division (F)(9) of section 2929.13 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 but does not include a violation sanction center operated under authority of section 2967.141 of the Revised Code.

(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, 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 as it existed under section 2907.12 of the Revised Code ~~as it existed~~ 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

nvicted 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.

(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.

(KK) "Mandatory term of local incarceration" means the term of sixty or one hundred twenty days in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility that a sentencing court ~~is required to~~ may 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) ~~or (8)~~ of section 4511.99 of the Revised Code.

(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.

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

(NN) "Third 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 third degree.

Sec. 2929.13. (A) Except as provided in division (E), (F), or (G) of this

section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided in sections 2929.14 to 2929.18 of the Revised Code. The sentence shall not impose an unnecessary burden on state or local government resources.

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

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

(1) ~~For a fourth degree felony OMVI offense for which sentence is imposed under~~ division (G)(1) of this section ~~requires that the offender be sentenced to a mandatory term of local incarceration~~, an additional community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code;

(2) ~~For a third or fourth degree felony OMVI offense for which sentence is imposed under~~ division (G)(2) of this section ~~requires that the offender be sentenced to a mandatory prison term~~, an additional prison term as described in division (D)(4) of section 2929.14 of the Revised Code.

(B)(1) Except as provided in division (B)(2), (E), (F), or (G) of this section, in sentencing an offender for a felony of the fourth or fifth degree, the sentencing court shall determine whether any of the following apply:

(a) In committing the offense, the offender caused physical harm to a person.

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

(c) In committing the offense, the offender attempted to cause or made

an actual threat of physical harm to a person, and the offender previously was convicted of an offense that caused physical harm to a person.

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

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

(f) The offense is a sex offense that is a fourth or fifth degree felony violation of section 2907.03, 2907.04, 2907.05, 2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the Revised Code.

(g) The offender previously served a prison term.

(h) The offender previously was subject to a community control sanction, and the offender committed another offense while under the sanction.

(2)(a) If the court makes a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), or (h) of this section and if the court, after considering the factors set forth in section 2929.12 of the Revised Code, finds that a prison term is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code and finds that the offender is not amenable to an available community control sanction, the court shall impose a prison term upon the offender.

(b) Except as provided in division (E), (F), or (G) of this section, if the court does not make a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), or (h) of this section and if the court, after considering the factors set forth in section 2929.12 of the Revised Code, finds that a community control sanction or combination of community control sanctions is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code, the court shall impose a community control sanction or combination of community control sanctions upon the offender.

(C) Except as provided in division (E) ~~or~~, (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the third degree or 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 this division for purposes of sentencing, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(D) Except as provided in division (E) or (F) of this section, for a felony

of the first or second degree and for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code. Notwithstanding the presumption established under this division, the sentencing court may impose a community control sanction or a combination of community control sanctions instead of a prison term on an offender for a felony of the first or second degree or for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable if it makes both of the following findings:

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

(2) A community control sanction or a combination of community control sanctions would not demean the seriousness of the offense, because one or more factors under section 2929.12 of the Revised Code that indicate that the offender's conduct was less serious than conduct normally constituting the offense are applicable, and they outweigh the applicable factors under that section that indicate that the offender's conduct was more serious than conduct normally constituting the offense.

(E)(1) Except as provided in division (F) of this section, for any drug offense that is a violation of any provision of Chapter 2925. of the Revised Code and that is a felony of the third, fourth, or fifth degree, the applicability of a presumption under division (D) of this section in favor of a prison term or of division (B) or (C) of this section in determining whether to impose a prison term for the offense shall be determined as specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.07, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the Revised Code, whichever is applicable regarding the violation.

(2) If an offender who was convicted of or pleaded guilty to a felony drug offense in violation of a provision of Chapter 2925., 3719., or 4729. of the Revised Code violates the conditions of a community control sanction imposed for the offense solely by possessing or using a controlled substance and if the offender has not failed to meet the conditions of any drug treatment program in which the offender was ordered to participate as a

sanction for the offense, the court, as punishment for the violation of the sanction, shall order that the offender participate in a drug treatment program or in alcoholics anonymous, narcotics anonymous, or a similar program if the court determines that an order of that nature is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code. If the court determines that an order of that nature would not be consistent with those purposes and principles or if the offender violated the conditions of a drug treatment program in which the offender participated as a sanction for the offense, the court may impose on the offender a sanction authorized for the violation of the sanction, including a prison term.

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

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

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape by force when the victim is under thirteen years of age;

(3) Gross sexual imposition or sexual battery, if the victim is under thirteen years of age, if the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, gross sexual imposition, or sexual battery, and if the victim of the previous offense was under thirteen years of age;

(4) A felony violation of section 2903.06, 2903.07, 2903.08, 2903.11, 2903.12, or 2903.13 of the Revised Code if the section requires the imposition of a prison term;

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

(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former

law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses;

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

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

(9) Any sexually violent offense for which the offender 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 the sexually violent offense;

(10) A violation of division (A)(1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A)(1) or (2) of that section, if the offender is an officer or employee of the department of rehabilitation and correction.

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

(1) ~~Except as provided in division (G)(2) of this section~~ If the offender is being sentenced for a fourth degree felony OMVI offense, the court ~~shall~~ may impose upon the offender a mandatory term of local incarceration of sixty days as specified in division (A)(4) of section 4511.99 of the Revised Code ~~and or a mandatory term of local incarceration of one hundred twenty days as specified in division (A)(8) of that section.~~ The court shall not reduce the term pursuant to section 2929.20, 2967.193, or any other provision of the Revised Code. The court that imposes a mandatory term of local incarceration under this division shall specify whether the term is to be served in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility, and the offender shall serve the term in the type of facility specified by the court. The court shall not sentence the offender to a prison term and shall not specify that the offender is to serve the mandatory term of local incarceration in prison. A mandatory term of local incarceration imposed under division (G)(1) of this section is not subject to extension under section 2967.11 of the Revised Code, to a period

of post-release control under section 2967.28 of the Revised Code, or to any other Revised Code provision that pertains to a prison term.

(2) If the offender ~~previously has been sentenced to a mandatory term of local incarceration pursuant to division (G)(1) of this section for a fourth is being sentenced for a third~~ degree felony OMVI offense, or if the offender is being sentenced for a fourth degree felony OMVI offense and the court does not impose a mandatory term of local incarceration under division (G)(1) of this section, the court shall impose upon the offender a mandatory prison term of sixty days as specified in division (A)(4) of section 4511.99 of the Revised Code ~~and or a mandatory prison term of one hundred twenty days as specified in division (A)(8) of that section~~. The court shall not reduce the term pursuant to section 2929.20, 2967.193, or any other provision of the Revised Code. In no case shall an offender who once has been sentenced to a mandatory term of local incarceration pursuant to division (G)(1) of this section for a fourth degree felony OMVI offense be sentenced to another mandatory term of local incarceration under that division for ~~a fourth degree felony OMVI offense~~ any violation of division (A) of section 4511.19 of the Revised Code. The court shall not sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code. The department of rehabilitation and correction may place an offender sentenced to a mandatory prison term under this division in an intensive program prison established pursuant to section 5120.033 of the Revised Code if the department gave the sentencing judge prior notice of its intent to place the offender in an intensive program prison established under that section and if the judge did not notify the department that the judge disapproved the placement. Upon the establishment of the initial intensive program prison pursuant to section 5120.033 of the Revised Code that is privately operated and managed by a contractor pursuant to a contract entered into under section 9.06 of the Revised Code, both of the following apply:

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

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

(H) If an offender is being sentenced for a sexually oriented offense

committed on or after January 1, 1997, the judge shall require the offender to submit to a DNA specimen collection procedure pursuant to section 2901.07 of the Revised Code if either of the following applies:

(1) The offense was a sexually violent offense, and the offender also was convicted of or pleaded guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging the sexually violent offense.

(2) The judge imposing sentence for the sexually oriented offense determines pursuant to division (B) of section 2950.09 of the Revised Code that the offender is a sexual predator.

(I) If an offender is being sentenced for a sexually oriented offense committed on or after January 1, 1997, the judge shall include in the sentence a summary of the offender's duty to register pursuant to section 2950.04 of the Revised Code, the offender's duty to provide notice of a change in residence address and register the new residence address pursuant to section 2950.05 of the Revised Code, the offender's duty to periodically verify the offender's current residence address pursuant to section 2950.06 of the Revised Code, and the duration of the duties. The judge shall inform the offender, at the time of sentencing, of those duties and of their duration and, if required under division (A)(2) of section 2950.03 of the Revised Code, shall perform the duties specified in that section.

Sec. 2929.14. (A) Except as provided in division (C), (D)(2), (D)(3), (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, in section 2907.02 of the Revised Code, 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 or 2923.123 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 third or fourth degree felony OMVI offense ~~and if under~~ 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)~~(3) of this section minus the sixty or one hundred twenty 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 or one hundred twenty days imposed as the mandatory prison term shall equal one of the authorized prison terms specified in division (A)~~(4)~~(3) 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 or if a prison term is imposed for a felony violation of division (B) of section 2921.331 of the Revised Code, the offender shall serve that prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(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.

(5) When consecutive prison terms are imposed pursuant to division

(E)(1), (2), (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.

(H) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

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

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

Sec. 2929.15. (A)(1) If in sentencing an offender for a felony the court is not required to impose a prison term, a mandatory prison term, or a term of life imprisonment upon the offender, the court may directly impose a sentence ~~community control~~ that consists of one or more community control sanctions authorized pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code. If the court is sentencing an offender for a fourth degree felony OMVI offense ~~and if it is required to impose on the offender a mandatory term of local incarceration pursuant to~~ under division (G)(1) of section 2929.13 of the Revised Code, in addition to the mandatory term of local incarceration imposed under that division and the mandatory fine required by division (B)(3) of section 2929.18 of the Revised Code, the court may impose upon the offender a community control sanction or combination of community control sanctions in accordance with sections 2929.16 and 2929.17 of the Revised Code. The duration of all community control sanctions ~~so imposed~~ imposed upon an offender under this division shall not exceed five years. If the court sentences the offender to one or more nonresidential sanctions under section 2929.17 of the Revised Code, the court shall comply with division (C)(1)(b) of section 2951.02 of the Revised Code and impose the mandatory condition described in that division. The court may impose any other conditions of release under a community control sanction that the court considers appropriate. If the court is sentencing an offender for a third or fourth degree felony OMVI offense ~~and if it is required to impose on the offender a mandatory prison term pursuant to~~ under division (G)(2) of section 2929.13 of the Revised Code, the court shall not impose upon the offender any community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code.

(2)(a) If a court sentences an offender to any community control sanction or combination of community control sanctions authorized pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, the court shall place the offender under the general control and supervision of a department of probation in the county that serves the court for purposes of reporting to the court a violation of any of the sanctions or the mandatory condition imposed under division (C)(1)(b) of section 2951.02 of the Revised Code. Alternatively, if the offender resides in another county and a county department of probation has been established in that county or that county is served by a multicounty probation department established under section 2301.27 of the Revised Code, the court may request the court of common pleas of that county to receive the offender into the general control and supervision of that county or multicounty department of probation for

purposes of reporting to the court a violation of any of the sanctions, or the mandatory condition imposed under division (C)(1)(b) of section 2951.02 of the Revised Code, subject to the jurisdiction of the trial judge over and with respect to the person of the offender, and to the rules governing that department of probation.

If there is no department of probation in the county that serves the court, the court shall place the offender, regardless of the offender's county of residence, under the general control and supervision of the adult parole authority for purposes of reporting to the court a violation of any of the sanctions or the mandatory condition imposed under division (C)(1)(b) of section 2951.02 of the Revised Code.

(b) If the court imposing sentence upon an offender sentences the offender to any community control sanction or combination of community control sanctions authorized pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, and if the offender violates any of the sanctions or the mandatory condition imposed under division (C)(1)(b) of section 2951.02 of the Revised Code, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the sentencing court, or shall report the violation to the county or multicounty department of probation with general control and supervision over the offender under division (A)(2)(a) of this section or the officer of that department who supervises the offender, or, if there is no such department with general control and supervision over the offender under that division, to the adult parole authority. If the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction reports the violation to the county or multicounty department of probation or the adult parole authority, the department's or authority's officers may treat the offender as if the offender were on probation and in violation of the probation, and shall report the violation of the sanction or the mandatory condition imposed under division (C)(1)(b) of section 2951.02 of the Revised Code to the sentencing court.

(B) If the conditions of a community control sanction or the mandatory condition imposed under division (C)(1)(b) of section 2951.02 of the Revised Code is violated, the sentencing court may impose a longer time under the same sanction if the total time under the sanctions does not exceed the five-year limit specified in division (A) of this section, may impose a more restrictive sanction under section 2929.16, 2929.17, or 2929.18 of the Revised Code, or may impose a prison term on the offender pursuant to section 2929.14 of the Revised Code. The court shall not eliminate the

mandatory condition imposed under division (C)(1)(b) of section 2951.02 of the Revised Code. The prison term, if any, imposed upon a violator pursuant to this division shall be within the range of prison terms available for the offense for which the sanction that was violated was imposed and shall not exceed the prison term specified in the notice provided to the offender at the sentencing hearing pursuant to division (B)(3) of section 2929.19 of the Revised Code. The court may reduce the longer period of time that the offender is required to spend under the longer sanction, the more restrictive sanction, or a prison term imposed pursuant to this division by the time the offender successfully spent under the sanction that was initially imposed.

(C) If an offender, for a significant period of time, fulfills the conditions of a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code in an exemplary manner, the court may reduce the period of time under the sanction or impose a less restrictive sanction, but the court shall not eliminate the mandatory condition imposed under division (C)(1)(b) of section 2951.02 of the Revised Code.

Sec. 2929.16. (A) The court imposing a sentence for a felony upon an offender who is not required to serve a mandatory prison term may impose any community residential sanction or combination of community residential sanctions under this section. The court imposing a sentence for a fourth degree felony OMVI offense ~~upon an offender who is required to serve a mandatory term of local incarceration pursuant to~~ under division (G)(1) of section 2929.13 of the Revised Code may impose upon the offender, in addition to the mandatory term of local incarceration imposed under that division, a community residential sanction or combination of community residential sanctions under this section, and the offender shall serve or satisfy the sanction or combination of sanctions after the offender has served the mandatory term of local incarceration required for the offense. Community residential sanctions include, but are not limited to, the following:

(1) A term of up to six months at a community-based correctional facility that serves the county;

(2) Except as otherwise provided in division (A)(3) of this section and subject to division (D) of this section, a term of up to six months in a jail;

(3) If the offender is convicted of a fourth degree felony OMVI offense and is sentenced ~~pursuant to~~ under division (G)(1) of section 2929.13 of the Revised Code, subject to division (D) of this section, a term of up to one year in a jail less the mandatory term of local incarceration of sixty or one hundred twenty consecutive days of imprisonment imposed pursuant to that division;

(4) A term in a halfway house;

(5) A term in an alternative residential facility.

(B) The court that assigns any offender convicted of a felony to a residential sanction under this section may authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, or receive treatment. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of the release.

(C) If the court assigns an offender to a county jail that is not a minimum security misdemeanor jail in a county that has established a county jail industry program pursuant to section 5147.30 of the Revised Code, the court shall specify, as part of the sentence, whether the sheriff of that county may consider the offender for participation in the county jail industry program. During the offender's term in the county jail, the court shall retain jurisdiction to modify its specification upon a reassessment of the offender's qualifications for participation in the program.

(D) If a court sentences an offender to a term in jail under division (A)(2) or (3) of this section and if the sentence is imposed for a felony of the fourth or fifth degree that is not an offense of violence, the court may specify that it prefers that the offender serve the term in a minimum security jail established under section 341.34 or 753.21 of the Revised Code. If the court includes a specification of that type in the sentence and if the administrator of the appropriate minimum security jail or the designee of that administrator classifies the offender in accordance with section 341.34 or 753.21 of the Revised Code as a minimal security risk, the offender shall serve the term in the minimum security jail established under section 341.34 or 753.21 of the Revised Code. Absent a specification of that type and a finding of that type, the offender shall serve the term in a jail other than a minimum security jail established under section 341.34 or 753.21 of the Revised Code.

(E) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a community residential sanction as described in division (A) of this section, at the time of reception and at other times the person in charge of the operation of the community-based correctional facility, jail, halfway house, alternative residential facility, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the community-based correctional facility, jail, halfway house, alternative residential facility, or other place may cause the convicted offender to be examined and tested for

osis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the community-based correctional facility, jail, halfway house, alternative residential facility, or other place at which the offender will serve the residential sanction may cause a convicted offender in the community-based correctional facility, jail, halfway house, alternative residential facility, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

Sec. 2929.17. The court imposing a sentence for a felony upon an offender who is not required to serve a mandatory prison term may impose any nonresidential sanction or combination of nonresidential sanctions authorized under this section. If the court imposes one or more nonresidential sanctions authorized under this section, the court shall comply with division (C)(1)(b) of section 2951.02 of the Revised Code and impose the mandatory condition described in that division. The court imposing a sentence for a fourth degree felony OMVI offense ~~upon an offender who is required to serve a mandatory term of local incarceration~~ under division (G)(1) of section 2929.13 of the Revised Code may impose upon the offender, in addition to the mandatory term of local incarceration imposed under that division, a nonresidential sanction or combination of nonresidential sanctions under this section, and the offender shall serve or satisfy the sanction or combination of sanctions after the offender has served the mandatory term of local incarceration required for the offense. Nonresidential sanctions include, but are not limited to, the following:

- (A) A term of day reporting;
- (B) A term of electronically monitored house arrest, a term of electronic monitoring without house arrest, or a term of house arrest without electronic monitoring;
- (C) A term of community service of up to five hundred hours pursuant to division (F) of section 2951.02 of the Revised Code or, if the court determines that the offender is financially incapable of fulfilling a financial sanction described in section 2929.18 of the Revised Code, a term of community service as an alternative to a financial sanction;
- (D) A term in a drug treatment program with a level of security for the offender as determined necessary by the court;
- (E) A term of intensive supervision;
- (F) A term of basic supervision;
- (G) A term of monitored time;
- (H) A term of drug and alcohol use monitoring;

- (I) A curfew term;
- (J) A requirement that the offender obtain employment;
- (K) A requirement that the offender obtain education or training;
- (L) Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;
- (M) A license violation report.

Sec. 2929.18. (A) Except as otherwise provided in this division and in addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section or, in the circumstances specified in section 2929.25 of the Revised Code, may impose upon the offender a fine in accordance with that section. If the offender is sentenced to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation, or another governmental entity, the court imposing sentence upon an offender for a felony shall comply with division (A)(4)(b) of this section in determining whether to sentence the offender to a financial sanction described in division (A)(4)(a) of this section. Financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court shall order that the restitution be made to the adult probation department that serves the county on behalf of the victim, to the clerk of courts, or to another agency designated by the court, except that it may include a requirement that reimbursement be made to third parties for amounts paid to or on behalf of the victim or any survivor of the victim for economic loss resulting from the offense. If reimbursement to third parties is required, the reimbursement shall be made to any governmental agency to repay any amounts paid by the agency to or on behalf of the victim or any survivor of the victim for economic loss resulting from the offense before any reimbursement is made to any person other than a governmental agency. If no governmental agency incurred expenses for economic loss of the victim or any survivor of the victim resulting from the offense, the reimbursement shall be made to any person other than a governmental agency to repay amounts paid by that person to or on behalf of the victim or any survivor of the victim for economic loss of the victim resulting from the offense. The court shall not require an offender to repay an insurance company for any amounts the company paid on behalf of the offender

pursuant to a policy of insurance. At sentencing, the court shall determine the amount of restitution to be made by the offender. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender.

(2) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision, or as described in division (B)(2) of this section to one or more law enforcement agencies, with the amount of the fine based on a standard percentage of the offender's daily income over a period of time determined by the court and based upon the seriousness of the offense. A fine ordered under this division shall not exceed the statutory fine amount authorized for the level of the offense under division (A)(3) of this section.

(3) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision when appropriate for a felony, or as described in division (B)(2) of this section to one or more law enforcement agencies, in the following amount:

(a) For a felony of the first degree, not more than twenty thousand dollars;

(b) For a felony of the second degree, not more than fifteen thousand dollars;

(c) For a felony of the third degree, not more than ten thousand dollars;

(d) For a felony of the fourth degree, not more than five thousand dollars;

(e) For a felony of the fifth degree, not more than two thousand five hundred dollars.

(4)(a) Subject to division (A)(4)(b) of this section, reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including the following:

(i) All or part of the costs of implementing any community control sanction;

(ii) All or part of the costs of confinement under a sanction imposed pursuant to section 2929.14 or 2929.16 of the Revised Code, provided that the amount of reimbursement ordered under this division shall not exceed ten thousand dollars or the total amount of reimbursement the offender is able to pay as determined at a hearing, whichever amount is greater;

(b) If the offender is sentenced to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation, or another local governmental entity, one of the

following applies:

(i) If, pursuant to section 307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code, the board, legislative authority, or other local governmental entity requires prisoners convicted of an offense other than a minor misdemeanor to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement, the court shall impose a financial sanction under division (A)(4)(a) of this section that requires the offender to reimburse the county, municipal corporation, or other local governmental entity for the cost of the confinement. In addition, the court may impose any other financial sanction under this section.

(ii) If, pursuant to any section identified in division (A)(4)(b)(i) of this section, the board, legislative authority, or other local governmental entity has adopted a resolution or ordinance specifying that prisoners convicted of felonies are not required to reimburse the county, municipal corporation, or other local governmental entity for its expenses incurred by reason of the prisoner's confinement, the court shall not impose a financial sanction under division (A)(4)(a) of this section that requires the offender to reimburse the county, municipal corporation, or other local governmental entity for the cost of the confinement, but the court may impose any other financial sanction under this section.

(iii) If neither division (A)(4)(b)(i) nor (A)(4)(b)(ii) of this section applies, the court may impose, but is not required to impose, any financial sanction under this section.

(c) Reimbursement by the offender for costs pursuant to section 2929.28 of the Revised Code.

(B)(1) For a first, second, or third degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code, the sentencing court shall impose upon the offender a mandatory fine of at least one-half of, but not more than, the maximum statutory fine amount authorized for the level of the offense pursuant to division (A)(3) of this section. If an offender alleges in an affidavit filed with the court prior to sentencing that the offender is indigent and unable to pay the mandatory fine and if the court determines the offender is an indigent person and is unable to pay the mandatory fine described in this division, the court shall not impose the mandatory fine upon the offender.

(2) Any mandatory fine imposed upon an offender under division (B)(1) of this section and any fine imposed upon an offender under division (A)(2) or (3) of this section for any fourth or fifth degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code shall be

paid to law enforcement agencies pursuant to division (F) of section 2925.03 of the Revised Code.

(3) For a fourth degree felony OMVI offense and for a third degree felony OMVI offense, the sentencing court shall impose upon the offender a mandatory fine in the amount specified in division (A)(4) or (8) of section 4511.99 of the Revised Code. The mandatory fine so imposed shall be disbursed as provided in division (A)(4) or (8) of section 4511.99 of the Revised Code.

(4) Notwithstanding any fine otherwise authorized or required to be imposed under division (A)(2) or (3) or (B)(1) of this section or section 2929.31 of the Revised Code for a violation of section 2925.03 or 2925.07 of the Revised Code, in addition to any penalty or sanction imposed for that offense under section 2925.03 or 2925.07 or sections 2929.11 to 2929.18 of the Revised Code and in addition to the forfeiture of property in connection with the offense as prescribed in sections 2925.42 to 2925.45 of the Revised Code, the court that sentences an offender for a violation of section 2925.03 or 2925.07 of the Revised Code may impose upon the offender a fine in addition to any fine imposed under division (A)(2) or (3) of this section and in addition to any mandatory fine imposed under division (B)(1) of this section. The fine imposed under division (B)(4) of this section shall be used as provided in division (H) of section 2925.03 of the Revised Code. A fine imposed under division (B)(4) of this section shall not exceed whichever of the following is applicable:

(a) The total value of any personal or real property in which the offender has an interest and that was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of section 2925.03 or 2925.07 of the Revised Code, including any property that constitutes proceeds derived from that offense;

(b) If the offender has no interest in any property of the type described in division (B)(4)(a) of this section or if it is not possible to ascertain whether the offender has an interest in any property of that type in which the offender may have an interest, the amount of the mandatory fine for the offense imposed under division (B)(1) of this section or, if no mandatory fine is imposed under division (B)(1) of this section, the amount of the fine authorized for the level of the offense imposed under division (A)(3) of this section.

(5) Prior to imposing a fine under division (B)(4) of this section, the court shall determine whether the offender has an interest in any property of the type described in division (B)(4)(a) of this section. Except as provided in division (B)(6) or (7) of this section, a fine that is authorized and imposed

nder division (B)(4) of this section does not limit or affect the imposition of the penalties and sanctions for a violation of section 2925.03 or 2925.07 of the Revised Code prescribed under those sections or sections 2929.11 to 2929.18 of the Revised Code and does not limit or affect a forfeiture of property in connection with the offense as prescribed in sections 2925.42 to 2925.45 of the Revised Code.

(6) If the sum total of a mandatory fine amount imposed for a first, second, or third degree felony violation of section 2925.03 or a third degree felony violation of section 2925.07 of the Revised Code under division (B)(1) of this section plus the amount of any fine imposed under division (B)(4) of this section does not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court may impose a fine for the offense in addition to the mandatory fine and the fine imposed under division (B)(4) of this section. The sum total of the amounts of the mandatory fine, the fine imposed under division (B)(4) of this section, and the additional fine imposed under division (B)(6) of this section shall not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code. The clerk of the court shall pay any fine that is imposed under division (B)(6) of this section to the county, township, municipal corporation, park district as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender pursuant to division (F) of section 2925.03 of the Revised Code.

(7) If the sum total of the amount of a mandatory fine imposed for a first, second, or third degree felony violation of section 2925.03 or a third degree felony violation of section 2925.07 of the Revised Code plus the amount of any fine imposed under division (B)(4) of this section exceeds the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court shall not impose a fine under division (B)(6) of this section.

(C)(1) The offender shall pay reimbursements imposed upon the offender pursuant to division (A)(4)(a) of this section to pay the costs incurred by the department of rehabilitation and correction in operating a prison or other facility used to confine offenders pursuant to sanctions imposed under section 2929.14 or 2929.16 of the Revised Code to the treasurer of state. The treasurer of state shall deposit the reimbursements in the confinement cost reimbursement fund that is hereby created in the state

treasury. The department of rehabilitation and correction shall use the amounts deposited in the fund to fund the operation of facilities used to confine offenders pursuant to sections 2929.14 and 2929.16 of the Revised Code.

(2) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(4)(a) of this section to pay the costs incurred by a county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the county treasurer. The county treasurer shall deposit the reimbursements in the sanction cost reimbursement fund that each board of county commissioners shall create in its county treasury. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(3) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(4)(a) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in a special fund that shall be established in the treasury of each municipal corporation. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(4) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed pursuant to division (A)(4)(a) of this section for the costs incurred by a private provider pursuant to a sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code to the provider.

(D) A financial sanction imposed pursuant to division (A) or (B) of this section is a judgment in favor of the state or a political subdivision in which the court that imposed the financial sanction is located, and the offender

subject to the sanction is the judgment debtor, except that a financial sanction of reimbursement imposed pursuant to division (A)(4)(a)(ii) of this section upon an offender who is incarcerated in a state facility or a municipal jail is a judgment in favor of the state or the municipal corporation, a financial sanction of reimbursement imposed upon an offender pursuant to this section for costs incurred by a private provider of sanctions is a judgment in favor of the private provider, and a financial sanction of restitution imposed pursuant to this section is a judgment in favor of the victim of the offender's criminal act. Once the financial sanction is imposed as a judgment, the victim, private provider, state, or political subdivision may bring an action to do any of the following:

(1) Obtain execution of the judgment through any available procedure, including:

(a) An execution against the property of the judgment debtor under Chapter 2329. of the Revised Code;

(b) An execution against the person of the judgment debtor under Chapter 2331. of the Revised Code;

(c) A proceeding in aid of execution under Chapter 2333. of the Revised Code, including:

(i) A proceeding for the examination of the judgment debtor under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27 of the Revised Code;

(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;

(iii) A creditor's suit under section 2333.01 of the Revised Code.

(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;

(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.

(2) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.

(E) A court that imposes a financial sanction upon an offender may hold a hearing if necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it.

(F) Each court imposing a financial sanction upon an offender under this section or under section 2929.25 of the Revised Code may designate a court employee to collect, or may enter into contracts with one or more public agencies or private vendors for the collection of, amounts due under the financial sanction imposed pursuant to this section or section 2929.25 of the Revised Code. Before entering into a contract for the collection of amounts

due from an offender pursuant to any financial sanction imposed pursuant to this section or section 2929.25 of the Revised Code, a court shall comply with sections 307.86 to 307.92 of the Revised Code.

(G) If a court that imposes a financial sanction under division (A) or (B) of this section finds that an offender satisfactorily has completed all other sanctions imposed upon the offender and that all restitution that has been ordered has been paid as ordered, the court may suspend any financial sanctions imposed pursuant to this section or section 2929.25 of the Revised Code that have not been paid.

(H) No financial sanction imposed under this section or section 2929.25 of the Revised Code shall preclude a victim from bringing a civil action against the offender.

Sec. 2929.19. (A)(1) The court shall hold a sentencing hearing before imposing a sentence under this chapter upon an offender who was convicted of or pleaded guilty to a felony and before resentencing an offender who was convicted of or pleaded guilty to a felony and whose case was remanded pursuant to section 2953.07 or 2953.08 of the Revised Code. At the hearing, the offender, the prosecuting attorney, the victim or the victim's representative in accordance with section 2930.14 of the Revised Code, and, with the approval of the court, any other person may present information relevant to the imposition of sentence in the case. The court shall inform the offender of the verdict of the jury or finding of the court and ask the offender whether the offender has anything to say as to why sentence should not be imposed upon the offender.

(2) Except as otherwise provided in this division, before imposing sentence on an offender who is being sentenced for a sexually oriented offense that was committed on or after ~~the effective date of this amendment~~ January 1, 1997, and that is not a sexually violent offense, and before imposing sentence on an offender who is being sentenced for a sexually violent offense committed on or after ~~the effective date of this amendment~~ January 1, 1997, and who was not charged with a sexually violent predator specification in the indictment, count in the indictment, or information charging the sexually violent offense, the court shall conduct a hearing in accordance with division (B) of section 2950.09 of the Revised Code to determine whether the offender is a sexual predator. The court shall not conduct a hearing under that division if the offender is being sentenced for a sexually violent offense and a sexually violent predator specification was included in the indictment, count in the indictment, or information charging the sexually violent offense. Before imposing sentence on an offender who is being sentenced for a sexually oriented offense, the court also shall

comply with division (E) of section 2950.09 of the Revised Code.

(B)(1) At the sentencing hearing, the court, before imposing sentence, shall consider the record, any information presented at the hearing by any person pursuant to division (A) of this section, and, if one was prepared, the presentence investigation report made pursuant to section 2951.03 of the Revised Code or Criminal Rule 32.2, and any victim impact statement made pursuant to section 2947.051 of the Revised Code.

(2) The court shall impose a sentence and shall make a finding that gives its reasons for selecting the sentence imposed in any of the following circumstances:

(a) Unless the offense is a sexually violent offense for which the court is required to impose sentence pursuant to division (G) of section 2929.14 of the Revised Code, if it imposes a prison term for a felony of the fourth or fifth degree or for 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, if the term is not a mandatory prison term imposed pursuant to division (G)(2) of section 2929.13 of the Revised Code for a felony OMVI offense,~~ its reasons for imposing the prison term, based upon the overriding purposes and principles of felony sentencing set forth in section 2929.11 of the Revised Code, and any factors listed in divisions (B)(1)(a) to (h) of section 2929.13 of the Revised Code that it found to apply relative to the offender.

(b) If it does not impose a prison term for a felony of the first or second degree or for a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and for which a presumption in favor of a prison term is specified as being applicable, its reasons for not imposing the prison term and for overriding the presumption, based upon the overriding purposes and principles of felony sentencing set forth in section 2929.11 of the Revised Code, and the basis of the findings it made under divisions (D)(1) and (2) of section 2929.13 of the Revised Code.

(c) If it imposes consecutive sentences under section 2929.14 of the Revised Code, its reasons for imposing the consecutive sentences;

(d) If the sentence is for one offense and it imposes a prison term for the offense that is the maximum prison term allowed for that offense by division (A) of section 2929.14 of the Revised Code, its reasons for imposing the maximum prison term;

(e) If the sentence is for two or more offenses arising out of a single incident and it imposes a prison term for those offenses that is the maximum prison term allowed for the offense of the highest degree by division (A) of

section 2929.14 of the Revised Code, its reasons for imposing the maximum prison term.

(3) Subject to division (B)(4) of this section, if the sentencing court determines at the sentencing hearing that a prison term is necessary or required, the court shall do all of the following:

(a) Impose a stated prison term;

(b) Notify the offender that the parole board may extend the stated prison term if the offender commits any criminal offense under the laws of this state or the United States while serving the prison term, that the extension will be done administratively as part of the offender's sentence in accordance with section 2967.11 of the Revised Code and may be for thirty, sixty, or ninety days for each violation, that all extensions of any stated prison term for all violations during the course of the term may not exceed one-half of the term's duration, and that the sentence so imposed automatically includes any extension of the stated prison term by the parole board;

(c) Subject to division (B)(4) of this section, if the offender is being sentenced for a felony of the first degree, for a felony of the second degree, for a felony sex offense, as defined in section 2967.28 of the Revised Code, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person, notify the offender that a period of post-release control pursuant to section 2967.28 of the Revised Code will be imposed following the offender's release from prison;

(d) Subject to division (B)(4) of this section, if the offender is being sentenced for a felony of the third, fourth, or fifth degree that is not subject to division (B)(3)(c) of this section, notify the offender that a period of post-release control pursuant to section 2967.28 of the Revised Code may be imposed following the offender's release from prison;

(e) Notify the offender that, if a period of post-release control is imposed following the offender's release from prison, as described in division (B)(3)(c) or (d) of this section, and if the offender violates a post-release control sanction imposed as a component of the post-release control including the mandatory condition described in division (A) of section 2967.121 of the Revised Code, all of the following apply:

(i) The adult parole authority or the parole board may impose a more restrictive post-release control sanction.

(ii) The parole board may increase the duration of the post-release control subject to a specified maximum.

(iii) The more restrictive sanction that the parole board may impose may

consist of a prison term, provided that the prison term cannot exceed nine months and the maximum cumulative prison term so imposed for all violations during the period of post-release control cannot exceed one-half of the stated prison term originally imposed upon the offender.

(iv) If the violation of the sanction is a felony, the offender may be prosecuted for the felony and, in addition to any sentence it imposes on the offender for the new felony, the court may impose a prison term, subject to a specified maximum, for the violation.

(4) If the offender is being sentenced for a sexually violent offense that the offender committed on or after ~~the effective date of this amendment~~ January 1, 1997, and the offender 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 the sexually violent offense or if the offender is being sentenced for a sexually oriented offense that the offender committed on or after ~~the effective date of this section~~ January 1, 1997, and the court imposing the sentence has determined pursuant to division (B) of section 2950.09 of the Revised Code that the offender is a sexual predator, the court shall include in the offender's sentence a statement that the offender has been adjudicated as being a sexual predator and shall comply with the requirements of section 2950.03 of the Revised Code. Additionally, in the circumstances described in division (G) of section 2929.14 of the Revised Code, the court shall impose sentence on the offender as described in that division.

(5) If the sentencing court determines at the sentencing hearing that a community control sanction should be imposed and the court is not prohibited from imposing a community control sanction, the court shall impose a community control sanction. The court shall notify the offender that, if the conditions of the sanction are violated or the condition imposed under division (C)(1)(b) of section 2951.02 of the Revised Code, if imposed, is violated, the court may impose a longer time under the same sanction, may impose a more restrictive sanction, or may impose a prison term on the offender and shall indicate the specific prison term that may be imposed as a sanction for the violation, as selected by the court from the range of prison terms for the offense pursuant to section 2929.14 of the Revised Code.

(6) Before imposing a financial sanction under section 2929.18 of the Revised Code or a fine under section 2929.25 of the Revised Code, the court shall consider the offender's present and future ability to pay the amount of the sanction or fine.

(C)(1) If the offender is being sentenced for a fourth degree felony OMVI offense ~~and if the court is required by~~ under division (G)(1) of

section 2929.13 of the Revised Code ~~to impose as a sanction a mandatory term of local incarceration~~, the court shall impose the mandatory term of local incarceration in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose additional sanctions as specified in sections 2929.15, 2929.16, 2929.17, and 2929.18 of the Revised Code. The court shall not impose a prison term on the offender.

(2) If the offender is being sentenced for a third or fourth degree felony OMVI offense ~~and if the court is required by under~~ division (G)(2) of section 2929.13 of the Revised Code ~~to impose as a sanction a mandatory prison term~~, the court shall impose the mandatory prison term in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose an additional prison term as specified in section 2929.14 of the Revised Code. The court shall not impose any community control sanction on the offender.

Sec. 2929.23. (A) As used in this section:

(1) "Electronic monitoring device" means either of the following:

(a) Any device that can be operated by electrical or battery power and that conforms with all of the following:

(i) The device has a transmitter that can be attached to a person, that will transmit a specified signal to a receiver of the type described in division (A)(1)(a)(ii) of this section if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval in relation to electronically monitored house arrest or electronically monitored house detention or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with, that can transmit continuously and periodically a signal to that receiver when the person is within a specified distance from the receiver, and that can transmit an appropriate signal to that receiver if the person to whom it is attached travels a specified distance from that receiver.

(ii) The device has a receiver that can receive continuously the signals transmitted by a transmitter of the type described in division (A)(1)(a)(i) of this section, can transmit continuously those signals by telephone to a central monitoring computer of the type described in division (A)(1)(a)(iii) of this section, and can transmit continuously an appropriate signal to that central monitoring computer if the receiver is turned off or altered without prior court approval or otherwise tampered with.

(iii) The device has a central monitoring computer that can receive

inuously the signals transmitted by telephone by a receiver of the type described in division (A)(1)(a)(ii) of this section and can monitor continuously the person to whom an electronic monitoring device of the type described in division (A)(1)(a) of this section is attached.

(b) Any device that is not a device of the type described in division (A)(1)(a) of this section and that conforms with all of the following:

(i) The device includes a transmitter and receiver that can monitor and determine the location of a subject person at any time, or at a designated point in time, through the use of a central monitoring computer or through other electronic means;

(ii) The device includes a transmitter and receiver that can determine at any time, or at a designated point in time, through the use of a central monitoring computer or other electronic means the fact that the transmitter is turned off or altered in any manner without prior approval of the court in relation to electronically monitored house arrest or electronically monitored house detention or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with.

(2) "Certified electronic monitoring device" means an electronic monitoring device that has been certified by the superintendent of the bureau of criminal identification and investigation pursuant to division (C)(1) of this section.

(3) "Eligible offender" means a person who has been convicted of or pleaded guilty to any offense, except that a person is not an "eligible offender" if any of the following apply in relation to the person, the offense, or the person and the offense:

(a) The person is subject to or is serving a term of life imprisonment.

(b) The person is subject to or is serving a mandatory prison term imposed under division (F) of section 2929.13, division (D) of section 2929.14, or any other section of the Revised Code, provided that, after the person has served all of the mandatory prison terms so imposed, the person may be an eligible offender unless excluded by division (A)(3)(a), (c) or (d) of this section.

(c) The offense is a violation of division (A) of section 4511.19 of the Revised Code, and the offender is sentenced for that offense pursuant to division (G)(1) of section 2929.13 of the Revised Code and is serving the mandatory term of local incarceration of sixty or one hundred twenty consecutive days of imprisonment imposed under that division, provided that, after the person has served all of the mandatory term of local incarceration so imposed, the person may be an eligible offender unless

excluded by division (A)(3)(a), (b), or (d) of this section.

(d) The offense is a violation of division (A) of section 4511.19 of the Revised Code, and the person is sentenced for that offense pursuant to division (G)(2) of section 2929.13 of the Revised Code.

(4) "Electronically monitored house arrest" means a period of confinement of an eligible offender in the eligible offender's home or in other premises specified by the sentencing court, during which period of confinement all of the following apply:

(a) The eligible offender wears, otherwise has attached to the eligible offender's person, or otherwise is subject to monitoring by a certified electronic monitoring device, or the eligible offender is subject to monitoring by a certified electronic monitoring system;

(b) The eligible offender is required to remain in the eligible offender's home or other premises specified by the sentencing court 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;

(c) The eligible offender is subject to monitoring by a central system that monitors the certified electronic monitoring device that is attached to the eligible offender's person or that otherwise is being used to monitor the eligible offender and that can monitor and determine the eligible offender's location at any time or at a designated point in time, or the eligible offender is required to participate in monitoring by a certified electronic monitoring system;

(d) The eligible offender is required by the sentencing court to report periodically to a person designated by the court;

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

(5) "Electronic monitoring system" means a system by which the location of an eligible offender can be verified telephonically through the use of voice-activated voice response technology that conforms with all of the following:

(a) It can be programmed to call the telephone or telephones assigned to the eligible offender who is the subject of the monitoring as often as necessary;

(b) It is equipped with a voice recognition system that can work accurately and reliably under the anticipated conditions in which it will operate;

(c) It is equipped to perform an alarm function if the eligible offender who is the subject of monitoring does not respond to system commands in

the manner required.

(6) "Certified electronic monitoring system" means an electronic monitoring system that has been certified by the superintendent of the bureau of criminal identification and investigation pursuant to division (C)(1) of this section.

(7) "Electronically monitored house detention" has the same meaning as in section 2151.355 of the Revised Code.

(8) "Transitional control" means the program of transitional control established by the department of rehabilitation and correction under section 2967.26 of the Revised Code, if the department establishes a program of that nature under that section.

(B)(1) Any court may impose as a sanction pursuant to sections 2929.15 and 2929.17 of the Revised Code a period of electronically monitored house arrest upon an eligible offender who is convicted of or pleads guilty to a felony, except that the total of any period of electronically monitored house arrest imposed upon that eligible offender plus the period of all other sanctions imposed upon the same eligible offender pursuant to sections 2929.15, 2929.16, 2929.17, and 2929.18 of the Revised Code shall not exceed five years. Any court may impose a period of electronically monitored house arrest upon an eligible offender who is convicted of or pleads guilty to a misdemeanor in addition to or in lieu of any other sentence imposed or authorized for the offense, except that the total of any period of electronically monitored house arrest imposed upon that eligible offender plus the period of any sentence of imprisonment imposed upon the same eligible offender shall not exceed the maximum term of imprisonment that could be imposed upon the eligible offender pursuant to section 2929.21 of the Revised Code and except that, if the offense for which an eligible offender is being sentenced is a violation of division (A) of section 4511.19 or of division (D)(2) of section 4507.02 of the Revised Code, the court may impose a period of electronically monitored house arrest upon the eligible offender only when authorized by and only in the circumstances described in division (A) of section 4511.99 or division (B) of section 4507.99 of the Revised Code.

If a court imposes a period of electronically monitored house arrest upon an eligible offender, it shall require the eligible offender to wear, otherwise have attached to the eligible offender's person, or otherwise be subject to monitoring by a certified electronic monitoring device or to participate in the operation of and monitoring by a certified electronic monitoring system; to remain in the eligible offender's home or other specified premises for the entire period of electronically monitored house

arrest except when the court permits the eligible offender to leave those premises to go to the eligible offender's place of employment or to other specified premises; to be monitored by a central system that monitors the certified electronic monitoring device that is attached to the eligible offender's person or that otherwise is being used to monitor the eligible offender and that can monitor and determine the eligible offender's location at any time or at a designated point in time or to be monitored by the certified electronic monitoring system; to report periodically to a person designated by the court; and, in return for receiving a period of electronically monitored house arrest, to enter into a written contract with the court agreeing to comply with all restrictions and requirements imposed by the court, agreeing to pay any fee imposed by the court for the costs of the electronically monitored house arrest imposed by the court pursuant to division (E) of this section, and agreeing to waive the right to receive credit for any time served on electronically monitored house arrest toward any prison term or sentence of imprisonment imposed upon the eligible offender for the offense for which the period of electronically monitored house arrest was imposed if the eligible offender violates any of the restrictions or requirements of the period of electronically monitored house arrest, and additionally, it may impose any other reasonable restrictions and requirements upon the eligible offender.

(2) If an eligible offender violates any of the restrictions or requirements imposed upon the eligible offender as part of the eligible offender's period of electronically monitored house arrest, the eligible offender shall not receive credit for any time served on electronically monitored house arrest toward any prison term or sentence of imprisonment imposed upon the eligible offender for the offense for which the period of electronically monitored house arrest was imposed.

(C)(1) The superintendent of the bureau of criminal identification and investigation, in accordance with this section and rules adopted by the superintendent pursuant to division (C)(2) of this section, shall certify for use in cases of electronically monitored house arrest, in electronically monitored house detention, and in relation to an inmate on transitional control specific types and brands of electronic monitoring devices and electronic monitoring systems that comply with the requirements of this section, section 5120.073 of the Revised Code, and those rules. Any manufacturer that, pursuant to this division, seeks to obtain the certification of any type or brand of electronic monitoring device or electronic monitoring system shall submit to the superintendent an application for certification in accordance with those rules together with the application fee

and costs of certification as required by those rules. The superintendent shall not certify any electronic monitoring device or electronic monitoring system pursuant to this division unless the application fee and costs have been paid to the superintendent.

(2) The superintendent, in accordance with Chapter 119. of the Revised Code, shall adopt rules for certifying specific types and brands of electronic monitoring devices and electronic monitoring systems for use in electronically monitored house arrest, in electronically monitored house detention, and in relation to an inmate on transitional control. The rules shall set forth the requirements for obtaining the certification, the application fee and other costs for obtaining the certification, the procedure for applying for certification, and any other requirements and procedures considered necessary by the superintendent. The rules shall require that no type or brand of electronic monitoring device or electronic monitoring system be certified unless the type or brand of device or system complies with whichever of the following is applicable, in addition to any other requirements specified by the superintendent:

(a) For electronic monitoring devices of the type described in division (A)(1)(a) of this section, the type or brand of device complies with all of the following:

(i) It has a transmitter of the type described in division (A)(1)(a)(i) of this section, a receiver of the type described in division (A)(1)(a)(ii) of this section, and a central monitoring computer of the type described in division (A)(1)(a)(iii) of this section;

(ii) Its transmitter can be worn by or attached to a person with a minimum of discomfort during normal activities, is difficult to remove, turn off, or otherwise alter without prior court approval in relation to electronically monitored house arrest or electronically monitored house detention or prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control, and will transmit a specified signal to the receiver if it is removed, turned off, altered, or otherwise tampered with;

(iii) Its receiver is difficult to turn off or alter and will transmit a signal to the central monitoring computer if it is turned off, altered, or otherwise tampered with;

(iv) Its central monitoring computer is difficult to circumvent;

(v) Its transmitter, receiver, and central monitoring computer work accurately and reliably under the anticipated conditions under which electronically monitored house arrest or electronically monitored house detention will be imposed by courts or under which an electronic monitoring

device will be used by the department of rehabilitation and correction in relation to an inmate on transitional control;

(vi) It has a backup battery power supply that operates automatically when the main source of electrical or battery power for the device fails.

(b) For electronic monitoring devices of the type described in division (A)(1)(b) of this section, the type or brand of device complies with all of the following:

(i) It has a transmitter and receiver of the type described in divisions (A)(1)(b)(i) and (ii) of this section.

(ii) Its transmitter is difficult to turn off or alter without prior court approval in relation to electronically monitored house arrest or electronically monitored house detention or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control, and, if the transmitter is turned off or altered in any manner without prior approval of the court or department or otherwise is tampered with, the fact that it has been turned off, altered, or tampered with can be determined at any time, or at a designated point in time, through the use of a central monitoring computer or through other electronic means.

(iii) Its receiver is difficult to turn off or alter, and, if the receiver is turned off, altered, or otherwise tampered with, the fact that it has been turned off, altered, or tampered with can be determined at any time, or at a designated point in time, through the use of a central monitoring computer or through other electronic means.

(iv) Its central monitoring computer or other means of electronic monitoring is difficult to circumvent.

(v) Its transmitter, receiver, and central monitoring computer or other means of electronic monitoring work accurately and reliably under the anticipated conditions under which electronically monitored house arrest or electronically monitored house detention will be used, or under which an electronic monitoring device will be used by the department of rehabilitation and correction in relation to an inmate on transitional control.

(vi) If it operates on electrical or battery power, it has a backup battery power supply that operates automatically when the main source of electrical or battery power for the device fails, or, if it does not operate on electrical or battery power, it has a backup method of operation so that it will continue to operate if its main method of operation fails.

(c) For electronic monitoring systems, the type or brand of system complies with all of the following:

(i) It can be programmed to call the telephone or telephones assigned to

the person who is the subject of the monitoring as often as necessary;

(ii) It is equipped with a voice recognition system that can work accurately and reliably under the anticipated conditions in which it will operate;

(iii) It is equipped to perform an alarm function if the person who is the subject of the monitoring does not respond to system commands in the manner required.

(3) The superintendent shall publish and make available to all courts and to the department of rehabilitation and correction, without charge, a list of all types and brands of electronic monitoring devices and electronic monitoring systems that have been certified by the superintendent pursuant to division (C)(1) of this section and information about the manufacturers of the certified devices and systems and places at which the devices and systems can be obtained.

(D) The superintendent of the bureau of criminal identification and investigation shall deposit all costs and fees collected pursuant to division (C) of this section into the general revenue fund.

(E)(1) Each county in which is located a court that imposes a period of electronically monitored house arrest or electronically monitored house detention as a sentencing sanction or alternative may establish in the county treasury an electronically monitored house arrest and detention fund. The clerk of each court that uses that sentencing sanction or alternative may deposit into the fund all fees collected from eligible offenders upon whom electronically monitored house arrest or detention is imposed pursuant to this section, section 2151.355, or any other section of the Revised Code that specifically authorizes the imposition of electronically monitored house arrest or detention. Each court that imposes electronically monitored house arrest or detention may adopt by local court rule a reasonable daily fee to be paid by each eligible offender upon whom a period of electronically monitored house arrest or detention is imposed as a sentencing sanction or alternative. The fee may include the actual costs of providing house arrest or detention and an additional amount necessary to enable the court to provide electronically monitored house arrest or detention to indigent eligible offenders. The fund may be used only for the payment of the costs of electronically monitored house arrest or detention, including, but not limited to, the costs of electronically monitored house arrest or detention for indigent eligible offenders.

(2) If a fee is adopted pursuant to division (E)(1) of this section, it shall be in addition to any fine specifically authorized or required by any other section of the Revised Code for an eligible offender upon whom a period of

electronically monitored house arrest or detention is imposed as a sentencing sanction or alternative.

Sec. 2929.41. (A) Except as provided in division (B) of this section, division (E) of section 2929.14, or division (D) or (E) of section 2971.03 of the Revised Code, a sentence of imprisonment shall be served concurrently with any other sentence of imprisonment imposed by a court of this state, another state, or the United States. ~~In any case~~ Except as provided in division (B)(2) of this section, a sentence of imprisonment for misdemeanor shall be served concurrently with a prison term or sentence of imprisonment for felony served in a state or federal correctional institution.

(B)(1) A sentence of imprisonment for a misdemeanor shall be served consecutively to any other sentence of imprisonment when the trial court specifies that it is to be served consecutively or when it is imposed for a misdemeanor violation of section 2907.322, 2921.34, or 2923.131 of the Revised Code.

~~(2)~~ When consecutive sentences of imprisonment are imposed for misdemeanor under this division, the term to be served is the aggregate of the consecutive terms imposed, except that the aggregate term to be served shall not exceed eighteen months.

(2) A sentence of imprisonment imposed for a misdemeanor violation of section 4511.19 or division (B)(1), (C), (D)(1), or (D)(2) of section 4507.02 of the Revised Code shall be served consecutively to a prison term that is imposed for a felony violation of section 2903.06, 2903.07, 2903.08, or 4511.19 of the Revised Code or a felony violation of section 2903.04 of the Revised Code involving the operation of a motor vehicle by the offender and that is served in a state correctional institution when the trial court specifies that it is to be served consecutively.

When consecutive sentences of imprisonment and prison terms are imposed for one or more misdemeanors and one or more felonies under this division, the term to be served is the aggregate of the consecutive terms imposed, and the offender shall serve all terms imposed for a felony before serving any term imposed for a misdemeanor.

Sec. 2937.222. (A) On the motion of the prosecuting attorney or on the judge's own motion, the judge shall hold a hearing to determine whether an accused person charged with aggravated murder when it is not a capital offense, murder, a felony of the first or second degree, a violation of section 2903.06 of the Revised Code, or a ~~fourth degree~~ felony OMVI offense shall be denied bail. The judge shall order that the accused be detained until the conclusion of the hearing. Except for good cause, a continuance on the motion of the state shall not exceed three court days. Except for good cause,

a continuance on the motion of the accused shall not exceed five court days unless the motion of the accused waives in writing the five-day limit and states in writing a specific period for which the accused requests a continuance. A continuance granted upon a motion of the accused that waives in writing the five-day limit shall not exceed five court days after the period of continuance requested in the motion.

At the hearing, the accused has the right to be represented by counsel and, if the accused is indigent, to have counsel appointed. The judge shall afford the accused an opportunity to testify, to present witnesses and other information, and to cross-examine witnesses who appear at the hearing. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. Regardless of whether the hearing is being held on the motion of the prosecuting attorney or on the court's own motion, the state has the burden of proving that the proof is evident or the presumption great that the accused committed the offense with which the accused is charged, of proving that the accused poses a substantial risk of serious physical harm to any person or to the community, and of proving that no release conditions will reasonably assure the safety of that person and the community.

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

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

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

(1) The nature and circumstances of the offense charged, including whether the offense is an offense of violence or involves alcohol or a drug of abuse;

(2) The weight of the evidence against the accused;

(3) The history and characteristics of the accused, including, but not limited to, both of the following:

(a) The character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, and criminal history of the accused;

(b) Whether, at the time of the current alleged offense or at the time of the arrest of the accused, the accused was on probation, parole, post-release control, or other release pending trial, sentencing, appeal, or completion of sentence for the commission of an offense under the laws of this state, another state, or the United States or under a municipal ordinance.

(4) The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

(D)(1) An order of the court of common pleas denying bail pursuant to this section is a final appealable order. In an appeal pursuant to division (D) of this section, the court of appeals shall do all of the following:

(a) Give the appeal priority on its calendar;

(b) Liberally modify or dispense with formal requirements in the interest of a speedy and just resolution of the appeal;

(c) Decide the appeal expeditiously;

(d) Promptly enter its judgment affirming or reversing the order denying bail.

(2) The pendency of an appeal under this section does not deprive the court of common pleas of jurisdiction to conduct further proceedings in the case or to further consider the order denying bail in accordance with this section. If, during the pendency of an appeal under division (D) of this section, the court of common pleas sets aside or terminates the order denying bail, the court of appeals shall dismiss the appeal.

(E) As used in this section:

(1) "Court day" has the same meaning as in section 5122.01 of the Revised Code.

(2) "Felony OMVI offense" means a third degree felony OMVI offense and a fourth degree felony OMVI offense.

(3) "Fourth degree felony OMVI offense" ~~has~~ and "third degree felony OMVI offense" have the same ~~meaning~~ meanings as in section 2929.01 of the Revised Code.

Sec. 3793.10. A drivers' intervention program may be used as an alternative to a term of imprisonment for an offender sentenced pursuant to division (A)(1) of section 4511.99 of the Revised Code, if it is certified by the director of alcohol and drug addiction services pursuant to this section. No drivers' intervention program shall be used as an alternative to a term of imprisonment that is imposed pursuant to division (A)(2), (3), ~~(4)~~, (6), (7), or (8) of section 4511.99 of the Revised Code.

To qualify for certification by the director and to receive funds from the statewide treatment and prevention fund created by section 4301.30 of the Revised Code in any amounts and at any times that the director determines are appropriate, a drivers' intervention program shall meet state minimum standards that the director shall establish by rule. The rules shall include, but are not limited to, standards governing program course hours and content, qualifications of program personnel, methods of identifying and testing participants to isolate participants with alcohol and drug abuse problems, referral of such persons to alcohol and drug addiction programs, the prompt notification of courts by program operators of the completion of the programs by persons required by courts to attend them, and record keeping, including methods of tracking participants for a reasonable time after they have left the program.

The director shall issue a certificate to any qualified drivers' intervention program. The certificate is valid for three years.

Sec. 4503.233. (A)(1) As used in this section, "vehicle owner" means either of the following:

(a) The person in whose name is registered, at the time of the offense, a vehicle that is subject to an immobilization order issued under division (A)(2) of this section;

(b) A person to whom, at the time of the offense, the certificate of title to a vehicle has been assigned and who has not obtained a certificate of title to the vehicle in that person's name but who is deemed by the court as being the owner of the vehicle at the time of the offense for which the vehicle is subject to an immobilization ~~and impoundment~~ order issued under division (A)(2) of this section.

(2) If a court is required to order the immobilization of a vehicle for a specified period of time pursuant to division (B)(1) or (2), (C)(1) or (2), or (E)(1) of section 4507.99, pursuant to division (A)(2)(b) ~~or~~, (3)(b), (6)(b), or (7)(b) of section 4511.99, pursuant to division (B)(1) or (2) or (C)(1) or (2) of section 4507.361, or pursuant to division (B)(2)(a) or (b) of section 4511.193 of the Revised Code, the court shall issue an immobilization order, subject to section 4503.235 of the Revised Code, in accordance with this

division and for the period of time specified in the particular division, and the immobilization under the order shall be in accordance with this section. The court, at the time of sentencing the offender for the offense relative to which the immobilization order is issued or as soon thereafter as is practicable, shall give a copy of the order to the offender or the offender's counsel and to the vehicle owner or the vehicle owner's counsel. The court promptly shall send a copy of the order to the registrar on a form prescribed by the registrar and to the person or agency it designates to execute the order.

The order shall indicate the date on which it is issued, shall identify the vehicle that is subject to the order, and shall specify all of the following:

(a) The period of the immobilization;

(b) The place at which the court determines that the immobilization shall be carried out, provided that the court shall not determine and shall not specify that the immobilization is to be carried out at any place other than a commercially operated private storage lot, a place owned by a law enforcement or other government agency, or a place to which one of the following applies:

(i) The place is leased by or otherwise under the control of a law enforcement or other government agency.

(ii) The place is owned by the offender, the offender's spouse, or a parent or child of the offender.

(iii) The place is owned by a private person or entity, and, prior to the issuance of the order, the private entity or person that owns the place, or the authorized agent of that private entity or person, has given express written consent for the immobilization to be carried out at that place.

(iv) The place is a public street or highway on which the vehicle is parked in accordance with the law.

(c) The person or agency designated by the court to execute the order, which shall be either the law enforcement agency that employs the law enforcement officer who seized the vehicle, a bailiff of the court, another person the court determines to be appropriate to execute the order, or the law enforcement agency with jurisdiction over the place of residence of the vehicle owner;

(d) That neither the registrar nor a deputy registrar will be permitted to accept an application for the license plate registration of any motor vehicle in the name of the vehicle owner until the immobilization fee is paid.

(3) The person or agency the court designates to immobilize the vehicle shall seize or retain that vehicle's license plates and forward them to the bureau of motor vehicles.

(4) In all cases, the vehicle owner shall be assessed an immobilization fee of one hundred dollars, and the immobilization fee shall be paid to the registrar before the vehicle may be released to the vehicle, ~~and that neither the registrar nor a deputy registrar will be permitted to accept an application for the license plate registration of any motor vehicle in the name of the vehicle owner until the immobilization fee is paid~~ owner. Neither the registrar nor a deputy registrar shall accept an application for the registration of any motor vehicle in the name of the vehicle owner until the immobilization fee is paid.

(5) If the vehicle subject to the order is immobilized pursuant to the order and is found being operated upon any street or highway in this state during the immobilization period, it shall be seized, removed from the street or highway, and criminally forfeited and disposed of pursuant to section 4503.234 of the Revised Code.

~~the owner's~~

(6) The registrar shall deposit the immobilization fee into the law enforcement reimbursement fund created by section 4501.19 of the Revised Code. Money in the fund shall be expended only as provided in division (A)(6) of this section. If the court designated in the order a court bailiff or another appropriate person other than a law enforcement officer to immobilize the vehicle, the amount of the fee deposited into the law enforcement reimbursement fund shall be paid out to the county treasury if the court that issued the order is a county court, to the treasury of the municipal corporation served by the court if the court that issued the order is a mayor's court, or to the city treasury of the legislative authority of the court, both as defined in section 1901.03 of the Revised Code, if the court that issued the order is a municipal court. If the court designated a law enforcement agency to immobilize the vehicle and if the law enforcement agency immobilizes the vehicle, the amount of the fee deposited into the law enforcement reimbursement fund shall be paid out to the law enforcement agency to reimburse the agency for the costs it incurs in obtaining immobilization equipment and, if required, in sending an officer or other person to search for and locate the vehicle specified in the immobilization order and to immobilize the vehicle.

In addition to the immobilization fee required to be paid under division (A)(4) of this section, the vehicle owner may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle.

(B) If a court issues an immobilization order under division (A)(2) of this section, the person or agency designated by the court to execute the immobilization order promptly shall immobilize or continue the

immobilization of the vehicle at the place specified by the court in the order. The registrar shall not authorize the release of the vehicle or authorize the issuance of new identification license plates for the vehicle at the end of the immobilization period ~~the owner's~~ until the immobilization fee has been paid.

~~the owner's~~

(C) Upon receipt of the license plates for a vehicle under this section, the registrar ~~the registrar's~~ shall destroy the license plates. At the end of the immobilization period and upon the payment of the immobilization fee that must be paid under this section, the registrar shall authorize the release of the vehicle and authorize the issuance, upon the payment of the same fee as is required for the replacement of lost, mutilated, or destroyed license plates and certificates of registration, of new license plates and, if necessary, a new certificate of registration to the vehicle owner for the vehicle in question.

(D)(1) If a court issues an immobilization order under division (A) of this section, the immobilization period commences on the day on which the vehicle in question is immobilized ~~the owner~~. If the vehicle in question had been seized under section 4507.38 or 4511.195 of the Revised Code, the time between the seizure and the beginning of the immobilization period shall be credited against the immobilization period specified in the immobilization order issued under division (A) of this section. No vehicle that is impounded under this section is eligible to have special license plates of the type described in section 4503.231 of the Revised Code issued for that vehicle.

(2) If a court issues an immobilization order under division (A) of this section, if the vehicle subject to the order is immobilized under the order, and if the vehicle is found being operated upon any street or highway of this state during the immobilization period, it shall be seized, removed from the street or highway, and criminally forfeited, and disposed of pursuant to section 4503.234 of the Revised Code. No vehicle that is forfeited under this provision shall be considered contraband for purposes of section 2933.41, 2933.42, or 2933.43 of the Revised Code, but shall be held by the law enforcement agency that employs the officer who seized it for disposal in accordance with section 4503.234 of the Revised Code.

(3) If a court issues an immobilization order under division (A) of this section, and if the vehicle is not claimed within seven days after the end of the period of immobilization or if the vehicle owner ~~the owner's~~ has not paid the immobilization fee, the person or agency that immobilized the vehicle shall send a written notice to the vehicle owner at the vehicle owner's last known address informing the vehicle owner of the date on which the period

of immobilization ended, that ~~the owner the owner's~~ the vehicle owner has twenty days after the date of the notice to pay the immobilization fee and obtain the release of the vehicle, and that if ~~the owner the owner's~~ the vehicle owner does not pay the fee and obtain the release of the vehicle within that twenty-day period, the vehicle will be forfeited under section 4503.234 of the Revised Code to the entity that is entitled to the immobilization fee.

(4) An owner of a motor vehicle that is subject to an immobilization order issued under division (A) of this section shall not sell the motor vehicle without approval of the court that issued the order. If such an owner wishes to sell ~~such a~~ the motor vehicle during the immobilization period, the owner shall apply to the court that issued the immobilization order for permission to assign the title to the vehicle. If the court is satisfied that the sale will be in good faith and not for the purpose of circumventing the provisions of division (A)(2) of this section, it may certify its consent to the owner and to the registrar. Upon receipt of the court's consent, the registrar shall enter the court's notice in the owner's vehicle license plate registration record.

If, during a period of immobilization under an immobilization order issued under division (A) of this section, the title to the immobilized motor vehicle is transferred by the foreclosure of a chattel mortgage, a sale upon execution, the cancellation of a conditional sales contract, or an order of a court, the involved court shall notify the registrar of the action, and the registrar shall enter the court's notice in the owner's vehicle license plate registration record.

Nothing in this section shall be construed as requiring the registrar or the clerk of the court of common pleas to note upon the certificate of title records any prohibition regarding the sale of a motor vehicle.

(5) If the title to a motor vehicle that is subject to an immobilization order under division (A) of this section is assigned or transferred without court approval between the time of arrest of the person who was operating the vehicle at the time of the offense for which such an order is to be issued and the time of the actual immobilization of the vehicle, the court shall order that, for a period of two years from the date of the order, neither the registrar nor any deputy registrar shall accept an application for the registration of any motor vehicle in the name of the owner of the vehicle that was assigned or transferred without court approval. The court shall notify the registrar of the order on a form prescribed by the registrar for that purpose.

(E)(1) The court with jurisdiction over the case, after notice to all interested parties including lienholders, and after an opportunity for them to

be heard, if the vehicle owner fails to appear in person, without good cause, or if the court finds that the vehicle owner does not intend to seek release of the vehicle at the end of the period of immobilization or that the vehicle owner is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the entity entitled to the immobilization fee under division (A)(6) of this section, next into the name of a lienholder, or lastly, into the name of the owner of the place of storage.

A lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the entity that receives title to the vehicle is the entity that is entitled to the immobilization fee under division (A)(6) of this section, it shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the place of storage if the person or entity refuses to receive the title. Any person or entity that receives title may either keep title to the vehicle or may dispose of the vehicle in any legal manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The person or entity shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the person or entity assigns the motor vehicle to a salvage dealer or scrap metal processing facility, the person or entity shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The person or entity shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

(2) Whenever a court issues an order under division (E)(1) of this section, the court also shall order removal of the license plates from the vehicle and cause them to be sent to the registrar if they have not already been sent to the registrar. Thereafter, no further proceedings shall take place under this section, but the vehicle owner remains liable for payment of the immobilization fee described in division (A)(4) of this section if an immobilization order previously had been issued by the court.

(3) Prior to initiating a proceeding under division (E)(1) of this section, and upon payment of the fee under division (B) of section 4505.14 of the Revised Code, any interested party may cause a search to be made of the public records of the bureau of motor vehicles or the clerk of the court of

common pleas, to ascertain the identity of any lienholder of the vehicle. The initiating party shall furnish this information to the clerk of the court with jurisdiction over the case, and the clerk shall provide notice to the vehicle owner, the defendant, any lienholder, and any other interested parties listed by the initiating party, at the last known address supplied by the initiating party, by certified mail or, at the option of the initiating party, by personal service or ordinary mail.

As used in this section, "interested party" includes the vehicle owner, all lienholders, the defendant, the owner of the place of storage, the person or entity that caused the vehicle to be removed, and the person or entity, if any, entitled to the immobilization fee under division (A)(6) of this section.

Sec. 4503.44. (A) As used in this section and in section 4511.69 of the Revised Code:

(1) "Person with a disability that limits or impairs the ability to walk" means any person who, as determined by a physician or chiropractor, meets any of the following criteria:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(c) Is restricted by a lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty millimeters of mercury on room air at rest;

(d) Uses portable oxygen;

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association;

(f) Is severely limited in the ability to walk due to an arthritic, neurological, or orthopedic condition;

(g) Is blind.

(2) "Organization" means any private organization or corporation, or any governmental board, agency, department, division, or office, that, as part of its business or program, transports persons with disabilities that limit or impair the ability to walk on a regular basis in a motor vehicle that has not been altered for the purpose of providing it with special equipment for use by handicapped persons. This definition does not apply to division (J) of this section.

(3) "Physician" means a person licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised

Code.

(4) "Chiropractor" means a person licensed to practice chiropractic under Chapter 4734. of the Revised Code.

(B) Any organization or person with a disability that limits or impairs the ability to walk may apply to the registrar of motor vehicles for a removable windshield placard or, if the person owns or leases a motor vehicle, the person may apply for the registration of any motor vehicle the person owns or leases. In addition to one or more sets of license plates or one placard, a person with a disability that limits or impairs the ability to walk is entitled to one additional placard, but only if the person applies separately for the additional placard, states the reasons why the additional placard is needed, and the registrar, in the registrar's discretion, determines that good and justifiable cause exists to approve the request for the additional placard. When a motor vehicle has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk, but is owned or leased by someone other than such a person, the owner or lessee may apply to the registrar or a deputy registrar for registration under this section. The application for registration of a motor vehicle owned or leased by a person with a disability that limits or impairs the ability to walk shall be accompanied by a signed statement from the applicant's personal physician or chiropractor certifying that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for more than six consecutive months. The application for a removable windshield placard made by a person with a disability that limits or impairs the ability to walk shall be accompanied by a prescription from the applicant's personal physician or chiropractor prescribing such a placard for the applicant, and by a signed statement certifying that the applicant meets at least one of the criteria contained in division (A)(1) of this section. The physician or chiropractor shall state on the prescription the length of time the physician or chiropractor expects the applicant to have the disability that limits or impairs the applicant's ability to walk. The application for a removable windshield placard made by an organization shall be accompanied by such documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk by the organization as the registrar may require by rule and shall be completed in accordance with procedures that the registrar may require by rule. The application for registration of a motor vehicle that has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk but is owned by someone other than such a person shall be

accompanied by such documentary evidence of vehicle alterations as the registrar may require by rule.

(C) When an organization, a person with a disability that limits or impairs the ability to walk, or a person who does not have a disability that limits or impairs the ability to walk but owns a motor vehicle that has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk first submits an application for registration of a motor vehicle under this section and every fifth year thereafter, the organization or person shall submit a signed statement from the applicant's personal physician or chiropractor, a completed application, and any required documentary evidence of vehicle alterations as provided in division (B) of this section, and also a power of attorney from the owner of the motor vehicle if the applicant leases the vehicle. Upon submission of these items, the registrar or deputy registrar shall issue to the applicant appropriate vehicle registration and a set of license plates and validation stickers, or validation stickers alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, the license plates shall be imprinted with the international symbol of access. The license plates and validation stickers shall be issued upon payment of the regular license fee as prescribed under section 4503.04 of the Revised Code and any motor vehicle tax levied under Chapter 4504. of the Revised Code, and the payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code.

(D)(1) Upon receipt of a completed and signed application for a removable windshield placard, a prescription as described in division (B) of this section, documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk, if required, and payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code, the registrar or deputy registrar shall issue to the applicant a removable windshield placard, which shall bear the date of expiration on both sides of the placard and shall be valid until expired, revoked, or surrendered. Every removable windshield placard expires as described in division (D)(2) of this section, but in no case shall a removable windshield placard be valid for a period of less than sixty days. Removable windshield placards shall be renewable upon application as provided in division (B) of this section, and a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code shall be charged for the renewal of a removable windshield placard. The registrar shall provide the application form and shall determine the

information to be included thereon. The registrar also shall determine the form and size of the removable windshield placard, the material of which it is to be made, and any other information to be included thereon, and shall adopt rules relating to the issuance, expiration, revocation, surrender, and proper display of such placards. Any placard issued after ~~the effective date of this amendment~~ October 14, 1999, shall be manufactured in a manner that allows the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(2) At the time a removable windshield placard is issued to a person with a disability that limits or impairs the ability to walk, the registrar or deputy registrar shall enter into the records of the bureau of motor vehicles the last date on which the person will have that disability, as indicated on the accompanying prescription. Not less than thirty days prior to that date and all removable windshield placard renewal dates, the bureau shall send a renewal notice to that person at the person's last known address as shown in the records of the bureau, informing the person that the person's removable windshield placard will expire on the indicated date not to exceed five years from the date of issuance, and that the person is required to renew the placard by submitting to the registrar or a deputy registrar another prescription, as described in division (B) of this section, and by complying with the renewal provisions prescribed in division (D)(1) of this section. If such a prescription is not received by the registrar or a deputy registrar by that date, the placard issued to that person expires and no longer is valid, and this fact shall be recorded in the records of the bureau.

(3) At least once every year, on a date determined by the registrar, the bureau shall examine the records of the office of vital statistics, located within the department of health, that pertain to deceased persons, and also the bureau's records of all persons who have been issued removable windshield placards and temporary removable windshield placards. If the records of the office of vital statistics indicate that a person to whom a removable windshield placard or temporary removable windshield placard has been issued is deceased, the bureau shall cancel that placard, and note the cancellation in its records.

The office of vital statistics shall make available to the bureau all information necessary to enable the bureau to comply with division (D)(3) of this section.

(4) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or

organization under prior law have not expired or been surrendered or revoked.

(E) Any person with a disability that limits or impairs the ability to walk may apply to the registrar or a deputy registrar for a temporary removable windshield placard. The application for a temporary removable windshield placard shall be accompanied by a prescription from the applicant's personal physician or chiropractor prescribing such a placard for the applicant, and by a signed statement certifying that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for six consecutive months or less. The physician or chiropractor shall state on the prescription the length of time the physician or chiropractor expects the applicant to have the disability that limits or impairs the applicant's ability to walk, which cannot exceed six months from the date of the prescription. Upon receipt of an application for a temporary removable windshield placard, presentation of the prescription and the signed statement from the applicant's personal physician or chiropractor, and payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code, the registrar or deputy registrar shall issue to the applicant a temporary removable windshield placard. The temporary removable windshield placard shall be of the same size and form as the removable windshield placard, shall be printed in white on a red-colored background, and shall bear the word "temporary" in letters of such size as the registrar shall prescribe. A temporary removable windshield placard also shall bear the date of expiration on the front and back of the placard, and shall be valid until expired, surrendered, or revoked, but in no case shall such a placard be valid for a period of less than sixty days. The registrar shall provide the application form and shall determine the information to be included on it. The registrar also shall determine the material of which the temporary removable windshield placard is to be made and any other information to be included on the placard and shall adopt rules relating to the issuance, expiration, surrender, revocation, and proper display of those placards. Any temporary removable windshield placard issued after ~~the effective date of this amendment~~ October 14, 1999, shall be manufactured in a manner that allows for the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(F) If an applicant for a removable windshield placard is a veteran of the armed forces of the United States whose disability, as defined in division (A)(1) of this section, is service-connected, the registrar or deputy registrar, upon receipt of the application, presentation of a signed statement from the

applicant's personal physician or chiropractor certifying the applicant's disability, and presentation of such documentary evidence from the department of veterans affairs that the disability of the applicant meets at least one of the criteria identified in division (A)(1) of this section and is service-connected as the registrar may require by rule, but without the payment of any service fee, shall issue the applicant a removable windshield placard that is valid until expired, surrendered, or revoked.

Upon a conviction of a violation of division (H), (I), or (J) of this section, the court shall report the conviction, and send the placard or parking card, if available, to the registrar, who thereupon shall revoke the privilege of using the placard or parking card and send notice in writing to the placardholder or cardholder at that holder's last known address as shown in the records of the bureau, and the placardholder or cardholder shall return the placard or card if not previously surrendered to the court, to the registrar within ten days following mailing of the notice.

Whenever a person to whom a removable windshield placard or parking card has been issued moves to another state, the person shall surrender the placard or card to the registrar; and whenever an organization to which a placard or card has been issued changes its place of operation to another state, the organization shall surrender the placard or card to the registrar.

(G) Subject to division (F) of section 4511.69 of the Revised Code, the operator of a motor vehicle displaying a removable windshield placard, temporary removable windshield placard, parking card, or the special license plates authorized by this section is entitled to park the motor vehicle in any special parking location reserved for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces.

(H) No person or organization that is not eligible under division (B) or (E) of this section shall willfully and falsely represent that the person or organization is so eligible.

No person or organization shall display license plates issued under this section unless the license plates have been issued for the vehicle on which they are displayed and are valid.

(I) No person or organization to which a removable windshield placard or temporary removable windshield placard is issued shall do either of the following:

(1) Display or permit the display of the placard on any motor vehicle when having reasonable cause to believe the motor vehicle is being used in connection with an activity that does not include providing transportation for persons with disabilities that limit or impair the ability to walk;

(2) Refuse to return or surrender the placard, when required.

(J)(1) No person or organization to which a parking card is issued shall do either of the following:

(a) Display or permit the display of the parking card on any motor vehicle when having reasonable cause to believe the motor vehicle is being used in connection with an activity that does not include providing transportation for a handicapped person;

(b) Refuse to return or surrender the parking card, when required.

(2) As used in division (J) of this section:

(a) "Handicapped person" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or so severely handicapped as to be unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other handicapping condition.

(b) "Organization" means any private organization or corporation, or any governmental board, agency, department, division, or office, that, as part of its business or program, transports handicapped persons on a regular basis in a motor vehicle that has not been altered for the purposes of providing it with special equipment for use by handicapped persons.

(K) If a removable windshield placard, temporary removable windshield placard, or parking card is lost, destroyed, or mutilated, the placardholder or cardholder may obtain a duplicate by doing both of the following:

(1) Furnishing suitable proof of the loss, destruction, or mutilation to the registrar;

(2) Paying a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code.

Any placardholder or cardholder who loses a placard or card and, after obtaining a duplicate, finds the original, immediately shall surrender the original placard or card to the registrar.

(L) The registrar shall pay all fees received under this section for the issuance of removable windshield placards or temporary removable windshield placards or duplicate removable windshield placards or cards into the state treasury to the credit of the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

(M) For purposes of enforcing this section, every peace officer is deemed to be an agent of the registrar. Any peace officer or any authorized employee of the bureau of motor vehicles who, in the performance of duties authorized by law, becomes aware of a person whose placard or parking card has been revoked pursuant to this section, may confiscate that placard or parking card and return it to the registrar. The registrar shall prescribe any

forms used by law enforcement agencies in administering this section.

No peace officer, law enforcement agency employing a peace officer, or political subdivision or governmental agency employing a peace officer, and no employee of the bureau is liable in a civil action for damages or loss to persons arising out of the performance of any duty required or authorized by this section. As used in this division, "peace officer" has the same meaning as in division (B) of section 2935.01 of the Revised Code.

(N) All applications for registration of motor vehicles, removable windshield placards, and temporary removable windshield placards issued under this section, all renewal notices for such items, and all other publications issued by the bureau that relate to this section shall set forth the criminal penalties that may be imposed upon a person who violates any provision relating to special license plates issued under this section, the parking of vehicles displaying such license plates, and the issuance, procurement, use, and display of removable windshield placards and temporary removable windshield placards issued under this section.

Sec. 4507.164. (A) Except as provided in divisions (C) to (E) of this section, when the license of any person is suspended or revoked pursuant to any provision of the Revised Code other than division (B) of section 4507.16 of the Revised Code, the trial judge may impound the identification license plates of any motor vehicle registered in the name of the person.

(B)(1) When the license of any person is suspended or revoked pursuant to division (B)(1) of section 4507.16 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that suspended or revoked the license may impound the identification license plates of any motor vehicle registered in the name of the person.

(2) When the license of any person is suspended or revoked pursuant to division (B)(2) or (3) of section 4507.16 of the Revised Code, the trial judge of the court of record that suspended or revoked the license shall order the impoundment of the identification license plates of the motor vehicle the offender was operating at the time of the offense and the immobilization of that vehicle in accordance with section 4503.233 and division (A)(2) ~~or~~ (3), (6), or (7) of section 4511.99 or division (B)(2)(a) or (b) of section 4511.193 of the Revised Code and may impound the identification license plates of any other motor vehicle registered in the name of the person whose license is suspended or revoked.

(3) When the license of any person is suspended or revoked pursuant to division (B)(4) of section 4507.16 of the Revised Code, the trial judge of the court of record that suspended or revoked the license shall order the criminal forfeiture to the state of the motor vehicle the offender was operating at the

time of the offense in accordance with section 4503.234 and division (A)(4) or (8) of section 4511.99 or division (B)(2)(c) of section 4511.193 of the Revised Code and may impound the identification license plates of any other motor vehicle registered in the name of the person whose license is suspended or revoked.

(C)(1) When a person is convicted of or pleads guilty to a violation of division (D)(2) of section 4507.02 of the Revised Code or a substantially equivalent municipal ordinance and division (B)(1) or (2) of section 4507.99 or division (C)(1) or (2) of section 4507.361 of the Revised Code applies, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the immobilization of the vehicle the person was operating at the time of the offense and the impoundment of its identification license plates in accordance with section 4503.233 and division (B)(1) or (2) of section 4507.99 or division (C)(1) or (2) of section 4507.361 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(2) When a person is convicted of or pleads guilty to a violation of division (D)(2) of section 4507.02 of the Revised Code or a substantially equivalent municipal ordinance and division (B)(3) of section 4507.99 or division (C)(3) of section 4507.361 of the Revised Code applies, the trial judge of the court of record that imposes sentence shall order the criminal forfeiture to the state of the vehicle the person was operating at the time of the offense in accordance with section 4503.234 and division (B)(3) of section 4507.99 or division (C)(3) of section 4507.361 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(D)(1) When a person is convicted of or pleads guilty to a violation of division (B)(1) of section 4507.02 of the Revised Code or a substantially equivalent municipal ordinance and division (C)(1) or (2) of section 4507.99 or division (B)(1) or (2) of section 4507.361 of the Revised Code applies, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the immobilization of the vehicle the person was operating at the time of the offense and the impoundment of its identification license plates in accordance with section 4503.233 and division (C)(1) or (2) of section 4507.99 or division (B)(1) or (2) of section 4507.361 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(2) When a person is convicted of or pleads guilty to a violation of division (B)(1) of section 4507.02 of the Revised Code or a substantially equivalent municipal ordinance and division (C)(3) of section 4507.99 or

division (B)(3) of section 4507.361 of the Revised Code applies, the trial judge of the court of RECORD that imposes sentence shall order the criminal forfeiture to the state of the vehicle the person was operating at the time of the offense in accordance with section 4503.234 and division (C)(3) of section 4507.99 or division (B)(3) of section 4507.361 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(E)(1) When a person is convicted of or pleads guilty to a violation of section 4507.33 of the Revised Code and the person is sentenced pursuant to division (E)(1) of section 4507.99 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the immobilization of the vehicle that was involved in the commission of the offense and the impoundment of its identification license plates in accordance with division (E)(1) of section 4507.99 and section 4503.233 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(2) When a person is convicted of or pleads guilty to a violation of section 4507.33 of the Revised Code and the person is sentenced pursuant to division (E)(2) of section 4507.99 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the criminal forfeiture to the state of the vehicle that was involved in the commission of the offense in accordance with division (E)(2) of section 4507.99 and section 4503.234 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(F) Except as provided in section 4503.233 or 4503.234 of the Revised Code, when the certificate of registration, the identification license plates, or both have been impounded, division (F) of section 4507.02 of the Revised Code is applicable.

Sec. 4511.19. (A) No person shall operate any vehicle, streetcar, or trackless trolley within this state, if any of the following apply:

(1) The person is under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

(2) The person has a concentration of ten-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight of alcohol in ~~his~~ the person's blood;

(3) The person has a concentration of ten-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of ~~his~~ the person's breath;

(4) The person has a concentration of fourteen-hundredths of one gram

or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of his the person's urine;

(5) The person has a concentration of seventeen-hundredths of one per cent or more by weight of alcohol in the person's blood;

(6) The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath;

(7) The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

(B) No person under twenty-one years of age shall operate any vehicle, streetcar, or trackless trolley within this state, if any of the following apply:

(1) The person has a concentration of at least two-hundredths of one per cent but less than ten-hundredths of one per cent by weight of alcohol in his the person's blood;

(2) The person has a concentration of at least two-hundredths of one gram but less than ten-hundredths of one gram by weight of alcohol per two hundred ten liters of his the person's breath;

(3) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than fourteen-hundredths of one gram by weight of alcohol per one hundred milliliters of his the person's urine.

(C) In any proceeding arising out of one incident, a person may be charged with a violation of division (A)(1) and a violation of division (B)(1), (2), or (3) of this section, but he the person may not be convicted of more than one violation of these divisions.

(D)(1) In any criminal prosecution or juvenile court proceeding for a violation of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, the court may admit evidence on the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse in the defendant's blood, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance withdrawn within two hours of the time of the alleged violation.

When a person submits to a blood test at the request of a police officer under section 4511.191 of the Revised Code, only a physician, a registered nurse, or a qualified technician or chemist shall withdraw blood for the purpose of determining its alcohol, drug, or alcohol and drug content. This limitation does not apply to the taking of breath or urine specimens. A

physician, a registered nurse, or a qualified technician or chemist may refuse to withdraw blood for the purpose of determining the alcohol, drug, or alcohol and drug content of the blood, if in ~~his~~ the opinion of the physician, nurse, technician, or chemist the physical welfare of the person would be endangered by the withdrawing of blood.

Such bodily substance shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director of health pursuant to section 3701.143 of the Revised Code.

(2) In a criminal prosecution or juvenile court proceeding for a violation of division (A) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance substantially equivalent to division (A) of this section relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, if there was at the time the bodily substance was withdrawn a concentration of less than ten-hundredths of one per cent by weight of alcohol in the defendant's blood, less than ten-hundredths of one gram by weight of alcohol per two hundred ten liters of ~~his~~ the defendant's breath, or less than fourteen-hundredths of one gram by weight of alcohol per one hundred milliliters of ~~his~~ the defendant's urine, such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of division (B) of this section or of a municipal ordinance substantially equivalent to division (B) of this section relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine.

(3) Upon the request of the person who was tested, the results of the chemical test shall be made available to ~~him, his~~ the person or the person's attorney; or ~~his~~ agent; immediately upon the completion of the chemical test analysis.

The person tested may have a physician, a registered nurse, or a qualified technician or chemist of ~~his~~ the person's own choosing administer a chemical test or tests in addition to any administered at the request of a police officer, and shall be so advised. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a police officer.

(4) Any physician, registered nurse, or qualified technician or chemist who withdraws blood from a person pursuant to this section, and any

al, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability, and from civil liability that is based upon a claim of assault and battery or based upon any other claim that is not in the nature of a claim of malpractice, for any act performed in withdrawing blood from the person.

Sec. 4511.191. (A) Any person who operates a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking within this state shall be deemed to have given consent to a chemical test or tests of the person's blood, breath, or urine for the purpose of determining the alcohol, drug, or alcohol and drug content of the person's blood, breath, or urine if arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine. The chemical test or tests shall be administered at the request of a police officer having reasonable grounds to believe the person to have been operating a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking in this state while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(B) Any person who is dead or unconscious, or who is otherwise in a condition rendering the person incapable of refusal, shall be deemed not to have withdrawn consent as provided by division (A) of this section and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(C)(1) Any person under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine shall be advised at a police station, or at a hospital, first-aid station, or clinic to which the person has been taken for first-aid or medical treatment, of both of the following:

(a) The consequences, as specified in division (E) of this section, of the person's refusal to submit upon request to a chemical test designated by the law enforcement agency as provided in division (A) of this section;

(b) The consequences, as specified in division (F) of this section, of the person's submission to the designated chemical test if the person is found to have a prohibited concentration of alcohol in the blood, breath, or urine.

(2)(a) The advice given pursuant to division (C)(1) of this section shall be in a written form containing the information described in division

(C)(2)(b) of this section and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person in the presence of the arresting officer and either another police officer, a civilian police employee, or an employee of a hospital, first-aid station, or clinic, if any, to which the person has been taken for first-aid or medical treatment. The witnesses shall certify to this fact by signing the form.

(b) The form required by division (C)(2)(a) of this section shall read as follows:

"You now are under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or both alcohol and a drug of abuse and will be requested by a police officer to submit to a chemical test to determine the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse in your blood, breath, or urine.

If you refuse to submit to the requested test or if you submit to the requested test and are found to have a prohibited concentration of alcohol in your blood, breath, or urine, your driver's or commercial driver's license or permit or nonresident operating privilege immediately will be suspended for the period of time specified by law by the officer, on behalf of the registrar of motor vehicles. You may appeal this suspension at your initial appearance before the court that hears the charges against you resulting from the arrest, and your initial appearance will be conducted no later than five days after the arrest. This suspension is independent of the penalties for the offense, and you may be subject to other penalties upon conviction."

(D)(1) If a person under arrest as described in division (C)(1) of this section is not asked by a police officer to submit to a chemical test designated as provided in division (A) of this section, the arresting officer shall seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person and immediately forward the seized license or permit to the court in which the arrested person is to appear on the charge for which the person was arrested. If the arrested person does not have the person's driver's or commercial driver's license or permit on the person's self or in the person's vehicle, the arresting officer shall order the arrested person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the arrest, and, upon the surrender, the officer's employing agency immediately shall forward the license or permit to the court in which the arrested person is to appear on the charge for which the person was arrested. Upon receipt of the license or permit, the court shall retain it pending the initial appearance of the arrested person and any action taken under section 4511.196 of the Revised Code.

If a person under arrest as described in division (C)(1) of this section is asked by a police officer to submit to a chemical test designated as provided in division (A) of this section and is advised of the consequences of the person's refusal or submission as provided in division (C) of this section and if the person either refuses to submit to the designated chemical test or the person submits to the designated chemical test and the test results indicate that the person's blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense, the arresting officer shall do all of the following:

(a) On behalf of the registrar, serve a notice of suspension upon the person that advises the person that, independent of any penalties or sanctions imposed upon the person pursuant to any other section of the Revised Code or any other municipal ordinance, the person's driver's or commercial driver's license or permit or nonresident operating privilege is suspended, that the suspension takes effect immediately, that the suspension will last at least until the person's initial appearance on the charge that will be held within five days after the date of the person's arrest or the issuance of a citation to the person, and that the person may appeal the suspension at the initial appearance; seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person; and immediately forward the seized license or permit to the registrar. If the arrested person does not have the person's driver's or commercial driver's license or permit on the person's self or in the person's vehicle, the arresting officer shall order the person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the service of the notice of suspension, and, upon the surrender, the officer's employing agency immediately shall forward the license or permit to the registrar.

(b) Verify the current residence of the person and, if it differs from that on the person's driver's or commercial driver's license or permit, notify the registrar of the change;

(c) In addition to forwarding the arrested person's driver's or commercial driver's license or permit to the registrar, send to the registrar, within forty-eight hours after the arrest of the person, a sworn report that includes all of the following statements:

(i) That the officer had reasonable grounds to believe that, at the time of the arrest, the arrested person was operating a vehicle upon a highway or

public or private property used by the public for vehicular travel or parking within this state while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine;

(ii) That the person was arrested and charged with operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine;

(iii) That the officer asked the person to take the designated chemical test, advised the person of the consequences of submitting to the chemical test or refusing to take the chemical test, and gave the person the form described in division (C)(2) of this section;

(iv) That the person refused to submit to the chemical test or that the person submitted to the chemical test and the test results indicate that the person's blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense;

(v) That the officer served a notice of suspension upon the person as described in division (D)(1)(a) of this section.

(2) The sworn report of an arresting officer completed under division (D)(1)(c) of this section shall be given by the officer to the arrested person at the time of the arrest or sent to the person by regular first class mail by the registrar as soon thereafter as possible, but no later than fourteen days after receipt of the report. An arresting officer may give an unsworn report to the arrested person at the time of the arrest provided the report is complete when given to the arrested person and subsequently is sworn to by the arresting officer. As soon as possible, but no later than forty-eight hours after the arrest of the person, the arresting officer shall send a copy of the sworn report to the court in which the arrested person is to appear on the charge for which the person was arrested.

(3) The sworn report of an arresting officer completed and sent to the registrar and the court under divisions (D)(1)(c) and (D)(2) of this section is prima-facie proof of the information and statements that it contains and shall be admitted and considered as prima-facie proof of the information and statements that it contains in any appeal under division (H) of this section relative to any suspension of a person's driver's or commercial driver's

license or permit or nonresident operating privilege that results from the arrest covered by the report.

(E)(1) Upon receipt of the sworn report of an arresting officer completed and sent to the registrar and a court pursuant to divisions (D)(1)(c) and (D)(2) of this section in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under division (D)(1)(a) of this section and the period of the suspension, as determined under divisions (E)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in this section and shall be for whichever of the following periods applies:

(a) If the arrested person, within five years of the date on which the person refused the request to consent to the chemical test, had not refused a previous request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content, the period of suspension shall be one year. If the person is a resident without a license or permit to operate a vehicle within this state, the registrar shall deny to the person the issuance of a driver's or commercial driver's license or permit for a period of one year after the date of the alleged violation.

(b) If the arrested person, within five years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content, the period of suspension or denial shall be two years.

(c) If the arrested person, within five years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content, the period of suspension or denial shall be three years.

(d) If the arrested person, within five years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content, the period of suspension or denial shall be five years.

(2) The suspension or denial imposed under division (E)(1) of this section shall continue for the entire one-year, two-year, three-year, or five-year period, subject to appeal as provided in this section and subject to termination as provided in division (K) of this section.

(F) Upon receipt of the sworn report of an arresting officer completed

and sent to the registrar and a court pursuant to divisions (D)(1)(c) and (D)(2) of this section in regard to a person whose test results indicate that the person's blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under division (D)(1)(a) of this section and the period of the suspension, as determined under divisions (F)(1) to (4) of this section. The suspension shall be subject to appeal as provided in this section and shall be for whichever of the following periods that applies:

(1) Except when division (F)(2), (3), or (4) of this section applies and specifies a different period of suspension or denial, the period of the suspension or denial shall be ninety days.

(2) If the person has been convicted, within six years of the date the test was conducted, of one violation of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that at the time of the commission of the offense the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the period of the suspension or denial shall be one year.

(3) If the person has been convicted, within six years of the date the test was conducted, of two violations of a statute or ordinance described in division (F)(2) of this section, the period of the suspension or denial shall be two years.

(4) If the person has been convicted, within six years of the date the test

was conducted, of more than two violations of a statute or ordinance described in division (F)(2) of this section, the period of the suspension or denial shall be three years.

(G)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under division (D)(1)(a) of this section for the period of time described in division (E) or (F) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take, or in the person taking, the chemical test or tests under division (A) of this section affects the suspension only as described in division (H)(2) of this section.

(2) If a person is arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine and regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (E) or (F) of this section, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to division (H)(1) of this section regarding the issues specified in that division.

(H)(1) If a person is arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine and if the person's driver's or commercial driver's license or permit or nonresident operating privilege is suspended under division (E) or (F) of this section, the person may appeal the suspension at the person's initial appearance on the charge resulting from the arrest in the court in which the person will appear on that charge. If the person appeals the suspension at the person's initial appearance, the appeal does not stay the operation of the suspension. Subject to division (H)(2) of this section, no court has jurisdiction to grant a stay of a suspension imposed under division (E) or (F) of this section, and any order issued by any court that purports to grant a stay of any suspension imposed under either of those divisions shall not be given administrative effect.

If the person appeals the suspension at the person's initial appearance, either the person or the registrar may request a continuance of the appeal. Either the person or the registrar shall make the request for a continuance of the appeal at the same time as the making of the appeal. If either the person

or the registrar requests a continuance of the appeal, the court may grant the continuance. The court also may continue the appeal on its own motion. The granting of a continuance applies only to the conduct of the appeal of the suspension and does not extend the time within which the initial appearance must be conducted, and the court shall proceed with all other aspects of the initial appearance in accordance with its normal procedures. Neither the request for nor the granting of a continuance stays the operation of the suspension that is the subject of the appeal.

If the person appeals the suspension at the person's initial appearance, the scope of the appeal is limited to determining whether one or more of the following conditions have not been met:

(a) Whether the law enforcement officer had reasonable ground to believe the arrested person was operating a vehicle upon a highway or public or private property used by the public for vehicular travel or parking within this state while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine and whether the arrested person was in fact placed under arrest;

(b) Whether the law enforcement officer requested the arrested person to submit to the chemical test designated pursuant to division (A) of this section;

(c) Whether the arresting officer informed the arrested person of the consequences of refusing to be tested or of submitting to the test;

(d) Whichever of the following is applicable:

(i) Whether the arrested person refused to submit to the chemical test requested by the officer;

(ii) Whether the chemical test results indicate that the arrested person's blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense.

(2) If the person appeals the suspension at the initial appearance, the judge or referee of the court or the mayor of the mayor's court shall determine whether one or more of the conditions specified in divisions (H)(1)(a) to (d) of this section have not been met. The person who appeals the suspension has the burden of proving, by a preponderance of the evidence, that one or more of the specified conditions has not been met. If

during the appeal at the initial appearance the judge or referee of the court or the mayor of the mayor's court determines that all of those conditions have been met, the judge, referee, or mayor shall uphold the suspension, shall continue the suspension, and shall notify the registrar of the decision on a form approved by the registrar. Except as otherwise provided in division (H)(2) of this section, if the suspension is upheld or if the person does not appeal the suspension at the person's initial appearance under division (H)(1) of this section, the suspension shall continue until the complaint alleging the violation for which the person was arrested and in relation to which the suspension was imposed is adjudicated on the merits by the judge or referee of the trial court or by the mayor of the mayor's court. If the suspension was imposed under division (E) of this section and it is continued under this division, any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not terminate or otherwise affect the suspension. If the suspension was imposed under division (F) of this section and it is continued under this division, the suspension shall terminate if, for any reason, the person subsequently is found not guilty of the charge that resulted in the person taking the chemical test or tests under division (A) of this section.

If, during the appeal at the initial appearance, the judge or referee of the trial court or the mayor of the mayor's court determines that one or more of the conditions specified in divisions (H)(1)(a) to (d) of this section have not been met, the judge, referee, or mayor shall terminate the suspension, subject to the imposition of a new suspension under division (B) of section 4511.196 of the Revised Code; shall notify the registrar of the decision on a form approved by the registrar; and, except as provided in division (B) of section 4511.196 of the Revised Code, shall order the registrar to return the driver's or commercial driver's license or permit to the person or to take such measures as may be necessary, if the license or permit was destroyed under section 4507.55 of the Revised Code, to permit the person to obtain a replacement driver's or commercial driver's license or permit from the registrar or a deputy registrar in accordance with that section. The court also shall issue to the person a court order, valid for not more than ten days from the date of issuance, granting the person operating privileges for that period of time.

If the person appeals the suspension at the initial appearance, the registrar shall be represented by the prosecuting attorney of the county in which the arrest occurred if the initial appearance is conducted in a juvenile court or county court, except that if the arrest occurred within a city or

village within the jurisdiction of the county court in which the appeal is conducted, the city director of law or village solicitor of that city or village shall represent the registrar. If the appeal is conducted in a municipal court, the registrar shall be represented as provided in section 1901.34 of the Revised Code. If the appeal is conducted in a mayor's court, the registrar shall be represented by the city director of law, village solicitor, or other chief legal officer of the municipal corporation that operates that mayor's court.

(I)(1) If a person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended pursuant to division (E) of this section, and the person, within the preceding seven years, has refused three previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content or has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the person is not entitled to request, and the court shall not grant to the person, occupational driving privileges under this division. Any other person whose driver's or commercial driver's license or nonresident operating privilege has been suspended pursuant to division (E) of this section may file a petition requesting occupational driving privileges in the common pleas court, municipal court, county court, mayor's court, or, if the person is a minor, juvenile court with jurisdiction over the related criminal or delinquency case. The petition may be filed at any time subsequent to the date on which the notice of suspension is served upon the arrested person. The person shall pay the costs of the proceeding, notify the registrar of the filing of the petition, and send the registrar a copy of the petition.

In the proceedings, the registrar shall be represented by the prosecuting attorney of the county in which the arrest occurred if the petition is filed in

the juvenile court, county court, or common pleas court, except that, if the arrest occurred within a city or village within the jurisdiction of the county court in which the petition is filed, the city director of law or village solicitor of that city or village shall represent the registrar. If the petition is filed in the municipal court, the registrar shall be represented as provided in section 1901.34 of the Revised Code. If the petition is filed in a mayor's court, the registrar shall be represented by the city director of law, village solicitor, or other chief legal officer of the municipal corporation that operates the mayor's court.

The court, if it finds reasonable cause to believe that suspension would seriously affect the person's ability to continue in the person's employment, may grant the person occupational driving privileges during the period of suspension imposed pursuant to division (E) of this section, subject to the limitations contained in this division and division (I)(2) of this section. The court may grant the occupational driving privileges, subject to the limitations contained in this division and division (I)(2) of this section, regardless of whether the person appeals the suspension at the person's initial appearance under division (H)(1) of this section or appeals the decision of the court made pursuant to the appeal conducted at the initial appearance, and, if the person has appealed the suspension or decision, regardless of whether the matter at issue has been heard or decided by the court. The court shall not grant occupational driving privileges to any person who, within seven years of the filing of the petition, has refused three previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content or has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, and shall not grant occupational driving privileges for employment as a driver of commercial

motor vehicles to any person who is disqualified from operating a commercial motor vehicle under section 2301.374 or 4506.16 of the Revised Code.

(2)(a) In granting occupational driving privileges under division (I)(1) of this section, the court may impose any condition it considers reasonable and necessary to limit the use of a vehicle by the person. The court shall deliver to the person a permit card, in a form to be prescribed by the court, setting forth the time, place, and other conditions limiting the defendant's use of a vehicle. The grant of occupational driving privileges shall be conditioned upon the person's having the permit in the person's possession at all times during which the person is operating a vehicle.

A person granted occupational driving privileges who operates a vehicle for other than occupational purposes, in violation of any condition imposed by the court, or without having the permit in the person's possession, is guilty of a violation of section 4507.02 of the Revised Code.

(b) The court may not grant a person occupational driving privileges under division (I)(1) of this section when prohibited by a limitation contained in that division or during any of the following periods of time:

(i) The first thirty days of suspension imposed upon a person who, within five years of the date on which the person refused the request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had not refused a previous request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content;

(ii) The first ninety days of suspension imposed upon a person who, within five years of the date on which the person refused the request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had refused one previous request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content;

(iii) The first year of suspension imposed upon a person who, within five years of the date on which the person refused the request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had refused two previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content;

(iv) The first three years of suspension imposed upon a person who, within five years of the date on which the person refused the request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content and for which refusal the suspension was

imposed, had refused three or more previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content.

(3) The court shall give information in writing of any action taken under this section to the registrar.

(4) If a person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended pursuant to division (F) of this section, and the person, within the preceding seven years, has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the person is not entitled to request, and the court shall not grant to the person, occupational driving privileges under this division. Any other person whose driver's or commercial driver's license or nonresident operating privilege has been suspended pursuant to division (F) of this section may file in the court specified in division (I)(1) of this section a petition requesting occupational driving privileges in accordance with section 4507.16 of the Revised Code. The petition may be filed at any time subsequent to the date on which the arresting officer serves the notice of suspension upon the arrested person. Upon the making of the request, occupational driving privileges may be granted in accordance with section 4507.16 of the Revised Code. The court may grant the occupational driving privileges, subject to the limitations contained in section 4507.16 of the Revised Code, regardless of whether the person appeals the suspension at the person's initial appearance under division (H)(1) of this section or appeals the decision of the court made pursuant to the appeal conducted at the initial appearance, and, if the person has appealed the suspension or decision, regardless of whether the matter at issue has been heard or decided by the court.

(J) When it finally has been determined under the procedures of this

ection that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(K) A suspension of the driver's or commercial driver's license or permit of a resident, a suspension of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit pursuant to division (E) or (F) of this section shall be terminated by the registrar upon receipt of notice of the person's entering a plea of guilty to, or of the person's conviction of, operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine, if the offense for which the plea is entered or that resulted in the conviction arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to division (B) or (E) of section 4507.16 of the Revised Code any time during which the person serves a related suspension imposed pursuant to division (E) or (F) of this section.

(L) At the end of a suspension period under this section, section 4511.196, or division (B) of section 4507.16 of the Revised Code and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, revocation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the person's compliance with all of the conditions specified in divisions (L)(1) and (2) of this section:

(1) A showing by the person that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (L)(3) of this section, payment by the person of a license reinstatement fee of four hundred five dollars to the bureau of motor vehicles, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. The fund shall be used to pay the costs of driver treatment

and intervention programs operated pursuant to sections 3793.02 and 3793.10 of the Revised Code. The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established. Except as otherwise provided in division (L)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to division (N) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for attendance at the program or to pay the costs specified in division (N)(4) of this section in accordance with that division. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (N) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and

credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (L)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(3) If a person's driver's or commercial driver's license or permit is suspended under division (E) or (F) of this section, section 4511.196, or division (B) of section 4507.16 of the Revised Code, or any combination of the suspensions described in division (L)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the bureau, only one reinstatement fee of four hundred five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (L)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under division (L)(2)(e) of this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (L)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (L)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(M) Suspension of a commercial driver's license under division (E) or (F) of this section shall be concurrent with any period of disqualification under section 2301.374 or 4506.16 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (E) or (F) of this section, and no person whose commercial driver's license is suspended under division (E) or (F) of this section shall be issued a driver's license under that chapter during the period of the suspension.

(N)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (L) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in accordance with division (N)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or division (B)(2) of section 4507.02 of the Revised Code, and that are required under division (A)(1) ~~or~~, (2), (5), or (6) of section 4511.99 or division (B)(5) of section 4507.99 of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division.

(2) That portion of the license reinstatement fee that is paid under division (L) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) If the suspension in question was imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund

established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) If the suspension in question was imposed under division (B) of section 4507.16 of the Revised Code, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of attendance at the treatment program or for payment of the costs specified in division (N)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is

ministered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (N)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(a) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(b) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

Sec. 4511.99. (A) Whoever violates division (A)(1), (2), (3), or (4) of section 4511.19 of the Revised Code, in addition to the license suspension or revocation provided in section 4507.16 of the Revised Code and any disqualification imposed under section 4506.16 of the Revised Code, shall be punished as provided in division (A)(1), (2), (3), or (4) of this section. Whoever violates division (A)(5), (6), or (7) of section 4511.19 of the Revised Code, in addition to the license suspension or revocation provided in section 4507.16 of the Revised Code and any disqualification imposed under section 4506.16 of the Revised Code, shall be punished as provided in division (A)(5), (6), (7), or (8) of this section.

(1) Except as otherwise provided in division (A)(2), (3), or (4) of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to a term of imprisonment of three consecutive days and may sentence the offender pursuant to section 2929.21 of the Revised Code to a longer term of imprisonment. In addition, the court shall impose upon the offender a fine of not less than two hundred fifty and not more than one thousand dollars.

The court may suspend the execution of the mandatory three consecutive days of imprisonment that it is required to impose by this division, if the court, in lieu of the suspended term of imprisonment, places the offender on probation and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. The court also may suspend the execution of any part of the mandatory three consecutive days of imprisonment that it is required to impose by this division, if the court places the offender on probation for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code; and sentences the offender to a term of imprisonment equal to the remainder of the three consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the offender, as a condition of probation, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Chapter 3793. of the Revised Code by the director of alcohol and drug addiction services, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of probation on the offender that it considers necessary.

Of the fine imposed pursuant to this division, twenty-five dollars shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. This share shall be used by the agency to pay only those costs it incurs in enforcing section 4511.19 of the Revised Code or a substantially similar municipal ordinance and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Fifty dollars of the fine imposed pursuant to this division shall be paid to the political subdivision THAT PAYS THE COST OF housing the offender during the offender's term of incarceration to the credit of the fund that pays the cost of the incarceration. If the offender was confined as a result of the offense prior to being sentenced for the offense but is not sentenced to a term of incarceration, the fifty dollars shall be paid to the political subdivision that

paid the cost of housing the offender during that period OF CONFINEMENT. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate section 4511.19 of the Revised Code or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate that section. Twenty-five dollars of the fine imposed pursuant to this division shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (N) of section 4511.191 of the Revised Code. The balance of the fine shall be disbursed as otherwise provided by law.

(2)(a) Except as otherwise provided in division (A)(4) of this section and except as provided in this division, if, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the offender is guilty of a misdemeanor of the first degree and, ~~except as provided in this division~~, the court shall sentence the offender to a term of imprisonment of ten consecutive days and may sentence the offender pursuant to section 2929.21 of the Revised Code to a longer term of imprisonment. As an alternative to the term of imprisonment required to be imposed by this division, but subject to division (A)~~(8)~~(12) of this section, the court may impose upon the offender a sentence consisting of both a term of imprisonment of five consecutive days and not less than eighteen consecutive days of electronically monitored house arrest as defined in division (A) of section 2929.23 of the Revised Code. The five consecutive days of imprisonment and the period of electronically monitored house arrest shall not exceed six months. The five consecutive

ays of imprisonment do not have to be served prior to or consecutively with the period of electronically monitored house arrest.

In addition, the court shall impose upon the offender a fine of not less than three hundred fifty and not more than one thousand five hundred dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. If the officials of the drivers' intervention program determine that the offender is alcohol dependent, they shall notify the court, and the court shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code. The cost of the treatment shall be paid by the offender.

Of the fine imposed pursuant to this division, thirty-five dollars shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. This share shall be used by the agency to pay only those costs it incurs in enforcing ~~division (A) of~~ section 4511.19 of the Revised Code or a substantially similar municipal ordinance and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. ~~Sixty-five~~ One hundred fifteen dollars of the fine imposed pursuant to this division shall be paid to the political subdivision ~~responsible for that pays~~ the cost of housing the offender during the offender's term of incarceration. This share shall be used by the political subdivision to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate section 4511.19 of the Revised Code or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate that section, and shall be paid to the credit of the fund that pays the cost of the incarceration. Fifty dollars of the fine imposed pursuant to this division shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (N) of section 4511.191 of the Revised Code. The balance of the fine shall be disbursed as otherwise provided by law.

(b) Regardless of whether the vehicle the offender was operating at the

time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the penalties imposed under division (A)(2)(a) of this section and all other penalties provided by law and subject to section 4503.235 of the Revised Code, shall order the immobilization for ninety days of the vehicle the offender was operating at the time of the offense and the impoundment for ninety days of the identification license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(3)(a) Except as otherwise provided in division (A)(4) of this section and except as provided in this division, if, within six years of the offense, the offender has been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, ~~except as provided in this division~~, the court shall sentence the offender to a term of imprisonment of thirty consecutive days and may sentence the offender to a longer definite term of imprisonment of not more than one year. As an alternative to the term of imprisonment required to be imposed by this division, but subject to division (A)(~~8~~)(12) of this section, the court may impose upon the offender a sentence consisting of both a term of imprisonment of fifteen consecutive days and not less than fifty-five consecutive days of electronically monitored house arrest as defined in division (A) of section 2929.23 of the Revised Code. The fifteen consecutive days of imprisonment and the period of electronically monitored house arrest shall not exceed one year. The fifteen consecutive days of imprisonment do not have to be served prior to or consecutively with the period of electronically monitored house arrest.

In addition, the court shall impose upon the offender a fine of not less than five hundred fifty and not more than two thousand five hundred dollars.

In addition to any other sentence that it imposes upon the offender, the court shall require the offender to attend an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code. The cost of the treatment shall be paid by the offender. If the court determines that the offender is unable to pay the cost of attendance at the treatment program, the court may order that payment of the cost of the offender's attendance at the treatment program be made from that court's indigent drivers alcohol treatment fund.

Of the fine imposed pursuant to this division, one hundred twenty-three dollars shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. This share shall be used by the agency to pay only those costs it incurs in enforcing section 4511.19 of the Revised Code or a substantially similar municipal ordinance and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Two hundred ~~twenty-seven~~ seventy-seven dollars of the fine imposed pursuant to this division shall be paid to the political subdivision ~~responsible for that pays~~ the cost of housing the offender during the offender's term of incarceration. This share shall be used by the political subdivision to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate ~~division (A) of~~ section 4511.19 of the Revised Code or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate that section and shall be paid to the credit of the fund that pays the cost of incarceration. The balance of the fine shall be disbursed as otherwise provided by law.

(b) Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the penalties imposed under division (A)(3)(a) of this section and all other penalties provided by law and subject to section 4503.235 of the Revised Code, shall order the immobilization for one hundred eighty days of the vehicle the offender was operating at the time of the offense and the impoundment for one hundred eighty days of the identification license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(4)(a)(i) If, within six years of the offense, the offender has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, ~~or if the offender previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony and regardless of when the violation and the conviction or guilty plea occurred~~ and if sentence is not required to be imposed under division (A)(4)(a)(ii) of this section, the offender is guilty of a felony of the fourth degree and, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, may be sentenced to a definite prison term that shall be not less than six months and not more than thirty months The court shall sentence the offender in accordance with sections 2929.11 to 2929.19 of the Revised Code and shall impose as part of the sentence either a mandatory term of local incarceration of sixty consecutive days of imprisonment in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of sixty consecutive days of imprisonment in accordance with division (G)(2) of that section, ~~whichever is applicable~~ If the court requires the offender is ~~required~~ to serve a mandatory term of local incarceration of sixty consecutive days of imprisonment in accordance with division (G)(1) of section 2929.13 of the Revised Code, the court, pursuant to section 2929.17 of the Revised Code, may impose upon the offender a sentence that includes a term of electronically monitored house arrest, provided that the term of electronically monitored house arrest shall not commence until after the offender has served the mandatory term of local incarceration.

(ii) If the offender previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony, regardless of when the

prior violation and the prior conviction or guilty plea occurred, the offender is guilty of a felony of the third degree. the court shall sentence the offender in accordance with sections 2929.11 to 2929.19 of the Revised Code and shall impose as part of the sentence a mandatory prison term of sixty consecutive days of imprisonment in accordance with division (G)(2) of section 2929.13 of the Revised Code.

(iii) In addition to all other sanctions imposed on an offender under division (A)(4)(a)(i) or (ii) of this section, the court shall impose upon the offender, pursuant to section 2929.18 of the Revised Code, a fine of not less than ~~seven~~ eight hundred ~~fifty~~ nor more than ten thousand dollars.

In addition to any other sanction that it imposes upon the offender under division (A)(4)(a)(i) or (ii) of this section, the court shall require the offender to attend an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code. The cost of the treatment shall be paid by the offender. If the court determines that the offender is unable to pay the cost of attendance at the treatment program, the court may order that payment of the cost of the offender's attendance at the treatment program be made from the court's indigent drivers alcohol treatment fund.

Of the fine imposed pursuant to this division, two hundred ten dollars shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. This share shall be used by the agency to pay only those costs it incurs in enforcing section 4511.19 of the Revised Code or a substantially similar municipal ordinance and in informing the public of the laws governing operation of a motor vehicle while under the influence of alcohol, the dangers of operation of a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. ~~Three~~ Four hundred ~~ninety~~ forty dollars of the fine imposed pursuant to this division shall be paid to the political subdivision ~~responsible for~~ that pays the cost of housing the offender during the offender's term of incarceration. This share shall be used by the political subdivision to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate ~~division (A) of~~ section 4511.19 of the Revised Code or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate that section, and shall be paid to the credit of the fund that pays the cost of incarceration. The balance of the fine shall be disbursed as otherwise provided by law.

(b) Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the sanctions imposed under division (A)(4)(a) of this section and all other sanctions provided by law and subject to section 4503.235 of the Revised Code, shall order the criminal forfeiture to the state of the vehicle the offender was operating at the time of the offense. The order of criminal forfeiture shall be issued and enforced in accordance with section 4503.234 of the Revised Code.

(c) As used in division (A)(4)(a) of this section, "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in section 2929.01 of the Revised Code.

If title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and division (C)(2) or (3) of section 4503.234 of the Revised Code applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealer's association. The proceeds from any fine imposed under this division shall be distributed in accordance with division (D)(4) of section 4503.234 of the Revised Code.

(5)(a) Except as otherwise provided in division (A)(6), (7), or (8) of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to one of the following:

(i) A term of imprisonment of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code;

(ii) If the court determines that the offender is not conducive to treatment in the program, if the offender refuses to attend the program, or if the place of imprisonment can provide a drivers' intervention program, a term of imprisonment of at least six consecutive days.

(b) In addition, the court shall impose upon the offender a fine of not less than two hundred fifty and not more than one thousand dollars.

The court may require the offender, as a condition of probation, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Chapter 3793. of the Revised Code by the director of alcohol and drug addiction services, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other

conditions of probation on the offender that it considers necessary.

Of the fine imposed pursuant to this division, twenty-five dollars shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. The agency shall use this share to pay only those costs it incurs in enforcing section 4511.19 of the Revised Code or a substantially similar municipal ordinance and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Fifty dollars of the fine imposed pursuant to this division shall be paid to the political subdivision THAT PAYS THE COST OF housing the offender during the offender's term of incarceration to the credit of the fund that pays the cost of the incarceration. the political subdivision shall use This share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate section 4511.19 of the Revised Code or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate that section. Twenty-five dollars of the fine imposed pursuant to this division shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (N) of section 4511.191 of the Revised Code. The balance of the fine shall be disbursed as otherwise provided by law.

(6)(a) Except as otherwise provided in division (A)(8) of this section and except as provided in this division, if, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any

other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to a term of imprisonment of twenty consecutive days and may sentence the offender pursuant to section 2929.21 of the Revised Code to a longer term of imprisonment. As an alternative to the term of imprisonment required to be imposed by this division, but subject to division (A)(12) of this section, the court may impose upon the offender a sentence consisting of both a term of imprisonment of ten consecutive days and not less than thirty-six consecutive days of electronically monitored house arrest as defined in division (A) of section 2929.23 of the Revised Code. The ten consecutive days of imprisonment and the period of electronically monitored house arrest shall not exceed six months. The ten consecutive days of imprisonment do not have to be served prior to or consecutively with the period of electronically monitored house arrest.

In addition, the court shall impose upon the offender a fine of not less than three hundred fifty and not more than one thousand five hundred dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. If the officials of the drivers' intervention program determine that the offender is alcohol dependent, they shall notify the court, and the court shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code. The offender shall pay the cost of the treatment.

Of the fine imposed pursuant to this division, thirty-five dollars shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. The agency shall use this share to pay only those costs it incurs in enforcing section 4511.19 of the Revised Code or a substantially similar municipal ordinance and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. One hundred fifteen dollars of the fine imposed pursuant to this division shall be paid to the political subdivision that pays the cost of housing the offender during the offender's

term of incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate section 4511.19 of the Revised Code or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate that section, and this share shall be paid to the credit of the fund that pays the cost of the incarceration. Fifty dollars of the fine imposed pursuant to this division shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (N) of section 4511.191 of the Revised Code. The balance of the fine shall be disbursed as otherwise provided by law.

(b) Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the penalties imposed under division (A)(6)(a) of this section and all other penalties provided by law and subject to section 4503.235 of the Revised Code, shall order the immobilization for ninety days of the vehicle the offender was operating at the time of the offense and the impoundment for ninety days of the identification license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(7)(a) Except as otherwise provided in division (A)(8) of this section and except as provided in this division, if, within six years of the offense, the offender has been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the court shall sentence the offender to a term

of imprisonment of sixty consecutive days and may sentence the offender to a longer definite term of imprisonment of not more than one year. As an alternative to the term of imprisonment required to be imposed by this division, but subject to division (A)(12) of this section, the court may impose upon the offender a sentence consisting of both a term of imprisonment of thirty consecutive days and not less than one hundred ten consecutive days of electronically monitored house arrest as defined in division (A) of section 2929.23 of the Revised Code. The thirty consecutive days of imprisonment and the period of electronically monitored house arrest shall not exceed one year. The thirty consecutive days of imprisonment do not have to be served prior to or consecutively with the period of electronically monitored house arrest.

In addition, the court shall impose upon the offender a fine of not less than five hundred fifty and not more than two thousand five hundred dollars.

In addition to any other sentence that it imposes upon the offender, the court shall require the offender to attend an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code. The offender shall pay the cost of the treatment. If the court determines that the offender is unable to pay the cost of attendance at the treatment program, the court may order that payment of the cost of the offender's attendance at the treatment program be made from that court's indigent drivers alcohol treatment fund.

Of the fine imposed pursuant to this division, one hundred twenty-three dollars shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. The agency shall use this share to pay only those costs it incurs in enforcing section 4511.19 of the Revised Code or a substantially similar municipal ordinance and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Two hundred seventy-seven dollars of the fine imposed pursuant to this division shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate section 4511.19 of the Revised Code or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house

arrest equipment for persons who violate that section, and this share shall be paid to the credit of the fund that pays the cost of incarceration. The balance of the fine shall be disbursed as otherwise provided by law.

(b) Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the penalties imposed under division (A)(7)(a) of this section and all other penalties provided by law and subject to section 4503.235 of the Revised Code, shall order the immobilization for one hundred eighty days of the vehicle the offender was operating at the time of the offense and the impoundment for one hundred eighty days of the identification license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(8)(a)(i) If, within six years of the offense, the offender has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, and if sentence is not required to be imposed under division (A)(8)(a)(ii) of this section, the offender is guilty of a felony of the fourth degree and, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, may be sentenced to a definite prison term that shall be not less than six months and not more than thirty months. The court shall sentence the offender in accordance with sections 2929.11 to 2929.19 of the Revised Code and shall impose as part of the sentence either a mandatory term of local incarceration of one hundred twenty consecutive days of imprisonment in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of one hundred twenty consecutive days of imprisonment in accordance with division (G)(2) of that section. If the court requires the offender to serve a mandatory term of local incarceration of one hundred twenty consecutive

days of imprisonment in accordance with division (G)(1) of section 2929.13 of the Revised Code, the court, pursuant to section 2929.17 of the Revised Code, may impose upon the offender a sentence that includes a term of electronically monitored house arrest, provided that the term of electronically monitored house arrest shall not commence until after the offender has served the mandatory term of local incarceration.

(ii) If the offender previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony, regardless of when the prior violation and the prior conviction or guilty plea occurred, the offender is guilty of a felony of the third degree. The court shall sentence the offender in accordance with sections 2929.11 to 2929.19 of the Revised Code and shall impose as part of the sentence a mandatory prison term of one hundred twenty consecutive days of imprisonment in accordance with division (G)(2) of section 2929.13 of the Revised Code.

(iii) In addition to all other sanctions imposed on an offender under division (A)(8)(a)(i) or (ii) of this section, the court shall impose upon the offender, pursuant to section 2929.18 of the Revised Code, a fine of not less than eight hundred nor more than ten thousand dollars.

In addition to any other sanction that it imposes upon the offender under division (A)(8)(a)(i) or (ii) of this section, the court shall require the offender to attend an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code. The cost of the treatment shall be paid by the offender. If the court determines that the offender is unable to pay the cost of attendance at the treatment program, the court may order that payment of the cost of the offender's attendance at the treatment program be made from the court's indigent drivers alcohol treatment fund.

Of the fine imposed pursuant to this division, two hundred ten dollars shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. The agency shall use this share to pay only those costs it incurs in enforcing section 4511.19 of the Revised Code or a substantially similar municipal ordinance and in informing the public of the laws governing operation of a motor vehicle while under the influence of alcohol, the dangers of operation of a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Four hundred forty dollars of the fine imposed pursuant to this division shall be paid to the political subdivision that pays the cost of housing the offender during the

offender's term of incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate section 4511.19 of the Revised Code or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate that section, and this share shall be paid to the credit of the fund that pays the cost of incarceration. The balance of the fine shall be disbursed as otherwise provided by law.

(b) Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the sanctions imposed under division (A)(8)(a) of this section and all other sanctions provided by law and subject to section 4503.235 of the Revised Code, shall order the criminal forfeiture to the state of the vehicle the offender was operating at the time of the offense. The order of criminal forfeiture shall be issued and enforced in accordance with section 4503.234 of the Revised Code.

(c) As used in division (A)(8)(a) of this section, "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in section 2929.01 of the Revised Code.

(d) If title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and division (C)(2) or (3) of section 4503.234 of the Revised Code applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealer's association. The proceeds from any fine imposed under this division shall be distributed in accordance with division (D)(4) of section 4503.234 of the Revised Code.

(9)(a) Except as provided in division (A)(5)(9)(b) of this section, upon a showing that imprisonment would seriously affect the ability of an offender sentenced pursuant to division (A)(1), (2), (3), ~~(4)~~, (5), (6), (7), or (8) of this section to continue the offender's employment, the court may authorize that the offender be granted work release from imprisonment after the offender has served the three, six, ten, ~~twenty~~, thirty, or sixty consecutive days of imprisonment or the mandatory term of local incarceration of sixty or one hundred twenty consecutive days that the court is required by division (A)(1), (2), (3), ~~(4)~~, (5), (6), (7), or (8) of this section to impose. No court shall authorize work release from imprisonment during the three, six, ten, ~~twenty~~, thirty, or sixty consecutive days of imprisonment or the mandatory term of local incarceration or mandatory prison term of sixty or one hundred twenty consecutive days that the court is required by division

(A)(1), (2), (3), ~~or (4), (5), (6), (7), or (8)~~ of this section to impose. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the place of imprisonment and the time actually spent under employment.

(b) An offender who is sentenced pursuant to division (A)(2) ~~or (3), (6), or (7)~~ of this section to a term of imprisonment followed by a period of electronically monitored house arrest is not eligible for work release from imprisonment, but that person shall be permitted work release during the period of electronically monitored house arrest. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the offender's home or other place specified by the sentencing court and the time actually spent under employment.

~~(6)(10)~~ Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence, the placement of an offender in any treatment program in lieu of imprisonment, or the use of a community control sanction for an offender convicted of a felony, no court shall suspend the ten ~~or twenty, thirty, or sixty~~ consecutive days of imprisonment required to be imposed on an offender by division (A)(2) ~~or (3), (6), or (7)~~ of this section, no court shall place an offender who is sentenced pursuant to division (A)(2), (3), ~~or (4), (6), (7), or (8)~~ of this section in any treatment program in lieu of imprisonment until after the offender has served the ten ~~or twenty, thirty, or sixty~~ consecutive days of imprisonment or the mandatory term of local incarceration or mandatory prison term of sixty ~~or one hundred twenty~~ consecutive days required to be imposed pursuant to division (A)(2), (3), ~~or (4), (6), (7), or (8)~~ of this section, no court that sentences an offender under division (A)(4) ~~or (8)~~ of this section shall impose any sanction other than a mandatory term of local incarceration or mandatory prison term to apply to the offender until after the offender has served the mandatory term of local incarceration or mandatory prison term of sixty ~~or one hundred twenty~~ consecutive days required to be imposed pursuant to division (A)(4) ~~or (8)~~ of this section, and no court that imposes a sentence of imprisonment and a period of electronically monitored house arrest upon an offender under division (A)(2) ~~or (3), (6), or (7)~~ of this section shall suspend any portion of the sentence or place the offender in any treatment program in lieu of imprisonment or electronically monitored house arrest. Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of imprisonment, no court, except as specifically authorized by division

(A)(1) or (5) of this section, shall suspend the three or more consecutive days of imprisonment required to be imposed by division (A)(1) or (5) of this section or place an offender who is sentenced pursuant to division (A)(1) or (5) of this section in any treatment program in lieu of imprisonment until after the offender has served the three or more consecutive days of imprisonment required to be imposed pursuant to division (A)(1) or (5) of this section.

~~(7)~~(11) No court shall sentence an offender to an alcohol treatment program pursuant to division (A)(1), (2), (3), ~~or (4), (5), (6), (7), or (8)~~ of this section unless the treatment program complies with the minimum standards adopted pursuant to Chapter 3793. of the Revised Code by the director of alcohol and drug addiction services.

~~(8)~~(12) No court shall impose the alternative sentence of a term of imprisonment ~~of five consecutive days plus not less than eighteen consecutive days~~ a term of electronically monitored house arrest permitted to be imposed by division (A)(2), (3), (6), or (7) of this section, ~~or the alternative sentence of a term of imprisonment of fifteen consecutive days plus not less than fifty five consecutive days of electronically monitored house arrest permitted to be imposed pursuant to division (A)(3) of this section,~~ unless within sixty days of the date of sentencing, the court issues a written finding, entered into the record, that due to the unavailability of space at the incarceration facility where the offender is required to serve the term of imprisonment imposed upon the offender, the offender will not be able to commence serving the term of imprisonment within the sixty-day period following the date of sentencing. If the court issues such a written finding, the court may impose the alternative sentence comprised of a term of imprisonment and a term of electronically monitored house arrest permitted to be imposed by division (A)(2) ~~or (3), (6), or (7)~~ of this section.

(B) Whoever violates section 4511.192, 4511.251, or 4511.85 of the Revised Code is guilty of a misdemeanor of the first degree. The court, in addition to or independent of all other penalties provided by law, may suspend for a period not to exceed one year the driver's or commercial driver's license or permit or nonresident operating privilege of any person who pleads guilty to or is convicted of a violation of section 4511.192 of the Revised Code.

(C) Whoever violates section 4511.63, 4511.76, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 of the Revised Code is guilty of one of the following:

(1) Except as otherwise provided in division (C)(2) of this section, a minor misdemeanor.

(2) If the offender previously has been convicted of or pleaded guilty to one or more violations of section 4511.63, 4511.76, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 of the Revised Code or a municipal ordinance that is substantially similar to any of those sections, a misdemeanor of the fourth degree.

(D)(1) Whoever violates any provision of sections 4511.01 to 4511.76 or section 4511.84 of the Revised Code, for which no penalty otherwise is provided in this section is guilty of one of the following:

(a) Except as otherwise provided in division (D)(1)(b), (1)(c), (2), (3), or (4) of this section, a minor misdemeanor;

(b) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one violation of any provision of sections 4511.01 to 4511.76 or section 4511.84 of the Revised Code for which no penalty otherwise is provided in this section or a municipal ordinance that is substantially similar to any provision of sections 4511.01 to 4511.76 or section 4511.84 of the Revised Code for which no penalty otherwise is provided in this section, a misdemeanor of the fourth degree;

(c) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of any provision described in division (D)(1)(b) of this section or any municipal ordinance that is substantially similar to any of those provisions, a misdemeanor of the third degree.

(2) When any person is found guilty of a first offense for a violation of section 4511.21 of the Revised Code upon a finding that the person operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, or faster than fifty miles an hour in other portions, or faster than thirty-five miles an hour while passing through a school zone during recess or while children are going to or leaving school during the opening or closing hours, the person is guilty of a misdemeanor of the fourth degree.

(3) Notwithstanding section 2929.21 of the Revised Code, upon a finding that such person operated a motor vehicle in a construction zone where a sign was then posted in accordance with section 4511.98 of the Revised Code, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender who alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this division, provided the court determines the offender is an indigent person and is unable to pay the fine.

(4) Notwithstanding section 2929.21 of the Revised Code, upon a finding that a person operated a motor vehicle in violation of division (C) of section 4511.213 of the Revised Code, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.

(E) Whenever a person is found guilty in a court of record of a violation of section 4511.761, 4511.762, or 4511.77 of the Revised Code, the trial judge, in addition to or independent of all other penalties provided by law, may suspend for any period of time not exceeding three years, or revoke the license of any person, partnership, association, or corporation, issued under section 4511.763 of the Revised Code.

(F) Whoever violates division (E) or (F) of section 4511.51, division (A), (D), or (E) of section 4511.521, section 4511.681, division (A) or (C) of section 4511.69, section 4511.772, or division (A) or (B) of section 4511.82 of the Revised Code is guilty of a minor misdemeanor.

(G) Whoever violates division (A) of section 4511.75 of the Revised Code may be fined an amount not to exceed five hundred dollars. A person who is issued a citation for a violation of division (A) of section 4511.75 of the Revised Code is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial, but instead must appear in person in the proper court to answer the charge.

(H)(1) Whoever is a resident of this state and violates division (A) or (B) of section 4511.81 of the Revised Code shall be punished as follows:

(a) Except as otherwise provided in division (H)(1)(b) of this section, the offender is guilty of a minor misdemeanor.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (A) or (B) of section 4511.81 of the Revised Code or of a municipal ordinance that is substantially similar to either of those divisions, the offender is guilty of a misdemeanor of the fourth degree.

(2) Whoever is not a resident of this state, violates division (A) or (B) of section 4511.81 of the Revised Code, and fails to prove by a preponderance of the evidence that the offender's use or nonuse of a child restraint system was in accordance with the law of the state of which the offender is a resident is guilty of a minor misdemeanor on a first offense; on a second or subsequent offense, that person is guilty of a misdemeanor of the fourth degree.

(3) Sixty-five per cent of every fine imposed pursuant to division (H)(1) or (2) of this section shall be forwarded to the treasurer of state for deposit in the "child highway safety fund" created by division (G) of section 4511.81 of the Revised Code. The balance of the fine shall be disbursed as

otherwise provided by law.

(I) Whoever violates section 4511.202 of the Revised Code is guilty of operating a motor vehicle without being in control of it, a minor misdemeanor.

(J) Whoever violates division (B) of section 4511.74, division (B)(1), (2), or (3), (C), or (E)(1), (2), or (3) of section 4511.83 of the Revised Code is guilty of a misdemeanor of the first degree.

(K) Except as otherwise provided in this division, whoever violates division (E) of section 4511.11, division (A) or (C) of section 4511.17, or section 4511.18 of the Revised Code is guilty of a misdemeanor of the third degree. If a violation of division (A) or (C) of section 4511.17 of the Revised Code creates a risk of physical harm to any person, the offender is guilty of a misdemeanor of the first degree. A violation of division (A) or (C) of section 4511.17 of the Revised Code that causes serious physical harm to property that is owned, leased, or controlled by a state or local authority is a felony of the fifth degree.

(L) Whoever violates division (H) of section 4511.69 of the Revised Code shall be punished as follows:

(1) Except as otherwise provided in division (L)(2) of this section, the offender shall be issued a warning.

(2) If the offender previously has been convicted of or pleaded guilty to a violation of division (H) of section 4511.69 of the Revised Code or of a municipal ordinance that is substantially similar to that division, the offender shall not be issued a warning but shall be fined twenty-five dollars for each parking location that is not properly marked or whose markings are not properly maintained.

(M) Whoever violates division (A)(1) or (2) of section 4511.45 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree; and on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the second degree.

(N)(1) Whoever violates division (B) of section 4511.19 of the Revised Code is guilty of operating a motor vehicle after under-age alcohol consumption and shall be punished as follows:

(a) Except as otherwise provided in division (N)(1)(b) of this section, the offender is guilty of a misdemeanor of the fourth degree.

(b) If, within one year of the offense, the offender has been convicted of or pleaded guilty to any violation of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle

while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the offender is guilty of a misdemeanor of the third degree.

(2) In addition to or independent of all other penalties provided by law, the offender's driver's or commercial driver's license or permit or nonresident operating privilege shall be suspended in accordance with, and for the period of time specified in, division (E) of section 4507.16 of the Revised Code.

(O) Whoever violates section 4511.62 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(P) Whoever violates division (F)(1)(a) or (b) of section 4511.69 of the Revised Code is guilty of a misdemeanor and shall be fined not less than two hundred fifty nor more than five hundred dollars, but in no case shall an offender be sentenced to any term of imprisonment.

Arrest or conviction for a violation of division (F)(1)(a) or (b) of section 4511.69 of the Revised Code does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

Every fine collected under this division shall be paid by the clerk of the court to the political subdivision in which the violation occurred. Except as provided in this division, the political subdivision shall use the fine moneys it receives under this division to pay the expenses it incurs in complying with the signage and notice requirements contained in division (E) of section 4511.69 of the Revised Code. The political subdivision may use up to fifty per cent of each fine it receives under this division to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the political subdivision that benefit or assist persons with disabilities, if governmental

agencies or nonprofit organizations offer the programs.

Sec. 5120.032. (A) No later than January 1, 1998, the department of rehabilitation and correction shall develop and implement intensive program prisons for male and female prisoners other than prisoners described in division (B)(2) of this section. The intensive program prisons shall include institutions at which imprisonment of the type described in division (B)(2)(a) of section 5120.031 of the Revised Code is provided and prisons that focus on educational achievement, vocational training, alcohol and other drug abuse treatment, community service and conservation work, and other intensive regimens or combinations of intensive regimens.

(B)(1) Except as provided in division (B)(2) of this section, the department may place a prisoner in an intensive program prison established pursuant to division (A) of this section subject to the approval of the sentencing judge. At least three weeks prior to placing a prisoner in an intensive program prison, the department shall give notice of the placement and of the fact that the judge may disapprove the placement. If the judge disapproves the placement, the judge shall notify the department of the disapproval within ten days after receipt of the notice. If the judge timely disapproves the placement, the department shall not proceed with it. If the judge does not timely disapprove of the placement, the department may proceed with plans for it.

The department may reduce the stated prison term of a prisoner upon the prisoner's successful completion of a ninety-day period in an intensive program prison. A prisoner whose term has been so reduced shall be required to serve an intermediate, transitional type of detention followed by a release under post-release control sanctions or, in the alternative, shall be placed under post-release control sanctions, as described in division (B)(2)(b)(ii) of section 5120.031 of the Revised Code. In either case, the placement under post-release control sanctions shall be under terms set by the parole board in accordance with section 2967.28 of the Revised Code and shall be subject to the provisions of that section with respect to a violation of any post-release control sanction.

(2) A prisoner who is in any of the following categories is not eligible to participate in an intensive program prison established pursuant to division (A) of this section:

(a) The prisoner is serving a prison term for aggravated murder, murder, or a felony of the first or second degree or a comparable offense under the law in effect prior to ~~the effective date of this section~~ July 1, 1996, or the prisoner previously has been imprisoned for aggravated murder, murder, or a felony of the first or second degree or a comparable offense under the law

in effect prior to ~~the effective date of this section~~ July 1, 1996.

(b) The prisoner is serving a mandatory prison term, as defined in section 2929.01 of the Revised Code.

(c) The prisoner is serving a prison term for a felony of the third, fourth, or fifth degree that either is a sex offense, an offense betraying public trust, or an offense in which the prisoner caused or attempted to cause actual physical harm to a person, the prisoner is serving a prison term for a comparable offense under the law in effect prior to ~~the effective date of this section~~ July 1, 1996, or the prisoner previously has been imprisoned for an offense of that type or a comparable offense under the law in effect prior to ~~the effective date of this section~~ July 1, 1996.

(d) The prisoner is serving a mandatory prison term in prison for a third or fourth degree felony OMVI offense, as defined in section 2929.01 of the Revised Code, that was imposed pursuant to division (G)(2) of section 2929.13 of the Revised Code.

(C) Upon the implementation of intensive program prisons pursuant to division (A) of this section, the department at all times shall maintain intensive program prisons sufficient in number to reduce the prison terms of at least three hundred fifty prisoners who are eligible for reduction of their stated prison terms as a result of their completion of a regimen in an intensive program prison under this section.

Sec. 5120.033. (A) As used in this section, "third degree felony OMVI offense" and "fourth degree felony OMVI offense" ~~has~~ have the same ~~meaning~~ meanings as in section 2929.01 of the Revised Code.

(B) Within eighteen months after ~~the effective date of this section~~ October 17, 1996, the department of rehabilitation and correction shall develop and implement intensive program prisons for male and female prisoners who are sentenced pursuant to division (G)(2) of section 2929.13 of the Revised Code to a mandatory prison term for a third or fourth degree felony OMVI offense. The department shall contract pursuant to section 9.06 of the Revised Code for the private operation and management of the initial intensive program prison established under this section and may contract pursuant to that section for the private operation and management of any other intensive program prison established under this section. The intensive program prisons established under this section shall include prisons that focus on educational achievement, vocational training, alcohol and other drug abuse treatment, community service and conservation work, and other intensive regimens or combinations of intensive regimens.

(C) Except as provided in division (D) of this section, the department may place a prisoner who is sentenced to a mandatory prison term for a third

or fourth degree felony OMVI offense in an intensive program prison established pursuant to division (B) of this section if the sentencing judge, upon notification by the department of its intent to place the prisoner in an intensive program prison, does not notify the department that the judge disapproves the placement. If the stated prison term imposed on a prisoner who is so placed is longer than the mandatory prison term that is required to be imposed on the prisoner, the department may reduce the stated prison term upon the prisoner's successful completion of the prisoner's mandatory prison term in an intensive program prison. A prisoner whose term has been so reduced shall be required to serve an intermediate, transitional type of detention followed by a release under post-release control sanctions or, in the alternative, shall be placed under post-release control sanctions, as described in division (B)(2)(b)(ii) of section 5120.031 of the Revised Code. In either case, the placement under post-release control sanctions shall be under terms set by the parole board in accordance with section 2967.28 of the Revised Code and shall be subject to the provisions of that section with respect to a violation of any post-release control sanction. Upon the establishment of the initial intensive program prison pursuant to division (B) of this section that is privately operated and managed by a contractor pursuant to a contract entered into under section 9.06 of the Revised Code, the department shall comply with divisions (G)(2)(a) and (b) of section 2929.13 of the Revised Code in placing prisoners in intensive program prisons under this section.

(D) A prisoner who is sentenced to a mandatory prison term for a third or fourth degree felony OMVI offense is not eligible to participate in an intensive program prison established under division (B) of this section if any of the following applies regarding the prisoner:

(1) In addition to the mandatory prison term for the third or fourth degree felony OMVI offense, the prisoner also is serving a prison term of a type described in division (B)(2)(a), (b), or (c) of section 5120.032 of the Revised Code.

(2) The prisoner previously has been imprisoned for an offense of a type described in division (B)(2)(a) or (c) of section 5120.032 of the Revised Code or a comparable offense under the law in effect prior to July 1, 1996.

(E) Intensive program prisons established under division (B) of this section are not subject to section 5120.032 of the Revised Code.

Sec. 5120.161. (A) Except as provided in division (C) of this section, the department of rehabilitation and correction may enter into an agreement with any local authority operating a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, as described

in section 307.93, 341.21, or 753.16 of the Revised Code, for the housing in the jail or workhouse operated by the local authority of persons who are convicted of or plead guilty to a felony of the fourth or fifth degree if the person previously has not been convicted of or pleaded guilty to a felony and if the felony is not an offense of violence. The agreement shall specify a per diem fee that the department shall pay the local authority for each such person housed in the jail or workhouse pursuant to the agreement, shall set forth any other terms and conditions for the housing of such persons in the jail or workhouse, and shall indicate that the department, subject to the relevant terms and conditions set forth, may designate those persons to be housed at the jail or workhouse.

(B) A person designated by the department to be housed in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse that is the subject of an agreement entered into under division (A) of this section shall be conveyed by the department to that jail or workhouse and shall be kept at the jail or workhouse until the person's term of imprisonment expires, the person is pardoned, paroled, or placed under a post-release control sanction, or the person is transferred under the laws permitting the transfer of prisoners. The department shall pay the local authority that operates the jail or workhouse the per diem fee specified in the agreement for each such person housed in the jail or workhouse. Each such person housed in the jail or workhouse shall be under the direct supervision and control of the keeper, superintendent, or other person in charge of the jail or workhouse, but shall be considered for all other purposes to be within the custody of the department of rehabilitation and correction. Section 2967.193 of the Revised Code and all other provisions of the Revised Code that pertain to persons within the custody of the department that would not by their nature clearly be inapplicable apply to persons housed pursuant to this section.

(C) The department of rehabilitation and correction shall not enter into an agreement pursuant to division (A) of this section with any local authority unless the jail or workhouse operated by the authority complies with the Minimum Standards for Jails in Ohio.

(D) A court that sentences a person for a felony may include as the sentence or part of the sentence, in accordance with division (A) of section 2929.16 of the Revised Code and regardless of whether the jail or workhouse is the subject of an agreement entered into under division (A) of this section, a sanction that consists of a term of up to six months in a jail or workhouse or, if the offense is a fourth degree felony OMVI offense ~~and the offender previously has not been convicted of a fourth degree felony OMVI~~

~~offense~~, a sanction that consists of a term of up to one year in a jail less the mandatory term of local incarceration of sixty or one hundred twenty consecutive days imposed pursuant to division (G)(1) of section 2929.13 of the Revised Code.

(E) "Fourth degree felony OMVI offense" and "mandatory term of local incarceration" have the same meanings as in section 2929.01 of the Revised Code.

SECTION 2. That existing sections 2929.01, 2929.13, 2929.14, 2929.15, 2929.16, 2929.17, 2929.18, 2929.19, 2929.23, 2929.41, 2937.222, 3793.10, 4503.233, 4503.44, 4507.164, 4511.19, 4511.191, 4511.99, 5120.032, 5120.033, and 5120.161 of the Revised Code are hereby repealed.

SECTION 3. Section 2929.01 of the Revised Code was amended by both H.B. 378 and Am. Sub. S.B. 111 of the 122nd General Assembly. Comparison of these amendments in pursuance of section 1.52 of the Revised Code discloses that while certain of the amendments of these acts are reconcilable, certain other of the amendments are substantively irreconcilable. H.B. 378 was passed on November 13, 1997; S.B. 111 was passed on November 18, 1997. Section 2929.01 of the Revised Code is therefore presented in this act as it results from S.B. 111 and such of the amendments of H.B. 378 as are not in conflict with the amendments of S.B. 111. This is in recognition of the principles stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized where not substantively irreconcilable, and that where amendments are substantively irreconcilable, the latest amendment is to prevail. This section constitutes a legislative finding that such harmonized and reconciled section was the resulting version in effect prior to the effective date of this act.

SECTION 4. Sections 2929.15, 2929.17, and 5120.032 of the Revised Code are presented in this act as a composite of the sections as amended by both Am. Sub. S.B. 269 and Am. Sub. S.B. 166 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 2929.19 of the Revised Code is presented in this act as a composite of the sections as amended by Am. Sub. S.B. 269, Am. Sub. S.B. 166, 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 2929.41 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 154 and Am. Sub. H.B. 180 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 4503.233 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 353 and Am. Sub. H.B. 676 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 4511.99 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 86 and Sub. H.B. 148 of the 123rd 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.*

Am. Sub. S. B. No. 22

112

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 \_\_\_\_\_