

As Passed by the House

124th General Assembly

Regular Session

2001-2002

Sub. H. B. No. 327

**REPRESENTATIVES Latta, Goodman, Seitz, Reinhard, Lendrum,
Willamowski, Schmidt, Aslanides, Fedor, Carano, Womer Benjamin, Buehrer,
Coates, Manning, Schneider, Hartnett, Flowers, Calvert, Hughes, Carmichael,
Reidelbach, Setzer, Clancy, McGregor, Niehaus, Distel, Cirelli, Latell, Salerno**

A BILL

To amend sections 181.25, 2919.25, 2921.34, 2925.23, 1
2925.36, 2929.01, 2929.12, 2929.13, 2929.14, 2
2929.19, 2929.20, 2951.041, 2967.16, 2967.28, 3
3719.21, 4723.09, 4723.28, 4723.75, 5120.031, 4
5120.032, 5120.033, and 5145.01 and to enact 5
sections 2921.341 and 2929.141 of the Revised Code 6
to clarify certain provisions of the Felony 7
Sentencing Law, to correct the penalty provisions 8
for certain drug abuse offenses, to clarify the 9
eligibility criteria for intervention in lieu of 10
conviction, to require applicants for nurse 11
licensure and dialysis technician certification to 12
have a criminal records check, and to extend until 13
July 1, 2002, the date by which the State Criminal 14
Sentencing Commission must recommend changes to the 15
state's criminal forfeiture laws. 16

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

Section 1. That sections 181.25, 2919.25, 2921.34, 2925.23, 17
2925.36, 2929.01, 2929.12, 2929.13, 2929.14, 2929.19, 2929.20, 18

2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 4723.28, 4723.75, 19
5120.031, 5120.032, 5120.033, and 5145.01 be amended and sections 20
2921.341 and 2929.141 of the Revised Code be enacted to read as 21
follows: 22

Sec. 181.25. (A) If the comprehensive criminal sentencing 23
structure that it recommends to the general assembly pursuant to 24
section 181.24 of the Revised Code or any aspects of that 25
sentencing structure are enacted into law, the state criminal 26
sentencing commission shall do all of the following: 27

(1) Assist the general assembly in the implementation of 28
those aspects of the sentencing structure that are enacted into 29
law; 30

(2) Monitor the operation of the aspects of the sentencing 31
structure that are enacted into law and report to the general 32
assembly no later than January 1, 1997, and biennially thereafter, 33
on all of the following matters: 34

(a) The impact of the sentencing structure in effect on and 35
after July 1, 1996, on political subdivisions and other relevant 36
aspects of local government in this state, including all of the 37
following information: 38

(i) The number and type of offenders who were being 39
imprisoned in a state correctional institution under the law in 40
effect prior to July 1, 1996, but who are being punished under a 41
community control sanction, as defined in section 2929.01 of the 42
Revised Code, under the law in effect on and after July 1, 1996; 43

(ii) The fiscal and other impact of the law in effect on and 44
after July 1, 1996, on political subdivisions and other relevant 45
aspects of local government in this state, including law 46
enforcement agencies, the court system, prosecutors, as defined in 47
section 2935.01 of the Revised Code, the public defender and 48

assigned counsel system, jails and workhouses, probation
departments, the drug and alcohol abuse intervention and treatment
system, and the mental health intervention and treatment system.

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(b) The impact of the sentencing structure in effect on and
after July 1, 1996, on the population of state correctional
institutions, including information regarding the number and types
of offenders who are being imprisoned under the law in effect on
and after July 1, 1996, and the amount of space in state
correctional institutions that is necessary to house those
offenders;

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(c) The impact of the sentencing structure and the sentence
appeal provisions in effect on and after July 1, 1996, on the
appellate courts of this state, including information regarding
the number of sentence-based appeals, the cost of reviewing
appeals of that nature, whether a special court should be created
to review sentences, and whether changes should be made to ensure
that sentence-based appeals are conducted expeditiously.

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(3) Review all bills that are introduced in the general
assembly that provide for new criminal offenses or that change the
penalty for any criminal offense, determine if those bills are
consistent with the sentencing policy adopted under division (B)
of section 181.23 of the Revised Code, determine the impact of
those bills upon the correctional resources of the state, and
recommend to the general assembly any necessary amendments to
those bills. When the commission recommends any amendment for a
bill before the general assembly, it shall do so in a manner that
is consistent with the requirements of section 181.24 of the
Revised Code.

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(4) Study criminal sentencing structures in this state, other
states, and the federal government, recommend necessary changes to
the sentencing structure of the state, and determine the costs and
effects of any proposed changes in the sentencing structure of the

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(5) Collect and maintain data that pertains to the cost to 82
counties of the felony sentence appeal provisions set forth in 83
section 2953.08 of the Revised Code, of the postconviction relief 84
proceeding provisions set forth in division (A)(2) of section 85
2953.21 of the Revised Code, and of appeals from judgments entered 86
in such postconviction relief proceedings. The data so collected 87
and maintained shall include, but shall not be limited to, the 88
increase in expenses that counties experience as a result of those 89
provisions and those appeals and the number of felony sentence 90
appeals made, postconviction relief proceedings filed, and appeals 91
of postconviction relief proceeding judgments made in each county 92
under those provisions. The commission periodically shall provide 93
to the felony sentence appeal cost oversight committee, in 94
accordance with division (I) of section 2953.08 of the Revised 95
Code, all data the commission collects pursuant to this division. 96

(B) In addition to its duties set forth in section 181.24 of 97
the Revised Code and division (A) of this section, the state 98
criminal sentencing commission shall review all forfeiture 99
statutes in Titles XXIX and XLV of the Revised Code and, not later 100
than July 1, ~~2001~~ 2002, recommend to the general assembly any 101
necessary changes to those statutes. 102

Sec. 2919.25. (A) No person shall knowingly cause or attempt 103
to cause physical harm to a family or household member. 104

(B) No person shall recklessly cause serious physical harm to 105
a family or household member. 106

(C) No person, by threat of force, shall knowingly cause a 107
family or household member to believe that the offender will cause 108
imminent physical harm to the family or household member. 109

(D) Whoever violates this section is guilty of domestic 110

violence. Except as otherwise provided in this division, a
violation of division (C) of this section is a misdemeanor of the
fourth degree, and a violation of division (A) or (B) of this
section is a misdemeanor of the first degree. If the offender
previously has pleaded guilty to or been convicted of domestic
violence, of a violation of a municipal ordinance that is
substantially similar to domestic violence, of a violation of
section 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, 2903.211,
2903.22, 2911.211, or 2919.22 of the Revised Code involving a
person who was a family or household member at the time of the
violation, or of a violation of a municipal ordinance, a law 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 one of those sections involving a person
who was a family or household member at the time of the violation,
a violation of division (A) or (B) of this section is a felony of
the fifth degree, and a violation of division (C) of this section
is a misdemeanor of the third degree."

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(E) As used in this section and sections 2919.251 and 2919.26
of the Revised Code:

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(1) "Family or household member" means any of the following:

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(a) Any of the following who is residing or has resided with
the offender:

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(i) A spouse, a person living as a spouse, or a former spouse
of the offender;

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(ii) A parent or a child of the offender, or another person
related by consanguinity or affinity to the offender;

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(iii) A parent or a child of a spouse, person living as a
spouse, or former spouse of the offender, or another person
related by consanguinity or affinity to a spouse, person living as
a spouse, or former spouse of the offender.

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(b) The natural parent of any child of whom the offender is 142
the other natural parent or is the putative other natural parent. 143

(2) "Person living as a spouse" means a person who is living 144
or has lived with the offender in a common law marital 145
relationship, who otherwise is cohabiting with the offender, or 146
who otherwise has cohabited with the offender within five years 147
prior to the date of the alleged commission of the act in 148
question. 149

Sec. 2921.34. (A)(1) No person, knowing the person is under 150
detention or being reckless in that regard, shall purposely break 151
or attempt to break the detention, or purposely fail to return to 152
detention, either following temporary leave granted for a specific 153
purpose or limited period, or at the time required when serving a 154
sentence in intermittent confinement. A person who violates 155
section 2921.341 of the Revised Code shall not also be prosecuted 156
for a violation of this section based upon the same act that 157
constitutes the violation of that section. 158

(2) No person who is sentenced to a prison term pursuant to 159
division (A)(3) of section 2971.03 of the Revised Code as a 160
sexually violent predator, for whom the requirement that the 161
entire prison term be served in a state correctional institution 162
has been modified pursuant to section 2971.05 of the Revised Code, 163
and who, pursuant to that modification, is restricted to a 164
geographic area, knowing that the person is under a geographic 165
restriction or being reckless in that regard, shall purposely 166
leave the geographic area to which the restriction applies or 167
purposely fail to return to that geographic area following a 168
temporary leave granted for a specific purpose or for a limited 169
period of time. 170

(B) Irregularity in bringing about or maintaining detention, 171
or lack of jurisdiction of the committing or detaining authority, 172

is not a defense to a charge under this section if the detention 173
is pursuant to judicial order or in a detention facility. In the 174
case of any other detention, irregularity or lack of jurisdiction 175
is an affirmative defense only if either of the following occurs: 176

(1) The escape involved no substantial risk of harm to the 177
person or property of another. 178

(2) The detaining authority knew or should have known there 179
was no legal basis or authority for the detention. 180

(C) Whoever violates this section is guilty of escape. 181

(1) If the offender, at the time of the commission of the 182
offense, was under detention as an alleged or adjudicated 183
delinquent child or unruly child and if the act for which the 184
offender was under detention would not be a felony if committed by 185
an adult, escape is a misdemeanor of the first degree. 186

(2) If the offender, at the time of the commission of the 187
offense, was under detention in any other manner or was a sexually 188
violent predator for whom the requirement that the entire prison 189
term imposed pursuant to division (A)(3) of section 2971.03 of the 190
Revised Code be served in a state correctional institution has 191
been modified pursuant to section 2971.05 of the Revised Code, 192
escape is one of the following: 193

(a) A felony of the second degree, when the most serious 194
offense for which the person was under detention or adjudicated a 195
sexually violent predator is aggravated murder, murder, or a 196
felony of the first or second degree or, if the person was under 197
detention as an alleged or adjudicated delinquent child, when the 198
most serious act for which the person was under detention would be 199
aggravated murder, murder, or a felony of the first or second 200
degree if committed by an adult; 201

(b) A felony of the third degree, when the most serious 202
offense for which the person was under detention or adjudicated a 203

sexually violent predator is a felony of the third, fourth, or
fifth degree or an unclassified felony or, if the person was under
detention as an alleged or adjudicated delinquent child, when the
most serious act for which the person was under detention would be
a felony of the third, fourth, or fifth degree or an unclassified
felony if committed by an adult;

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(c) A felony of the fifth degree, when any of the following
applies:

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(i) The most serious offense for which the person was under
detention is a misdemeanor.

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(ii) The person was found not guilty by reason of insanity,
and the person's detention consisted of hospitalization,
institutionalization, or confinement in a facility under an order
made pursuant to or under authority of section 2945.40, 2945.401,
or 2945.402 of the Revised Code.

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(d) A misdemeanor of the first degree, when the most serious
offense for which the person was under detention is a misdemeanor
and when the person fails to return to detention at a specified
time following temporary leave granted for a specific purpose or
limited period or at the time required when serving a sentence in
intermittent confinement.

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Sec. 2921.341. (A) No offender who is under the lawful
supervision of an employee of the department of rehabilitation and
correction and who is on any type of release from a state
correctional institution other than judicial release under section
2929.20 of the Revised Code shall do any of the following:

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(1) Knowingly leave the state without the permission of the
adult parole authority;

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(2) Evade, flee, or avoid that supervision for more than six
months;

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<u>(3) Fail to maintain contacts required by that supervision</u>	234
<u>for more than six months.</u>	235
<u>(B) Whoever violates this section is guilty of absconding</u>	236
<u>from supervision, a felony of the fifth degree.</u>	237
Sec. 2925.23. (A) No person shall knowingly make a false	238
statement in any prescription, order, report, or record required	239
by Chapter 3719. or 4729. of the Revised Code.	240
(B) No person shall intentionally make, utter, or sell, or	241
knowingly possess any of the following that is a false or forged:	242
(1) Prescription;	243
(2) Uncompleted preprinted prescription blank used for	244
writing a prescription;	245
(3) Official written order;	246
(4) License for a terminal distributor of dangerous drugs as	247
required in section 4729.60 of the Revised Code;	248
(5) Registration certificate for a wholesale distributor of	249
dangerous drugs as required in section 4729.60 of the Revised	250
Code.	251
(C) No person, by theft as defined in section 2913.02 of the	252
Revised Code, shall acquire any of the following:	253
(1) A prescription;	254
(2) An uncompleted preprinted prescription blank used for	255
writing a prescription;	256
(3) An official written order;	257
(4) A blank official written order;	258
(5) A license or blank license for a terminal distributor of	259
dangerous drugs as required in section 4729.60 of the Revised	260
Code;	261

(6) A registration certificate or blank registration certificate for a wholesale distributor of dangerous drugs as required in section 4729.60 of the Revised Code.

(D) No person shall knowingly make or affix any false or forged label to a package or receptacle containing any dangerous drugs.

(E) Divisions (A) and (D) of this section do not apply to licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4731., and 4741. of the Revised Code.

(F) Whoever violates this section is guilty of illegal processing of drug documents. If the offender violates division (B)(2), (4), or (5) or division (C)(2), (4), (5), or (6) of this section, illegal processing of drug documents is a felony of the fifth degree. If the offender violates division (A), division (B)(1) or (3), division (C)(1) or (3), or division (D) of this section, the penalty for illegal processing of drug documents shall be determined as follows:

(1) If the drug involved is a compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, illegal processing of drug documents is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(2) If the drug involved is a dangerous drug or a compound, mixture, preparation, or substance included in schedule III, IV, or V or is marihuana, illegal processing of drug documents is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(G) In addition to any prison term authorized or required by 293
division (F) of this section and sections 2929.13 and 2929.14 of 294
the Revised Code and in addition to any other sanction imposed for 295
the offense under this section or sections 2929.11 to 2929.18 of 296
the Revised Code, the court that sentences an offender who is 297
convicted of or pleads guilty to any violation of divisions (A) to 298
(D) of this section shall do both of the following: 299

(1) The court shall suspend for not less than six months or 300
more than five years the driver's or commercial driver's license 301
or permit of any person who is convicted of or has pleaded guilty 302
to a violation of this section. 303

(2) If the offender is a professionally licensed person or a 304
person who has been admitted to the bar by order of the supreme 305
court in compliance with its prescribed and published rules, in 306
addition to any other sanction imposed for a violation of this 307
section, the court forthwith shall comply with section 2925.38 of 308
the Revised Code. 309

(H) Notwithstanding any contrary provision of section 3719.21 310
of the Revised Code, the clerk of court shall pay a fine imposed 311
for a violation of this section pursuant to division (A) of 312
section 2929.18 of the Revised Code in accordance with and subject 313
to the requirements of division (F) of section 2925.03 of the 314
Revised Code. The agency that receives the fine shall use the fine 315
as specified in division (F) of section 2925.03 of the Revised 316
Code. 317

Sec. 2925.36. (A) No person shall knowingly furnish another a 318
sample drug. 319

(B) Division (A) of this section does not apply to 320
manufacturers, wholesalers, pharmacists, owners of pharmacies, 321
licensed health professionals authorized to prescribe drugs, and 322
other persons whose conduct is in accordance with Chapters 3719., 323

4715., 4723., 4725., 4729., 4731., and 4741. of the Revised Code. 324

(C)(1) Whoever violates this section is guilty of illegal 325
dispensing of drug samples. 326

(2) If the drug involved in the offense is a compound, 327
mixture, preparation, or substance included in schedule I or II, 328
with the exception of marihuana, the penalty for the offense shall 329
be determined as follows: 330

(a) Except as otherwise provided in division (C)(2)(b) of 331
this section, illegal dispensing of drug samples is a felony of 332
the fifth degree, and, subject to division (E) of this section, 333
division (C) of section 2929.13 of the Revised Code applies in 334
determining whether to impose a prison term on the offender. 335

(b) If the offense was committed in the vicinity of a school 336
or in the vicinity of a juvenile, illegal dispensing of drug 337
samples is a felony of the fourth degree, and, subject to division 338
(E) of this section, division (C) of section 2929.13 of the 339
Revised Code applies in determining whether to impose a prison 340
term on the offender. 341

(3) If the drug involved in the offense is a dangerous drug 342
or a compound, mixture, preparation, or substance included in 343
schedule III, IV, or V, or is marihuana, the penalty for the 344
offense shall be determined as follows: 345

(a) Except as otherwise provided in division (C)(3)(b) of 346
this section, illegal dispensing of drug samples is a misdemeanor 347
of the second degree. 348

(b) If the offense was committed in the vicinity of a school 349
or in the vicinity of a juvenile, illegal dispensing of drug 350
samples is a misdemeanor of the first degree. 351

(D) In addition to any prison term authorized or required by 352
division (C) ~~or (E)~~ of this section and sections 2929.13 and 353

2929.14 of the Revised Code and in addition to any other sanction 354
imposed for the offense under this section or sections 2929.11 to 355
2929.18 of the Revised Code, the court that sentences an offender 356
who is convicted of or pleads guilty to a violation of division 357
(A) of this section shall do both of the following: 358

(1) The court shall suspend for not less than six months or 359
more than five years the driver's or commercial driver's license 360
or permit of any person who is convicted of or has pleaded guilty 361
to a violation of this section. 362

(2) If the offender is a professionally licensed person or a 363
person who has been admitted to the bar by order of the supreme 364
court in compliance with its prescribed and published rules, in 365
addition to any other sanction imposed for a violation of this 366
section, the court forthwith shall comply with section 2925.38 of 367
the Revised Code. 368

~~(E) Notwithstanding the prison term authorized or required by 369
division (C) of this section and sections 2929.13 and 2929.14 of 370
the Revised Code, if the violation of division (A) of this section 371
involves the sale, offer to sell, or possession of a schedule I or 372
II controlled substance, with the exception of marihuana, and if 373
the court imposing sentence upon the offender finds that the 374
offender as a result of the violation is a major drug offender and 375
is guilty of a specification of the type described in section 376
2941.1410 of the Revised Code, the court, in lieu of the prison 377
term otherwise authorized or required, shall impose upon the 378
offender the mandatory prison term specified in division (D)(3)(a) 379
of section 2929.14 of the Revised Code and may impose an 380
additional prison term under division (D)(3)(b) of that section. 381~~

~~(F) Notwithstanding any contrary provision of section 3719.21 382
of the Revised Code, the clerk of the court shall pay a fine 383
imposed for a violation of this section pursuant to division (A) 384
of section 2929.18 of the Revised Code in accordance with and 385~~

subject to the requirements of division (F) of section 2925.03 of 386
the Revised Code. The agency that receives the fine shall use the 387
fine as specified in division (F) of section 2925.03 of the 388
Revised Code. 389

Sec. 2929.01. As used in this chapter: 390

(A)(1) "Alternative residential facility" means, subject to 391
division (A)(2) of this section, any facility other than an 392
offender's home or residence in which an offender is assigned to 393
live and that satisfies all of the following criteria: 394

(a) It provides programs through which the offender may seek 395
or maintain employment or may receive education, training, 396
treatment, or habilitation. 397

(b) It has received the appropriate license or certificate 398
for any specialized education, training, treatment, habilitation, 399
or other service that it provides from the government agency that 400
is responsible for licensing or certifying that type of education, 401
training, treatment, habilitation, or service. 402

(2) "Alternative residential facility" does not include a 403
community-based correctional facility, jail, halfway house, or 404
prison. 405

(B) "Bad time" means the time by which the parole board 406
administratively extends an offender's stated prison term or terms 407
pursuant to section 2967.11 of the Revised Code because the parole 408
board finds by clear and convincing evidence that the offender, 409
while serving the prison term or terms, committed an act that is a 410
criminal offense under the law of this state or the United States, 411
whether or not the offender is prosecuted for the commission of 412
that act. 413

(C) "Basic probation supervision" means a requirement that 414
the offender maintain contact with a person appointed to supervise 415

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. "Basic probation supervision" includes basic parole
supervision and basic post-release control supervision.

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

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(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.

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(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.

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

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

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(I) "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.

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

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(K) "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.

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(L) "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.

(M) "Economic loss" means any economic detriment suffered by a victim as a result of the commission of a felony 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 commission of the felony.

(N) "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 curricula or their equivalent.

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

(P) "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.

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

(R) "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.

(S) "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.

(T) "Intensive probation 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. "Intensive probation supervision" includes intensive parole supervision and intensive post-release control supervision.

(U) "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.

(V) "Delinquent child" has the same meaning as in section

2152.02 of the Revised Code.

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(W) "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.

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(X) "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 thousand five hundred unit doses or two hundred fifty grams of heroin; at least five thousand unit doses of L.S.D. or five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form; 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, or 2925.11 of the Revised Code that is based on the possession of, sale of, or offer to sell the controlled substance.

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(Y) "Mandatory prison term" means any of the following:

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(1) Subject to division (Y)(2) of this section, the term in prison that must be imposed for the offenses or circumstances set forth in divisions (F)(1) to (8) or (F)(12) of section 2929.13 and division (D) of section 2929.14 of the Revised Code. Except as

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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.

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(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.

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(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)(11) of section 2929.13 of the Revised
Code and that term as modified or terminated pursuant to section
2971.05 of the Revised Code.

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(Z) "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.

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

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(BB) "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.

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

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(1) A stated prison term;

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(2) A term in a prison shortened by, or with the approval of,

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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.

(DD) "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 previously served or, at the time of the offense was
serving, 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 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 601
(DD)(2)(a)(i) of this section and that resulted in the death of a 602
person or in physical harm to a person. 603

(b) The person previously was adjudicated a delinquent child 604
for committing an act that if committed by an adult would have 605
been an offense listed in division (DD)(2)(a)(i) or (ii) of this 606
section, the person was committed to the department of youth 607
services for that delinquent act. 608

(EE) "Sanction" means any penalty imposed upon an offender 609
who is convicted of or pleads guilty to an offense, as punishment 610
for the offense. "Sanction" includes any sanction imposed pursuant 611
to any provision of sections 2929.14 to 2929.18 of the Revised 612
Code. 613

(FF) "Sentence" means the sanction or combination of 614
sanctions imposed by the sentencing court on an offender who is 615
convicted of or pleads guilty to a felony. 616

(GG) "Stated prison term" means the prison term, mandatory 617
prison term, or combination of all prison terms and mandatory 618
prison terms imposed by the sentencing court pursuant to section 619
2929.14 or 2971.03 of the Revised Code. "Stated prison term" 620
includes any credit received by the offender for time spent in 621
jail awaiting trial, sentencing, or transfer to prison for the 622
offense and any time spent under house arrest or electronically 623
monitored house arrest imposed after earning credits pursuant to 624
section 2967.193 of the Revised Code. 625

(HH) "Victim-offender mediation" means a reconciliation or 626
mediation program that involves an offender and the victim of the 627
offense committed by the offender and that includes a meeting in 628
which the offender and the victim may discuss the offense, discuss 629
restitution, and consider other sanctions for the offense. 630

(II) "Fourth degree felony OMVI offense" means a violation of 631

division (A) of section 4511.19 of the Revised Code that, under 632
section 4511.99 of the Revised Code, is a felony of the fourth 633
degree. 634

(JJ) "Mandatory term of local incarceration" means the term 635
of sixty or one hundred twenty days in a jail, a community-based 636
correctional facility, a halfway house, or an alternative 637
residential facility that a sentencing court may impose upon a 638
person who is convicted of or pleads guilty to a fourth degree 639
felony OMVI offense pursuant to division (G)(1) of section 2929.13 640
of the Revised Code and division (A)(4) or (8) of section 4511.99 641
of the Revised Code. 642

(KK) "Designated homicide, assault, or kidnapping offense," 643
"sexual motivation specification," "sexually violent offense," 644
"sexually violent predator," and "sexually violent predator 645
specification" have the same meanings as in section 2971.01 of the 646
Revised Code. 647

(LL) "Habitual sex offender," "sexually oriented offense," 648
and "sexual predator" have the same meanings as in section 2950.01 649
of the Revised Code. 650

(MM) An offense is "committed in the vicinity of a child" if 651
the offender commits the offense within thirty feet of or within 652
the same residential unit as a child who is under eighteen years 653
of age, regardless of whether the offender knows the age of the 654
child or whether the offender knows the offense is being committed 655
within thirty feet of or within the same residential unit as the 656
child and regardless of whether the child actually views the 657
commission of the offense. 658

(NN) "Family or household member" has the same meaning as in 659
section 2919.25 of the Revised Code. 660

(OO) "Motor vehicle" and "manufactured home" have the same 661
meanings as in section 4501.01 of the Revised Code. 662

(PP) "Detention" and "detention facility" have the same 663
meanings as in section 2921.01 of the Revised Code. 664

(QQ) "Third degree felony OMVI offense" means a violation of 665
division (A) of section 4511.19 of the Revised Code that, under 666
section 4511.99 of the Revised Code, is a felony of the third 667
degree. 668

(RR) "Random drug testing" has the same meaning as in section 669
5120.63 of the Revised Code. 670

(SS) "Felony sex offense" has the same meaning as in section 671
2957.28 of the Revised Code. 672

~~(RR)~~(TT) "Body armor" has the same meaning as in section 673
2941.1411 of the Revised Code. 674

Sec. 2929.12. (A) Unless otherwise required by section 675
2929.13 or 2929.14 of the Revised Code, a court that imposes a 676
sentence under this chapter upon an offender for a felony has 677
discretion to determine the most effective way to comply with the 678
purposes and principles of sentencing set forth in section 2929.11 679
of the Revised Code. In exercising that discretion, the court 680
shall consider the factors set forth in divisions (B) and (C) of 681
this section relating to the seriousness of the conduct and the 682
factors provided in divisions (D) and (E) of this section relating 683
to the likelihood of the offender's recidivism and, in addition, 684
may consider any other factors that are relevant to achieving 685
those purposes and principles of sentencing. 686

(B) The sentencing court shall consider all of the following 687
that apply regarding the offender, the offense, or the victim, and 688
any other relevant factors, as indicating that the offender's 689
conduct is more serious than conduct normally constituting the 690
offense: 691

(1) The physical or mental injury suffered by the victim of 692

the offense due to the conduct of the offender was exacerbated	693
because of the physical or mental condition or age of the victim.	694
(2) The victim of the offense suffered serious physical,	695
psychological, or economic harm as a result of the offense.	696
(3) The offender held a public office or position of trust in	697
the community, and the offense related to that office or position.	698
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(4) The offender's occupation, elected office, or profession	700
obliged the offender to prevent the offense or bring others	701
committing it to justice.	702
(5) The offender's professional reputation or occupation,	703
elected office, or profession was used to facilitate the offense	704
or is likely to influence the future conduct of others.	705
(6) The offender's relationship with the victim facilitated	706
the offense.	707
(7) The offender committed the offense for hire or as a part	708
of an organized criminal activity.	709
(8) In committing the offense, the offender was motivated by	710
prejudice based on race, ethnic background, gender, sexual	711
orientation, or religion.	712
(9) If the offense is a violation of section 2919.25 or a	713
violation of section 2903.11, 2903.12, or 2903.13 of the Revised	714
Code involving a person who was a family or household member at	715
the time of the violation, the offender committed the offense in	716
the vicinity of one or more children who are not victims of the	717
offense, and the offender or the victim of the offense is a	718
parent, guardian, custodian, or person in loco parentis of one or	719
more of those children.	720
(C) The sentencing court shall consider all of the following	721
that apply regarding the offender, the offense, or the victim, and	722

any other relevant factors, as indicating that the offender's
conduct is less serious than conduct normally constituting the
offense:

(1) The victim induced or facilitated the offense. 726

(2) In committing the offense, the offender acted under
strong provocation. 727
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(3) In committing the offense, the offender did not cause or
expect to cause physical harm to any person or property. 729
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(4) There are substantial grounds to mitigate the offender's
conduct, although the grounds are not enough to constitute a
defense. 731
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(D) The sentencing court shall consider all of the following
that apply regarding the offender, and any other relevant factors,
as factors indicating that the offender is likely to commit future
crimes: 734
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(1) At the time of committing the offense, the offender was
under release from confinement before trial or sentencing, under a
sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18
of the Revised Code, or under post-release control pursuant to
section 2967.28 or any other provision of the Revised Code for an
earlier offense or had been unfavorably terminated from
post-release control for a prior offense pursuant to division (B)
of section 2967.16 or section 2929.141 of the Revised Code.
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(2) The offender previously was adjudicated a delinquent
child pursuant to Chapter 2151. of the Revised Code prior to ~~the~~
~~effective date of this amendment~~ January 1, 2002, or pursuant to
Chapter 2152. of the Revised Code, or the offender has a history
of criminal convictions. 746
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(3) The offender has not been rehabilitated to a satisfactory
degree after previously being adjudicated a delinquent child 751
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pursuant to Chapter 2151. of the Revised Code prior to ~~the~~ 753
~~effective date of this amendment~~ January 1, 2002, or pursuant to 754
Chapter 2152. of the Revised Code, or the offender has not 755
~~responded~~ responded favorably to sanctions previously imposed for 756
criminal convictions. 757

(4) The offender has demonstrated a pattern of drug or 758
alcohol abuse that is related to the offense, and the offender 759
refuses to acknowledge that the offender has demonstrated that 760
pattern, or the offender refuses treatment for the drug or alcohol 761
abuse. 762

(5) The offender shows no genuine remorse for the offense. 763

(E) The sentencing court shall consider all of the following 764
that apply regarding the offender, and any other relevant factors, 765
as factors indicating that the offender is not likely to commit 766
future crimes: 767

(1) Prior to committing the offense, the offender had not 768
been adjudicated a delinquent child. 769

(2) Prior to committing the offense, the offender had not 770
been convicted of or pleaded guilty to a criminal offense. 771

(3) Prior to committing the offense, the offender had led a 772
law-abiding life for a significant number of years. 773

(4) The offense was committed under circumstances not likely 774
to recur. 775

(5) The offender shows genuine remorse for the offense. 776

Sec. 2929.13. (A) Except as provided in division (E), (F), or 777
(G) of this section and unless a specific sanction is required to 778
be imposed or is precluded from being imposed pursuant to law, a 779
court that imposes a sentence upon an offender for a felony may 780
impose any sanction or combination of sanctions on the offender 781

that are provided in sections 2929.14 to 2929.18 of the Revised 782
Code. The sentence shall not impose an unnecessary burden on state 783
or local government resources. 784

If the offender is eligible to be sentenced to community 785
control sanctions, the court shall consider the appropriateness of 786
imposing a financial sanction pursuant to section 2929.18 of the 787
Revised Code or a sanction of community service pursuant to 788
section 2929.17 of the Revised Code as the sole sanction for the 789
offense. Except as otherwise provided in this division, if the 790
court is required to impose a mandatory prison term for the 791
offense for which sentence is being imposed, the court also may 792
impose a financial sanction pursuant to section 2929.18 of the 793
Revised Code but may not impose any additional sanction or 794
combination of sanctions under section 2929.16 or 2929.17 of the 795
Revised Code. 796

If the offender is being sentenced for a fourth degree felony 797
OMVI offense or for a third degree felony OMVI offense, in 798
addition to the mandatory term of local incarceration or the 799
mandatory prison term required for the offense by division (G)(1) 800
or (2) of this section, the court shall impose upon the offender a 801
mandatory fine in accordance with division (B)(3) of section 802
2929.18 of the Revised Code and may impose whichever of the 803
following is applicable: 804

(1) For a fourth degree felony OMVI offense for which 805
sentence is imposed under division (G)(1) of this section, an 806
additional community control sanction or combination of community 807
control sanctions under section 2929.16 or 2929.17 of the Revised 808
Code; 809

(2) For a third or fourth degree felony OMVI offense for 810
which sentence is imposed under division (G)(2) of this section, 811
an additional prison term as described in division (D)(4) of 812
section 2929.14 of the Revised Code. 813

(B)(1) Except as provided in division (B)(2), (E), (F), or 814
(G) of this section, in sentencing an offender for a felony of the 815
fourth or fifth degree, the sentencing court shall determine 816
whether any of the following apply: 817

(a) In committing the offense, the offender caused physical 818
harm to a person. 819

(b) In committing the offense, the offender attempted to 820
cause or made an actual threat of physical harm to a person with a 821
deadly weapon. 822

(c) In committing the offense, the offender attempted to 823
cause or made an actual threat of physical harm to a person, and 824
the offender previously was convicted of an offense that caused 825
physical harm to a person. 826

(d) The offender held a public office or position of trust 827
and the offense related to that office or position; the offender's 828
position obliged the offender to prevent the offense or to bring 829
those committing it to justice; or the offender's professional 830
reputation or position facilitated the offense or was likely to 831
influence the future conduct of others. 832

(e) The offender committed the offense for hire or as part of 833
an organized criminal activity. 834

(f) The offense is a sex offense that is a fourth or fifth 835
degree felony violation of section 2907.03, 2907.04, 2907.05, 836
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 837
Revised Code. 838

(g) The offender at the time of the offense was serving, or 839
the offender previously had served, a prison term. 840

(h) The offender committed the offense while under a 841
community control sanction, while on probation, or while released 842
from custody on a bond or personal recognizance. 843

(i) The offender committed the offense while in possession of a firearm. 844
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(2)(a) If the court makes a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) 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. 846
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(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), (h), or (i) 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. 854
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(C) Except as provided in division (E), (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. 864
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(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 872
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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

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impose a prison term for the offense shall be determined as 908
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 909
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 910
Revised Code, whichever is applicable regarding the violation. 911

(2) If an offender who was convicted of or pleaded guilty to 912
a felony violates the conditions of a community control sanction 913
imposed for the offense solely by reason of producing positive 914
results on a drug test, the court, as punishment for the violation 915
of the sanction, shall not order that the offender be imprisoned 916
unless the court determines on the record either of the following: 917

(a) The offender had been ordered as a sanction for the 918
felony to participate in a drug treatment program, in a drug 919
education program, or in narcotics anonymous or a similar program, 920
and the offender continued to use illegal drugs after a reasonable 921
period of participation in the program. 922

(b) The imprisonment of the offender for the violation is 923
consistent with the purposes and principles of sentencing set 924
forth in section 2929.11 of the Revised Code. 925

(F) Notwithstanding divisions (A) to (E) of this section, the 926
court shall impose a prison term or terms under sections 2929.02 927
to 2929.06, section 2929.14, or section 2971.03 of the Revised 928
Code and except as specifically provided in section 2929.20 or 929
2967.191 of the Revised Code or when parole is authorized for the 930
offense under section 2967.13 of the Revised Code shall not reduce 931
the terms pursuant to section 2929.20, section 2967.193, or any 932
other provision of Chapter 2967. or Chapter 5120. of the Revised 933
Code for any of the following offenses: 934

(1) Aggravated murder when death is not imposed or murder; 935
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(2) Any rape, regardless of whether force was involved and 937
regardless of the age of the victim, or an attempt to commit rape 938

by force when the victim is under thirteen years of age; 939

(3) Gross sexual imposition or sexual battery, if the victim 940
is under thirteen years of age, if the offender previously was 941
convicted of or pleaded guilty to rape, the former offense of 942
felonious sexual penetration, gross sexual imposition, or sexual 943
battery, and if the victim of the previous offense was under 944
thirteen years of age; 945

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 946
2903.11, 2903.12, or 2903.13 of the Revised Code if the section 947
requires the imposition of a prison term; 948

(5) A first, second, or third degree felony drug offense for 949
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 950
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 951
4729.99 of the Revised Code, whichever is applicable regarding the 952
violation, requires the imposition of a mandatory prison term; 953

(6) Any offense that is a first or second degree felony and 954
that is not set forth in division (F)(1), (2), (3), or (4) of this 955
section, if the offender previously was convicted of or pleaded 956
guilty to aggravated murder, murder, any first or second degree 957
felony, or an offense under an existing or former law of this 958
state, another state, or the United States that is or was 959
substantially equivalent to one of those offenses; 960

(7) Any offense that is a third degree felony and that is 961
listed in division (DD)(1) of section 2929.01 of the Revised Code 962
if the offender previously was convicted of or pleaded guilty to 963
any offense that is listed in division (DD)(2)(a)(i) or (ii) of 964
section 2929.01 of the Revised Code; 965

(8) Any offense, other than a violation of section 2923.12 of 966
the Revised Code, that is a felony, if the offender had a firearm 967
on or about the offender's person or under the offender's control 968
while committing the felony, with respect to a portion of the 969

sentence imposed pursuant to division (D)(1)(a) of section 2929.14 970
of the Revised Code for having the firearm; 971

(9) Any offense of violence that is a felony, if the offender 972
wore or carried body armor while committing the felony offense of 973
violence, with respect to the portion of the sentence imposed 974
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 975
Code for wearing or carrying the body armor; 976

(10) Corrupt activity in violation of section 2923.32 of the 977
Revised Code when the most serious offense in the pattern of 978
corrupt activity that is the basis of the offense is a felony of 979
the first degree; 980

(11) Any sexually violent offense for which the offender also 981
is convicted of or pleads guilty to a sexually violent predator 982
specification that was included in the indictment, count in the 983
indictment, or information charging the sexually violent offense; 984
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(12) A violation of division (A)(1) or (2) of section 2921.36 986
of the Revised Code, or a violation of division (C) of that 987
section involving an item listed in division (A)(1) or (2) of that 988
section, if the offender is an officer or employee of the 989
department of rehabilitation and correction. 990

(G) Notwithstanding divisions (A) to (E) of this section, if 991
an offender is being sentenced for a fourth degree felony OMVI 992
offense or for a third degree felony OMVI offense, the court shall 993
impose upon the offender a mandatory term of local incarceration 994
or a mandatory prison term in accordance with the following: 995

(1) If the offender is being sentenced for a fourth degree 996
felony OMVI offense, the court may impose upon the offender a 997
mandatory term of local incarceration of sixty days as specified 998
in division (A)(4) of section 4511.99 of the Revised Code or a 999
mandatory term of local incarceration of one hundred twenty days 1000

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. 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.

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(2) If the offender 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 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 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

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this division in an intensive program prison established pursuant 1033
to section 5120.033 of the Revised Code if the department gave the 1034
sentencing judge prior notice of its intent to place the offender 1035
in an intensive program prison established under that section and 1036
if the judge did not notify the department that the judge 1037
disapproved the placement. Upon the establishment of the initial 1038
intensive program prison pursuant to section 5120.033 of the 1039
Revised Code that is privately operated and managed by a 1040
contractor pursuant to a contract entered into under section 9.06 1041
of the Revised Code, both of the following apply: 1042

(a) The department of rehabilitation and correction shall 1043
make a reasonable effort to ensure that a sufficient number of 1044
offenders sentenced to a mandatory prison term under this division 1045
are placed in the privately operated and managed prison so that 1046
the privately operated and managed prison has full occupancy. 1047

(b) Unless the privately operated and managed prison has full 1048
occupancy, the department of rehabilitation and correction shall 1049
not place any offender sentenced to a mandatory prison term under 1050
this division in any intensive program prison established pursuant 1051
to section 5120.033 of the Revised Code other than the privately 1052
operated and managed prison. 1053

(H) If an offender is being sentenced for a sexually oriented 1054
offense committed on or after January 1, 1997, the judge shall 1055
require the offender to submit to a DNA specimen collection 1056
procedure pursuant to section 2901.07 of the Revised Code if 1057
either of the following applies: 1058

(1) The offense was a sexually violent offense, and the 1059
offender also was convicted of or pleaded guilty to a sexually 1060
violent predator specification that was included in the 1061
indictment, count in the indictment, or information charging the 1062
sexually violent offense. 1063

(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.

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

(2) When considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense, the sentencing court shall consider the factors applicable to the felony category that the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of

unit doses of the controlled substance that is within the next 1096
lower range of controlled substance amounts than was involved in 1097
the attempt. 1098

(K) As used in this section, "drug abuse offense" has the 1099
same meaning as in section 2925.01 of the Revised Code. 1100

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 1101
(D)(2), (D)(3), (D)(4), or (G) of this section and except in 1102
relation to an offense for which a sentence of death or life 1103
imprisonment is to be imposed, if the court imposing a sentence 1104
upon an offender for a felony elects or is required to impose a 1105
prison term on the offender pursuant to this chapter and is not 1106
prohibited by division (G)(1) of section 2929.13 of the Revised 1107
Code from imposing a prison term on the offender, the court shall 1108
impose a definite prison term that shall be one of the following: 1109

(1) For a felony of the first degree, the prison term shall 1110
be three, four, five, six, seven, eight, nine, or ten years. 1111

(2) For a felony of the second degree, the prison term shall 1112
be two, three, four, five, six, seven, or eight years. 1113

(3) For a felony of the third degree, the prison term shall 1114
be one, two, three, four, or five years. 1115

(4) For a felony of the fourth degree, the prison term shall 1116
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 1117
fourteen, fifteen, sixteen, seventeen, or eighteen months. 1118

(5) For a felony of the fifth degree, the prison term shall 1119
be six, seven, eight, nine, ten, eleven, or twelve months. 1120

(B) Except as provided in division (C), (D)(1), (D)(2), 1121
(D)(3), or (G) of this section, in section 2907.02 of the Revised 1122
Code, or in Chapter 2925. of the Revised Code, if the court 1123
imposing a sentence upon an offender for a felony elects or is 1124

required to impose a prison term on the offender ~~and if the~~ 1125
~~offender previously has not served a prison term~~, the court shall 1126
impose the shortest prison term authorized for the offense 1127
pursuant to division (A) of this section, unless the one or more 1128
of the following applies: 1129

(1) The offender was serving a prison term at the time of the 1130
offense, or the offender previously had served a prison term. 1131

(2) The court finds on the record that the shortest prison 1132
term will demean the seriousness of the offender's conduct or will 1133
not adequately protect the public from future crime by the 1134
offender or others. 1135

(C) Except as provided in division (G) of this section or in 1136
Chapter 2925. of the Revised Code, the court imposing a sentence 1137
upon an offender for a felony may impose the longest prison term 1138
authorized for the offense pursuant to division (A) of this 1139
section only upon offenders who committed the worst forms of the 1140
offense, upon offenders who pose the greatest likelihood of 1141
committing future crimes, upon certain major drug offenders under 1142
division (D)(3) of this section, and upon certain repeat violent 1143
offenders in accordance with division (D)(2) of this section. 1144

(D)(1)(a) Except as provided in division (D)(1)(e) of this 1145
section, if an offender who is convicted of or pleads guilty to a 1146
felony also is convicted of or pleads guilty to a specification of 1147
the type described in section 2941.141, 2941.144, or 2941.145 of 1148
the Revised Code, the court shall impose on the offender one of 1149
the following prison terms: 1150

(i) A prison term of six years if the specification is of the 1151
type described in section 2941.144 of the Revised Code that 1152
charges the offender with having a firearm that is an automatic 1153
firearm or that was equipped with a firearm muffler or silencer on 1154
or about the offender's person or under the offender's control 1155

while committing the felony;

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(ii) A prison term of three years if the specification is 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;

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(iii) A prison term of one year if the specification is 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.

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(b) If a court imposes a prison term on an offender under division (D)(1)(a) of this section, the prison term 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 prison term on an offender under division (D)(1)(a) of this section for felonies committed as part of the same act or transaction.

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(c) Except as provided in division (D)(1)(e) 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 other than a manufactured home, 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

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section, shall impose an additional prison term of five years upon 1188
the offender that shall not be reduced pursuant to section 1189
2929.20, section 2967.193, or any other provision of Chapter 2967. 1190
or Chapter 5120. of the Revised Code. A court shall not impose 1191
more than one additional prison term on an offender under division 1192
(D)(1)(c) of this section for felonies committed as part of the 1193
same act or transaction. If a court imposes an additional prison 1194
term on an offender under division (D)(1)(c) of this section 1195
relative to an offense, the court also shall impose a prison term 1196
under division (D)(1)(a) of this section relative to the same 1197
offense, provided the criteria specified in that division for 1198
imposing an additional prison term are satisfied relative to the 1199
offender and the offense. 1200

(d) If an offender who is convicted of or pleads guilty to an 1201
offense of violence that is a felony also is convicted of or 1202
pleads guilty to a specification of the type described in section 1203
2941.1411 of the Revised Code that charges the offender with 1204
wearing or carrying body armor while committing the felony offense 1205
of violence, the court shall impose on the offender a prison term 1206
of two years. The prison term so imposed shall not be reduced 1207
pursuant to section 2929.20, section 2967.193, or any other 1208
provision of ~~chapter~~ Chapter 2967. or ~~chapter~~ Chapter 5120. of the 1209
Revised Code. A court shall not impose more than one prison term 1210
on an offender under division (D)(1)(d) of this section for 1211
felonies committed as part of the same act or transaction. If a 1212
court imposes an additional prison term under division (D)(1)(a) 1213
or (c) of this section, the court is not precluded from imposing 1214
an additional prison term under division (D)(1)(d) of this 1215
section. 1216

(e) The court shall not impose any of the prison terms 1217
described in division (D)(1)(a) of this section or any of the 1218
additional prison terms described in division (D)(1)(c) of this 1219

section upon an offender for a violation of section 2923.12 or 1220
2923.123 of the Revised Code. The court shall not impose any of 1221
the prison terms described in division (D)(1)(a) of this section 1222
or any of the additional prison terms described in division 1223
(D)(1)(c) of this section upon an offender for a violation of 1224
section 2923.13 of the Revised Code unless all of the following 1225
apply: 1226

(i) The offender previously has been convicted of aggravated 1227
murder, murder, or any felony of the first or second degree. 1228

(ii) Less than five years have passed since the offender was 1229
released from prison or post-release control, whichever is later, 1230
for the prior offense. 1231

(2)(a) If an offender who is convicted of or pleads guilty to 1232
a felony also is convicted of or pleads guilty to a specification 1233
of the type described in section 2941.149 of the Revised Code that 1234
the offender is a repeat violent offender, the court shall impose 1235
a prison term from the range of terms authorized for the offense 1236
under division (A) of this section that may be the longest term in 1237
the range and that shall not be reduced pursuant to section 1238
2929.20, section 2967.193, or any other provision of Chapter 2967. 1239
or Chapter 5120. of the Revised Code. If the court finds that the 1240
repeat violent offender, in committing the offense, caused any 1241
physical harm that carried a substantial risk of death to a person 1242
or that involved substantial permanent incapacity or substantial 1243
permanent disfigurement of a person, the court shall impose the 1244
longest prison term from the range of terms authorized for the 1245
offense under division (A) of this section. 1246

(b) If the court imposing a prison term on a repeat violent 1247
offender imposes the longest prison term from the range of terms 1248
authorized for the offense under division (A) of this section, the 1249
court may impose on the offender an additional definite prison 1250
term of one, two, three, four, five, six, seven, eight, nine, or 1251

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 or 2925.11 of the Revised Code and
that section classifies the offender as a major drug offender and
requires the imposition of a ten-year prison term on the offender,
if the offender commits a felony violation of section 2925.02,
2925.04, 2925.05, ~~2925.36~~, 3719.07, 3719.08, 3719.16, 3719.161,
4729.37, or 4729.61, division (C) or (D) of section 3719.172,
division (C) of section 4729.51, or division (J) of section
4729.54 of the Revised Code that includes the sale, offer to sell,
or possession of a schedule I or II controlled substance, with the
exception of marihuana, and the court imposing sentence upon the
offender finds that the offender is guilty of a specification of

the type described in section 2941.1410 of the Revised Code 1284
charging that the offender is a major drug offender, or if the 1285
court imposing sentence upon an offender for a felony finds that 1286
the offender is guilty of corrupt activity with the most serious 1287
offense in the pattern of corrupt activity being a felony of the 1288
first degree or is guilty of an attempted forcible violation of 1289
section 2907.02 of the Revised Code with the victim being under 1290
thirteen years of age and that attempted violation is the felony 1291
for which sentence is being imposed, the court shall impose upon 1292
the offender for the felony violation a ten-year prison term that 1293
cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 1294
5120. of the Revised Code. 1295

(b) The court imposing a prison term on an offender under 1296
division (D)(3)(a) of this section may impose an additional prison 1297
term of one, two, three, four, five, six, seven, eight, nine, or 1298
ten years, if the court, with respect to the term imposed under 1299
division (D)(3)(a) of this section and, if applicable, divisions 1300
(D)(1) and (2) of this section, makes both of the findings set 1301
forth in divisions (D)(2)(b)(i) and (ii) of this section. 1302

(4) If the offender is being sentenced for a third or fourth 1303
degree felony OMVI offense under division (G)(2) of section 1304
2929.13 of the Revised Code, the sentencing court shall impose 1305
upon the offender a mandatory prison term in accordance with that 1306
division. In addition to the mandatory prison term, the sentencing 1307
court may sentence the offender to an additional prison term of 1308
any duration specified in division (A)(3) of this section minus 1309
the sixty or one hundred twenty days imposed upon the offender as 1310
the mandatory prison term. The total of the additional prison term 1311
imposed under division (D)(4) of this section plus the sixty or 1312
one hundred twenty days imposed as the mandatory prison term shall 1313
equal one of the authorized prison terms specified in division 1314
(A)(3) of this section. If the court imposes an additional prison 1315

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.

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(E)(1)(a) Subject to division (E)(1)(b) of this section, 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, if a mandatory prison term is imposed upon an
offender pursuant to division (D)(1)(c) of this section for
committing a felony specified in that division by discharging a
firearm from a motor vehicle, or if both types of mandatory prison
terms are imposed, the offender shall serve any mandatory prison
term imposed under either division consecutively to any other
mandatory prison term imposed under either division or under
division (D)(1)(d) of this section, consecutively to and prior to
any 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.

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(b) If a mandatory prison term is imposed upon an offender
pursuant to division (D)(1)(d) of this section for wearing or
carrying body armor while committing an offense of violence that
is a felony, the offender shall serve the mandatory term so
imposed consecutively to any other mandatory prison term imposed
under that division or under division (D)(1)(a) or (c) of this
section, consecutively to and prior to any prison term imposed for
the underlying felony under division (A), (D)(2), or (D)(3) of
this section or any other section of the Revised Code, and

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consecutively to any other prison term or mandatory prison term 1348
previously or subsequently imposed upon the offender. 1349

(2) If an offender who is an inmate in a jail, prison, or 1350
other residential detention facility violates section 2917.02, 1351
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 1352
who is under detention at a detention facility commits a felony 1353
violation of section 2923.131 of the Revised Code, or if an 1354
offender who is an inmate in a jail, prison, or other residential 1355
detention facility or is under detention at a detention facility 1356
commits another felony while the offender is an escapee in 1357
violation of section 2921.34 of the Revised Code, any prison term 1358
imposed upon the offender for one of those violations shall be 1359
served by the offender consecutively to the prison term or term of 1360
imprisonment the offender was serving when the offender committed 1361
that offense and to any other prison term previously or 1362
subsequently imposed upon the offender. 1363

(3) If a prison term is imposed for a violation of division 1364
(B) of section 2911.01 of the Revised Code or if a prison term is 1365
imposed for a felony violation of division (B) of section 2921.331 1366
of the Revised Code, the offender shall serve that prison term 1367
consecutively to any other prison term or mandatory prison term 1368
previously or subsequently imposed upon the offender. 1369

(4) If multiple prison terms are imposed on an offender for 1370
convictions of multiple offenses, the court may require the 1371
offender to serve the prison terms consecutively if the court 1372
finds that the consecutive service is necessary to protect the 1373
public from future crime or to punish the offender and that 1374
consecutive sentences are not disproportionate to the seriousness 1375
of the offender's conduct and to the danger the offender poses to 1376
the public, and if the court also finds any of the following: 1377

(a) The offender committed one or more of the multiple 1378
offenses while the offender was awaiting trial or sentencing, was 1379

under a sanction imposed pursuant to section 2929.16, 2929.17, or 1380
2929.18 of the Revised Code, or was under post-release control for 1381
a prior offense. 1382

(b) The At least two of the multiple offenses were committed 1383
as part of one or more courses of conduct, and the harm caused by 1384
two or more of the multiple offenses so committed was so great or 1385
unusual that no single prison term for any of the offenses 1386
committed as part of ~~a single course~~ any of the courses of conduct 1387
adequately reflects the seriousness of the offender's conduct. 1388

(c) The offender's history of criminal conduct demonstrates 1389
that consecutive sentences are necessary to protect the public 1390
from future crime by the offender. 1391

(5) When consecutive prison terms are imposed pursuant to 1392
division (E)(1), (2), (3), or (4) of this section, the term to be 1393
served is the aggregate of all of the terms so imposed. 1394

(F) If a court imposes a prison term of a type described in 1395
division (B) of section 2967.28 of the Revised Code, it shall 1396
include in the sentence a requirement that the offender be subject 1397
to a period of post-release control after the offender's release 1398
from imprisonment, in accordance with that division. If a court 1399
imposes a prison term of a type described in division (C) of that 1400
section, it shall include in the sentence a requirement that the 1401
offender be subject to a period of post-release control after the 1402
offender's release from imprisonment, in accordance with that 1403
division, if the parole board determines that a period of 1404
post-release control is necessary. 1405

(G) If a person is convicted of or pleads guilty to a 1406
sexually violent offense and also is convicted of or pleads guilty 1407
to a sexually violent predator specification that was included in 1408
the indictment, count in the indictment, or information charging 1409
that offense, the court shall impose sentence upon the offender in 1410
accordance with section 2971.03 of the Revised Code, and Chapter 1411

2971. of the Revised Code applies regarding the prison term or 1412
term of life imprisonment without parole imposed upon the offender 1413
and the service of that term of imprisonment. 1414

(H) If a person who has been convicted of or pleaded guilty 1415
to a felony is sentenced to a prison term or term of imprisonment 1416
under this section, sections 2929.02 to 2929.06 of the Revised 1417
Code, section 2971.03 of the Revised Code, or any other provision 1418
of law, section 5120.163 of the Revised Code applies regarding the 1419
person while the person is confined in a state correctional 1420
institution. 1421

(I) If an offender who is convicted of or pleads guilty to a 1422
felony that is an offense of violence also is convicted of or 1423
pleads guilty to a specification of the type described in section 1424
2941.142 of the Revised Code that charges the offender with having 1425
committed the felony while participating in a criminal gang, the 1426
court shall impose upon the offender an additional prison term of 1427
one, two, or three years. 1428

(J) If an offender who is convicted of or pleads guilty to 1429
aggravated murder, murder, or a felony of the first, second, or 1430
third degree that is an offense of violence also is convicted of 1431
or pleads guilty to a specification of the type described in 1432
section 2941.143 of the Revised Code that charges the offender 1433
with having committed the offense in a school safety zone or 1434
towards a person in a school safety zone, the court shall impose 1435
upon the offender an additional prison term of two years. The 1436
offender shall serve the additional two years consecutively to and 1437
prior to the prison term imposed for the underlying offense. 1438

(K) ~~At the time of sentencing, the court shall determine if 1439
an offender is eligible for placement in a program of shock 1440
incarceration under section 5120.031 of the Revised Code or is 1441
eligible for placement in an intensive program prison under 1442
section 5120.032 of the Revised Code. The court may recommend the 1443~~

offender for placement in a program of shock incarceration, ~~if~~ 1444
~~eligible, under section 5120.031 of the Revised Code~~ or for 1445
placement in an intensive program prison, ~~if eligible~~ under 1446
section 5120.032 of the Revised Code, disapprove placement of the 1447
offender in a program of shock incarceration or ~~in~~ an intensive 1448
program prison, ~~regardless of eligibility of that nature~~, or make 1449
no recommendation on placement of the offender. In no case shall 1450
the department of rehabilitation and correction place the offender 1451
in a program or prison of that nature unless the department 1452
determines as specified in section 5120.031 or 5120.032 of the 1453
Revised Code, whichever is applicable, that the offender is 1454
eligible for the placement. 1455

If the court disapproves placement of the offender in a 1456
program or prison of that nature, the department of rehabilitation 1457
and correction shall not place the offender in any program of 1458
shock incarceration or intensive program prison. 1459

If the court ~~approves~~ recommends placement of the offender in 1460
a program of shock incarceration or in an intensive program 1461
prison, ~~the department shall notify the court and~~ if the offender 1462
is subsequently placed in the recommended program or prison, the 1463
department shall notify the court of the placement and shall 1464
include with the notice a brief description of the placement. 1465

If the court ~~approves~~ recommends placement of the offender in 1466
a program of shock incarceration or in an intensive program prison 1467
and the department does not subsequently place the offender in the 1468
recommended program or prison, the department shall send a notice 1469
to the court indicating why the offender was not placed in the 1470
recommended program or prison. 1471

If the court does not make a recommendation under this 1472
division with respect to an ~~eligible~~ offender and if the 1473
department determines as specified in section 5120.031 or 5120.032 1474
of the Revised Code, whichever is applicable, that the offender is 1475

eligible for placement in a program or prison of that nature, the 1476
department shall screen the offender and determine if there is an 1477
available program of shock incarceration or an intensive program 1478
prison for which the offender is suited. If there is an available 1479
program of shock incarceration or an intensive program prison for 1480
which the offender is suited, the department shall notify the 1481
court of the proposed placement of the offender as specified in 1482
section 5120.031 or 5120.032 of the Revised Code and shall include 1483
with the notice a brief description of the placement. The court 1484
shall have ten days from receipt of the notice to disapprove the 1485
placement. 1486

Sec. 2929.141. A releasee who by committing a felony violates 1487
any post-release control sanction or any conditions described in 1488
division (A) of section 2967.131 of the Revised Code that are 1489
imposed upon the releasee may be prosecuted for the new felony. 1490
Upon conviction of the releasee for the new felony, the court may 1491
terminate the term of post-release control and may do either or 1492
both of the following regardless of whether the sentencing court 1493
or another court of this state imposed the original prison term 1494
for which the releasee is serving a term of post-release control: 1495

(A) In addition to any prison term for the new felony, impose 1496
a prison term for the violation that is no greater than the 1497
maximum allowed under this division. The maximum prison term for 1498
the violation shall be the greater of twelve months or the period 1499
of post-release control for the offense minus any time the 1500
releasee has spent under post-release control for the earlier 1501
felony. Any prison term imposed for the violation shall be reduced 1502
by any prison term that is administratively imposed by the parole 1503
board or adult parole authority as a post-release control 1504
sanction. A prison term imposed for the violation shall be served 1505
consecutively to any prison term imposed for the new felony. 1506

(B) Impose a sanction under sections 2929.15 to 2929.18 of 1507

the Revised Code for the violation that shall be served 1508
concurrently with any community control sanctions for the new 1509
felony. 1510

Sec. 2929.19. (A)(1) The court shall hold a sentencing 1511
hearing before imposing a sentence under this chapter upon an 1512
offender who was convicted of or pleaded guilty to a felony and 1513
before resentencing an offender who was convicted of or pleaded 1514
guilty to a felony and whose case was remanded pursuant to section 1515
2953.07 or 2953.08 of the Revised Code. At the hearing, the 1516
offender, the prosecuting attorney, the victim or the victim's 1517
representative in accordance with section 2930.14 of the Revised 1518
Code, and, with the approval of the court, any other person may 1519
present information relevant to the imposition of sentence in the 1520
case. The court shall inform the offender of the verdict of the 1521
jury or finding of the court and ask the offender whether the 1522
offender has anything to say as to why sentence should not be 1523
imposed upon the offender. 1524

(2) Except as otherwise provided in this division, before 1525
imposing sentence on an offender who is being sentenced for a 1526
sexually oriented offense that was committed on or after January 1527
1, 1997, and that is not a sexually violent offense, and before 1528
imposing sentence on an offender who is being sentenced for a 1529
sexually violent offense committed on or after January 1, 1997, 1530
and who was not charged with a sexually violent predator 1531
specification in the indictment, count in the indictment, or 1532
information charging the sexually violent offense, the court shall 1533
conduct a hearing in accordance with division (B) of section 1534
2950.09 of the Revised Code to determine whether the offender is a 1535
sexual predator. The court shall not conduct a hearing under that 1536
division if the offender is being sentenced for a sexually violent 1537
offense and a sexually violent predator specification was included 1538
in the indictment, count in the indictment, or information 1539

charging the sexually violent offense. Before imposing sentence on 1540
an offender who is being sentenced for a sexually oriented 1541
offense, the court also shall comply with division (E) of section 1542
2950.09 of the Revised Code. 1543

(B)(1) At the sentencing hearing, the court, before imposing 1544
sentence, shall consider the record, any information presented at 1545
the hearing by any person pursuant to division (A) of this 1546
section, and, if one was prepared, the presentence investigation 1547
report made pursuant to section 2951.03 of the Revised Code or 1548
Criminal Rule 32.2, and any victim impact statement made pursuant 1549
to section 2947.051 of the Revised Code. 1550

(2) The court shall impose a sentence and shall make a 1551
finding that gives its reasons for selecting the sentence imposed 1552
in any of the following circumstances: 1553

(a) Unless the offense is a sexually violent offense for 1554
which the court is required to impose sentence pursuant to 1555
division (G) of section 2929.14 of the Revised Code, if it imposes 1556
a prison term for a felony of the fourth or fifth degree or for a 1557
felony drug offense that is a violation of a provision of Chapter 1558
2925. of the Revised Code and that is specified as being subject 1559
to division (B) of section 2929.13 of the Revised Code for 1560
purposes of sentencing, its reasons for imposing the prison term, 1561
based upon the overriding purposes and principles of felony 1562
sentencing set forth in section 2929.11 of the Revised Code, and 1563
any factors listed in divisions (B)(1)(a) to (i) of section 1564
2929.13 of the Revised Code that it found to apply relative to the 1565
offender. 1566

(b) If it does not impose a prison term for a felony of the 1567
first or second degree or for a felony drug offense that is a 1568
violation of a provision of Chapter 2925. of the Revised Code and 1569
for which a presumption in favor of a prison term is specified as 1570
being applicable, its reasons for not imposing the prison term and 1571

for overriding the presumption, based upon the overriding purposes 1572
and principles of felony sentencing set forth in section 2929.11 1573
of the Revised Code, and the basis of the findings it made under 1574
divisions (D)(1) and (2) of section 2929.13 of the Revised Code. 1575

(c) If it imposes consecutive sentences under section 2929.14 1576
of the Revised Code, its reasons for imposing the consecutive 1577
sentences; 1578

(d) If the sentence is for one offense and it imposes a 1579
prison term for the offense that is the maximum prison term 1580
allowed for that offense by division (A) of section 2929.14 of the 1581
Revised Code, its reasons for imposing the maximum prison term; 1582

(e) If the sentence is for two or more offenses arising out 1583
of a single incident and it imposes a prison term for those 1584
offenses that is the maximum prison term allowed for the offense 1585
of the highest degree by division (A) of section 2929.14 of the 1586
Revised Code, its reasons for imposing the maximum prison term. 1587

(3) Subject to division (B)(4) of this section, if the 1588
sentencing court determines at the sentencing hearing that a 1589
prison term is necessary or required, the court shall do all of 1590
the following: 1591

(a) Impose a stated prison term; 1592

(b) Notify the offender that, as part of the sentence, the 1593
parole board may extend the stated prison term for certain 1594
violations of prison rules for up to one-half of the stated prison 1595
term; 1596

(c) Notify the offender that the offender will be supervised 1597
under section 2967.28 of the Revised Code after the offender 1598
leaves prison if the offender is being sentenced for a felony of 1599
the first degree or second degree, for a felony sex offense, or 1600
for a felony of the third degree in the commission of which the 1601
offender caused or threatened to cause physical harm to a person; 1602

(d) Notify the offender that the offender may be supervised 1603
under section 2967.28 of the Revised Code after the offender 1604
leaves prison if the offender is being sentenced for a felony of 1605
the third, fourth, or fifth degree that is not subject to division 1606
(B)(3)(c) of this section; 1607

(e) Notify the offender that, if a period of supervision is 1608
imposed following the offender's release from prison, as described 1609
in division (B)(3)(c) or (d) of this section, and if the offender 1610
violates that supervision or a condition of post-release control 1611
imposed under division (B) of section 2967.131 of the Revised 1612
Code, the parole board may impose a prison term, as part of the 1613
sentence, of up to one-half of the stated prison term originally 1614
imposed upon the offender; 1615

(f) Require that the offender not ingest or be injected with 1616
a drug of abuse and submit to random drug testing as provided in 1617
section 341.26, 753.33, or 5120.63 of the Revised Code, whichever 1618
is applicable to the offender who is serving a prison term, and 1619
require that the results of the drug test administered under any 1620
of those sections indicate that the offender did not ingest or was 1621
not injected with a drug of abuse. 1622

(4) If the offender is being sentenced for a sexually violent 1623
offense that the offender committed on or after January 1, 1997, 1624
and the offender also is convicted of or pleads guilty to a 1625
sexually violent predator specification that was included in the 1626
indictment, count in the indictment, or information charging the 1627
sexually violent offense or if the offender is being sentenced for 1628
a sexually oriented offense that the offender committed on or 1629
after January 1, 1997, and the court imposing the sentence has 1630
determined pursuant to division (B) of section 2950.09 of the 1631
Revised Code that the offender is a sexual predator, the court 1632
shall include in the offender's sentence a statement that the 1633
offender has been adjudicated as being a sexual predator and shall 1634

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.

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(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, if the offender commits a violation of any law, or if the offender leaves this state without the permission of the court or the offender's probation officer, 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.

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(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.

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(C)(1) If the offender is being sentenced for a fourth degree felony OMVI offense under division (G)(1) of section 2929.13 of the Revised Code, 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.

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(2) If the offender is being sentenced for a third or fourth

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degree felony OMVI offense under division (G)(2) of section 1667
2929.13 of the Revised Code, the court shall impose the mandatory 1668
prison term in accordance with that division, shall impose a 1669
mandatory fine in accordance with division (B)(3) of section 1670
2929.18 of the Revised Code, and, in addition, may impose an 1671
additional prison term as specified in section 2929.14 of the 1672
Revised Code. The court shall not impose any community control 1673
sanction on the offender. 1674

(D) ~~If the~~ The sentencing court ~~determines at the sentencing~~ 1675
~~hearing that an offender is eligible for placement in a program of~~ 1676
~~shock incarceration under section 5120.031 of the Revised Code or~~ 1677
~~in an intensive program prison under section 5120.032 of the~~ 1678
~~Revised Code, the court, pursuant to division (K) of section~~ 1679
2929.14 of the Revised Code, may recommend placement of the 1680
offender in a program of shock incarceration under section 1681
5120.031 of the Revised Code or an intensive program prison under 1682
section 5120.032 of the Revised Code, disapprove placement of the 1683
offender in a program or prison of that nature, or make no 1684
recommendation. ~~The~~ If the court recommends or disapproves 1685
placement, it shall make a finding that gives its reasons for its 1686
recommendation or disapproval. 1687

Sec. 2929.20. (A) As used in this section, "eligible 1688
offender" means any person serving a stated prison term of ten 1689
years or less when either of the following applies: 1690

(1) The stated prison term does not include a mandatory 1691
prison term. 1692

(2) The stated prison term includes a mandatory prison term, 1693
and the person has served the mandatory prison term. 1694

(B) Upon the filing of a motion by the eligible offender or 1695
upon its own motion, a sentencing court may reduce the offender's 1696
stated prison term through a judicial release in accordance with 1697

this section. The court shall not reduce the stated prison term of
an offender who is not an eligible offender. An eligible offender
may file a motion for judicial release with the sentencing court
within the following applicable period of time:

(1)(a) Except as otherwise provided in division (B)(1)(b) or
(c) of this section, if the stated prison term was imposed for a
felony of the fourth or fifth degree, the eligible offender may
file the motion not earlier than thirty days or later than ninety
days after the offender is delivered to a state correctional
institution.

(b) If the stated prison term is five years and is an
aggregate of stated prison terms that are being served
consecutively and that were imposed for any combination of
felonies of the fourth degree and felonies of the fifth degree,
the eligible offender may file the motion after the eligible
offender has served four years of the stated prison term.

(c) If the stated prison term is more than five years and
~~less~~ not more than ten years and is an aggregate of stated prison
terms that are being served consecutively and that were imposed
for any combination of felonies of the fourth degree and felonies
of the fifth degree, the eligible offender may file the motion
after the eligible offender has served five years of the stated
prison term.

(2) Except as otherwise provided in division (B)(3) or (4) of
this section, if the stated prison term was imposed for a felony
of the first, second, or third degree, the eligible offender may
file the motion not earlier than one hundred eighty days after the
offender is delivered to a state correctional institution.

(3) If the stated prison term is five years, the eligible
offender may file the motion after the eligible offender has

served four years of the stated prison term. 1729

(4) If the stated prison term is more than five years and 1730
~~less~~ not more than ten years, the eligible offender may file the 1731
motion after the eligible offender has served five years of the 1732
stated prison term. 1733

(5) If the offender's stated prison term includes a mandatory 1734
prison term, the offender shall file the motion within the time 1735
authorized under division (B)(1), (2), (3), or (4) of this section 1736
for the nonmandatory portion of the prison term, but the time for 1737
filing the motion does not begin to run until after the expiration 1738
of the mandatory portion of the prison term. 1739

(C) Upon receipt of a timely motion for judicial release 1740
filed by an eligible offender under division (B) of this section 1741
or upon the sentencing court's own motion made within the 1742
appropriate time period specified in that division, the court may 1743
schedule a hearing on the motion. The court may deny the motion 1744
without a hearing but shall not grant the motion without a 1745
hearing. If a court denies a motion without a hearing, the court 1746
may consider a subsequent judicial release for that eligible 1747
offender on its own motion or a subsequent motion filed by that 1748
eligible offender. If a court denies a motion after a hearing, the 1749
court shall not consider a subsequent motion for that eligible 1750
offender. The court shall hold only one hearing for any eligible 1751
offender. 1752

A hearing under this section shall be conducted in open court 1753
within sixty days after the date on which the motion is filed, 1754
provided that the court may delay the hearing for a period not to 1755
exceed one hundred eighty additional days. If the court holds a 1756
hearing on the motion, the court shall enter a ruling on the 1757
motion within ten days after the hearing. If the court denies the 1758
motion without a hearing, the court shall enter its ruling on the 1759
motion within sixty days after the motion is filed. 1760

(D) If a court schedules a hearing under division (C) of this section, the court shall notify the eligible offender of the hearing. The eligible offender promptly shall give a copy of the notice of the hearing to the head of the state correctional institution in which the eligible offender is confined. If the court schedules a hearing for judicial release, the court promptly shall give notice of the hearing to the prosecuting attorney of the county in which the eligible offender was indicted. Upon receipt of the notice from the court, the prosecuting attorney shall notify the victim of the offense for which the stated prison term was imposed or the victim's representative, pursuant to section 2930.16 of the Revised Code, of the hearing.

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

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

(G) At the hearing on a motion for judicial release under 1793
this section, the court shall afford the eligible offender and the 1794
eligible offender's attorney an opportunity to present written 1795
information relevant to the motion and shall afford the eligible 1796
offender, if present, and the eligible offender's attorney an 1797
opportunity to present oral information relevant to the motion. 1798
The court shall afford a similar opportunity to the prosecuting 1799
attorney, the victim or the victim's representative, as defined in 1800
section 2930.01 of the Revised Code, and any other person the 1801
court determines is likely to present additional relevant 1802
information. The court shall consider any statement of a victim 1803
made pursuant to section 2930.14 or 2930.17 of the Revised Code, 1804
any victim impact statement prepared pursuant to section 2947.051 1805
of the Revised Code, and any report made under division (E) of 1806
this section. After ruling on the motion, the court shall notify 1807
the victim of the ruling in accordance with sections 2930.03 and 1808
2930.16 of the Revised Code. 1809

(H)(1) A court shall not grant a judicial release under this 1810
section to an eligible offender who is imprisoned for a felony of 1811
the first or second degree, or to an eligible offender who 1812
committed an offense contained in Chapter 2925. or 3719. of the 1813
Revised Code and for whom there was a presumption under section 1814
2929.13 of the Revised Code in favor of a prison term, unless the 1815
court, with reference to factors under section 2929.12 of the 1816
Revised Code, finds both of the following: 1817

(a) That a sanction other than a prison term would adequately 1818
punish the offender and protect the public from future criminal 1819
violations by the eligible offender because the applicable factors 1820
indicating a lesser likelihood of recidivism outweigh the 1821
applicable factors indicating a greater likelihood of recidivism; 1822

(b) That a sanction other than a prison term would not demean 1824

the seriousness of the offense because factors indicating that the
eligible offender's conduct in committing the offense was less
serious than conduct normally constituting the offense outweigh
factors indicating that the eligible offender's conduct was more
serious than conduct normally constituting the offense.

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

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

Prior to being released pursuant to a judicial release
granted under this section, the eligible offender shall serve any

extension of sentence that was imposed under section 2967.11 of
the Revised Code.

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Sec. 2951.041. (A)(1) If an offender is charged with a
criminal offense and the court has reason to believe that drug or
alcohol usage by the offender was a factor leading to the
offender's criminal behavior, the court may accept, prior to the
entry of a guilty plea, the offender's request for intervention in
lieu of conviction. The request shall include a waiver of the
defendant's right to a speedy trial, the preliminary hearing, the
time period within which the grand jury may consider an indictment
against the offender, and arraignment, unless the hearing,
indictment, or arraignment has already occurred. The court may
reject an offender's request without a hearing. If the court
elects to consider an offender's request, the court shall conduct
a hearing to determine whether the offender is eligible under this
section for intervention in lieu of conviction and shall stay all
criminal proceedings pending the outcome of the hearing. If the
court schedules a hearing, the court shall order an assessment of
the offender for the purpose of determining the offender's
eligibility for intervention in lieu of conviction and
recommending an appropriate intervention plan.

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(2) The victim notification provisions of division (C) of
section 2930.08 of the Revised Code apply in relation to any
hearing held under division (A)(1) of this section.

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~~(B)(1)~~ An offender is eligible for intervention in lieu of
conviction if the court finds all of the following:

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~~(1)(a)~~ The offender previously has not been convicted of or
pleaded guilty to a felony, previously has not been through
intervention in lieu of conviction under this section or any
similar regimen, and is charged with a felony for which the court,
upon conviction, would impose sentence under division (B)(2)(b) of

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section 2929.13 of the Revised Code or with a misdemeanor. 1888

(2)(b) The offense is not a felony of the first, second, or 1889
third degree, is not an offense of violence, is not a violation of 1890
division (A)(1) or (2) of section 2903.06 of the Revised Code, is 1891
not a violation of division (A)(1) of section 2903.08 of the 1892
Revised Code, is not a violation of division (A) of section 1893
4511.19 of the Revised Code or a municipal ordinance that is 1894
substantially similar to that division, and is not an offense for 1895
which a sentencing court is required to impose a mandatory prison 1896
term, a mandatory term of local incarceration, or a mandatory term 1897
of imprisonment in a jail. 1898

(3)(e) The offender is not charged with a violation of 1899
section 2925.02, 2925.03, 2925.04, or 2925.06, or of the Revised 1900
Code and is not charged with a violation of section 2925.11 of the 1901
Revised Code that is a felony of the first, second, or third 1902
degree. 1903

(4)(d) The offender is not charged with a violation of 1904
section 2925.11 of the Revised Code that is a felony of the fourth 1905
degree, or the offender is charged with a violation of that 1906
section that is a felony of the fourth degree, and the prosecutor 1907
in the case has recommended that the offender be classified as 1908
being eligible for intervention in lieu of conviction under this 1909
section. 1910

(5)(e) The offender has been assessed by an appropriately 1911
licensed provider, certified facility, or licensed and 1912
credentialed professional, including, but not limited to, a 1913
program licensed by the department of alcohol and drug addiction 1914
services pursuant to section 3793.11 of the Revised Code, a 1915
program certified by that department pursuant to section 3793.06 1916
of the Revised Code, a public or private hospital, the United 1917
States department of veterans affairs, another appropriate agency 1918
of the government of the United States, or a licensed physician, 1919

psychiatrist, psychologist, independent social worker, 1920
professional counselor, or chemical dependency counselor for the 1921
purpose of determining the offender's eligibility for intervention 1922
in lieu of conviction and recommending an appropriate intervention 1923
plan. 1924

(6)(f) The offender's drug or alcohol usage was a factor 1925
leading to the criminal offense with which the offender is 1926
charged, intervention in lieu of conviction would not demean the 1927
seriousness of the offense, and intervention would substantially 1928
reduce the likelihood of any future criminal activity. 1929

(7) The alleged victim of the offense was not sixty-five 1930
years of age or older, permanently and totally disabled, under 1931
thirteen years of age, or a peace officer engaged in the officer's 1932
official duties at the time of the alleged offense. 1933

(8) If the offender is charged with a violation of section 1934
2925.24 of the Revised Code, the alleged violation did not result 1935
in physical harm to any person, and the offender previously has 1936
not been treated for drug abuse. 1937

(9) The offender is willing to comply with all terms and 1938
conditions imposed by the court pursuant to division (D) of this 1939
section. 1940

(C)(2) At the conclusion of a hearing held pursuant to 1941
division (A) of this section, the court shall enter its 1942
determination as to whether the offender is eligible for 1943
intervention in lieu of conviction and as to whether to grant the 1944
offender's request. If the court finds under division (B)(1) of 1945
this section that the offender is eligible for ~~treatment~~ 1946
intervention in lieu of conviction and grants the offender's 1947
request, the court shall accept the offender's plea of guilty and 1948
waiver of the defendant's right to a speedy trial, the preliminary 1949
hearing, the time period within which the grand jury may consider 1950
an indictment against the offender, and arraignment, unless the 1951

hearing, indictment, or arraignment has already occurred. In 1952
addition, the court then may stay all criminal proceedings and 1953
order the offender to comply with all terms and conditions imposed 1954
by the court pursuant to division (D) of this section. If the 1955
court finds that the offender is not eligible or does not grant 1956
the offender's request, the criminal proceedings against the 1957
offender shall proceed as if the offender's request for 1958
intervention in lieu of conviction had not been made. 1959

(D) If the court grants an offender's request for 1960
intervention in lieu of conviction, the court shall place the 1961
offender under the general control and supervision of the county 1962
probation department, the adult parole authority, or another 1963
appropriate local probation or court services agency, if one 1964
exists, as if the offender was subject to a community control 1965
sanction imposed under section 2929.15 or 2929.18 of the Revised 1966
Code or was on probation under sections 2929.51 and 2951.02 of the 1967
Revised Code and other provisions of the misdemeanor sentencing 1968
law. The court shall establish an intervention plan for the 1969
offender. The terms and conditions of the intervention plan shall 1970
require the offender, for at least one year from the date on which 1971
the court grants the order of intervention in lieu of conviction, 1972
to abstain from the use of illegal drugs and alcohol and to submit 1973
to regular random testing for drug and alcohol use and may include 1974
any other treatment terms and conditions, or terms and conditions 1975
similar to community control sanctions, that are ordered by the 1976
court. 1977

(E) If the court grants an offender's request for 1978
intervention in lieu of conviction and the court finds that the 1979
offender has successfully completed the intervention plan for the 1980
offender, including the requirement that the offender abstain from 1981
using drugs and alcohol for a period of at least one year from the 1982
date on which the court granted the order of intervention in lieu 1983

of conviction and all other terms and conditions ordered by the court, the court shall dismiss the proceedings against the offender. Successful completion of the intervention plan and period of abstinence under this section shall be without adjudication of guilt and is not a criminal conviction for purposes of any disqualification or disability imposed by law and upon conviction of a crime, and the court may order the sealing of records related to the offense in question in the manner provided in sections 2953.31 to 2953.36 of the Revised Code.

(F) If the court grants an offender's request for intervention in lieu of conviction and the offender fails to comply with any term or condition imposed as part of the intervention plan for the offender, the supervising authority for the offender promptly shall advise the court of this failure, and the court shall hold a hearing to determine whether the offender failed to comply with any term or condition imposed as part of the plan. If the court determines that the offender has failed to comply with any of those terms and conditions, it shall enter a finding of guilty and shall impose an appropriate sanction under Chapter 2929. of the Revised Code.

(G) As used in this section:

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

(2) "Intervention in lieu of conviction" means any court-supervised activity that complies with this section.

(3) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

Sec. 2967.16. (A) Except as provided in division (D) of this section, when a paroled prisoner has faithfully performed the conditions and obligations of the paroled prisoner's parole and

has obeyed the rules and regulations adopted by the adult parole 2014
authority that apply to the paroled prisoner, the authority upon 2015
the recommendation of the superintendent of parole supervision may 2016
enter upon its minutes a final release and thereupon shall issue 2017
to the paroled prisoner a certificate of final release, but the 2018
authority shall not grant a final release earlier than one year 2019
after the paroled prisoner is released from the institution on 2020
parole, and, in the case of a paroled prisoner whose minimum 2021
sentence is life imprisonment, the authority shall not grant a 2022
final release earlier than five years after the paroled prisoner 2023
is released from the institution on parole. 2024

(B)(1) When a prisoner who has been released under a period 2025
of post-release control pursuant to section 2967.28 of the Revised 2026
Code has faithfully performed the conditions and obligations of 2027
the released prisoner's post-release control sanctions and has 2028
obeyed the rules and regulations adopted by the adult parole 2029
authority that apply to the released prisoner or has the period of 2030
post-release control terminated by a court pursuant to section 2031
2929.141 of the Revised Code, the authority, upon the 2032
recommendation of the superintendent of parole supervision, may 2033
enter upon its minutes a final release and, upon the entry of the 2034
final release, shall issue to the released prisoner a certificate 2035
of final release. In the case of a prisoner who has been released 2036
under a period of post-release control pursuant to division (B) of 2037
section 2967.28 of the Revised Code, the authority shall not grant 2038
a final release earlier than one year after the released prisoner 2039
is released from the institution under a period of post-release 2040
control. The authority shall classify the termination of 2041
post-release control as favorable or unfavorable depending on the 2042
offender's conduct and compliance with the conditions of 2043
supervision. In the case of a released prisoner whose sentence is 2044
life imprisonment, the authority shall not grant a final release 2045
earlier than five years after the released prisoner is released 2046

from the institution under a period of post-release control. 2047

(2) The department of rehabilitation and correction, no later 2048
than six months after the effective date of this section shall 2049
adopt a rule in accordance with Chapter 119. of the Revised Code 2050
that establishes the criteria for the classification of a 2051
post-release control termination as "favorable" or "unfavorable." 2052

(C) The following prisoners or person shall be restored to 2053
the rights and privileges forfeited by a conviction: 2054

(1) A prisoner who has served the entire prison term that 2055
comprises or is part of the prisoner's sentence and has not been 2056
placed under any post-release control sanctions; 2057

(2) A prisoner who has been granted a final release by the 2058
adult parole authority pursuant to division (A) or (B) of this 2059
section; 2060

(3) A person who has completed the period of a community 2061
control sanction or combination of community control sanctions, as 2062
defined in section 2929.01 of the Revised Code, that was imposed 2063
by the sentencing court. 2064

(D) Division (A) of this section does not apply to a prisoner 2065
in the shock incarceration program established pursuant to section 2066
5120.031 of the Revised Code. 2067

(E) The adult parole authority shall record the final release 2068
of a parolee or prisoner in the official minutes of the authority. 2069
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Sec. 2967.28. (A) As used in this section: 2071

(1) "Monitored time" means the monitored time sanction 2072
specified in section 2929.17 of the Revised Code. 2073

(2) "Deadly weapon" and "dangerous ordnance" have the same 2074
meanings as in section 2923.11 of the Revised Code. 2075

(3) "Felony sex offense" means a violation of a section 2076
contained in Chapter 2907. of the Revised Code that is a felony. 2077

(B) Each sentence to a prison term for a felony of the first 2078
degree, for a felony of the second degree, for a felony sex 2079
offense, or for a felony of the third degree that is not a felony 2080
sex offense and in the commission of which the offender caused or 2081
threatened to cause physical harm to a person shall include a 2082
requirement that the offender be subject to a period of 2083
post-release control imposed by the parole board after the 2084
offender's release from imprisonment. Unless reduced by the parole 2085
board pursuant to division (D) of this section when authorized 2086
under that division, a period of post-release control required by 2087
this division for an offender shall be of one of the following 2088
periods: 2089

(1) For a felony of the first degree or for a felony sex 2090
offense, five years; 2091

(2) For a felony of the second degree that is not a felony 2092
sex offense, three years; 2093

(3) For a felony of the third degree that is not a felony sex 2094
offense and in the commission of which the offender caused or 2095
threatened physical harm to a person, three years. 2096

(C) Any sentence to a prison term for a felony of the third, 2097
fourth, or fifth degree that is not subject to division (B)(1) or 2098
(3) of this section shall include a requirement that the offender 2099
be subject to a period of post-release control of up to three 2100
years after the offender's release from imprisonment, if the 2101
parole board, in accordance with division (D) of this section, 2102
determines that a period of post-release control is necessary for 2103
that offender. 2104

(D)(1) Before the prisoner is released from imprisonment, the 2105
parole board shall impose upon a prisoner described in division 2106

(B) of this section, may impose upon a prisoner described in 2107
division (C) of this section, and shall impose upon a prisoner 2108
described in division (B)(2)(b) of section 5120.031 or in division 2109
(B)(1) of section 5120.032 of the Revised Code, one or more 2110
post-release control sanctions to apply during the prisoner's 2111
period of post-release control. Whenever the board imposes one or 2112
more post-release control sanctions upon a prisoner, the board, in 2113
addition to imposing the sanctions, also shall include as a 2114
condition of the post-release control that the individual or felon 2115
not leave the state without permission of the court or the 2116
individual's or felon's parole or probation officer and that the 2117
individual or felon abide by the law. The board may impose any 2118
other conditions of release under a post-release control sanction 2119
that the board considers appropriate, and the conditions of 2120
release may include any community residential sanction, community 2121
nonresidential sanction, or financial sanction that the sentencing 2122
court was authorized to impose pursuant to sections 2929.16, 2123
2929.17, and 2929.18 of the Revised Code. Prior to the release of 2124
a prisoner for whom it will impose one or more post-release 2125
control sanctions under this division, the parole board shall 2126
review the prisoner's criminal history, all juvenile court 2127
adjudications finding the prisoner, while a juvenile, to be a 2128
delinquent child, and the record of the prisoner's conduct while 2129
imprisoned. The parole board shall consider any recommendation 2130
regarding post-release control sanctions for the prisoner made by 2131
the office of victims' services. After considering those 2132
materials, the board shall determine, for a prisoner described in 2133
division (B) of this section, division (B)(2)(b) of section 2134
5120.031, or division (B)(1) of section 5120.032 of the Revised 2135
Code, which post-release control sanction or combination of 2136
post-release control sanctions is reasonable under the 2137
circumstances or, for a prisoner described in division (C) of this 2138
section, whether a post-release control sanction is necessary and, 2139

if so, which post-release control sanction or combination of 2140
post-release control sanctions is reasonable under the 2141
circumstances. In the case of a prisoner convicted of a felony of 2142
the fourth or fifth degree other than a felony sex offense, the 2143
board shall presume that monitored time is the appropriate 2144
post-release control sanction unless the board determines that a 2145
more restrictive sanction is warranted. A post-release control 2146
sanction imposed under this division takes effect upon the 2147
prisoner's release from imprisonment. 2148

(2) At any time after a prisoner is released from 2149
imprisonment and during the period of post-release control 2150
applicable to the releasee, the adult parole authority may review 2151
the releasee's behavior under the post-release control sanctions 2152
imposed upon the releasee under this section. The authority may 2153
determine, based upon the review and in accordance with the 2154
standards established under division (E) of this section, that a 2155
more restrictive or a less restrictive sanction is appropriate and 2156
may impose a different sanction. Unless the period of post-release 2157
control was imposed for an offense described in division (B)(1) of 2158
this section, the authority also may recommend that the parole 2159
board reduce the duration of the period of post-release control 2160
imposed by the court. If the authority recommends that the board 2161
reduce the duration of control for an offense described in 2162
division (B)(2), (B)(3), or (C) of this section, the board shall 2163
review the releasee's behavior and may reduce the duration of the 2164
period of control imposed by the court. In no case shall the board 2165
reduce the duration of the period of control imposed by the court 2166
for an offense described in division (B)(1) of this section, and 2167
in no case shall the board permit the releasee to leave the state 2168
without permission of the court or the releasee's parole or 2169
probation officer. 2170

(E) The department of rehabilitation and correction, in 2171

accordance with Chapter 119. of the Revised Code, shall adopt 2172
rules that do all of the following: 2173

(1) Establish standards for the imposition by the parole 2174
board of post-release control sanctions under this section that 2175
are consistent with the overriding purposes and sentencing 2176
principles set forth in section 2929.11 of the Revised Code and 2177
that are appropriate to the needs of releasees; 2178

(2) Establish standards by which the parole board can 2179
determine which prisoners described in division (C) of this 2180
section should be placed under a period of post-release control; 2181

(3) Establish standards to be used by the parole board in 2182
reducing the duration of the period of post-release control 2183
imposed by the court when authorized under division (D) of this 2184
section, in imposing a more restrictive post-release control 2185
sanction than monitored time upon a prisoner convicted of a felony 2186
of the fourth or fifth degree other than a felony sex offense, or 2187
in imposing a less restrictive control sanction upon a releasee 2188
based on the releasee's activities including, but not limited to, 2189
remaining free from criminal activity and from the abuse of 2190
alcohol or other drugs, successfully participating in approved 2191
rehabilitation programs, maintaining employment, and paying 2192
restitution to the victim or meeting the terms of other financial 2193
sanctions; 2194

(4) Establish standards to be used by the adult parole 2195
authority in modifying a releasee's post-release control sanctions 2196
pursuant to division (D)(2) of this section; 2197

(5) Establish standards to be used by the adult parole 2198
authority or parole board in imposing further sanctions under 2199
division (F) of this section on releasees who violate post-release 2200
control sanctions, including standards that do the following: 2201

(a) Classify violations according to the degree of 2202

seriousness;	2203
(b) Define the circumstances under which formal action by the parole board is warranted;	2204
(c) Govern the use of evidence at violation hearings;	2205
(d) Ensure procedural due process to an alleged violator;	2206
(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;	2207
(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.	2208
(F)(1) If a post-release control sanction is imposed upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the parole supervision section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the adult parole authority or to the officer of the authority who supervises the offender. The authority's officers may treat the offender as if the offender were on parole and in violation of the parole, and otherwise shall comply with this section.	2209
(2) If the adult parole authority determines that a releasee has violated a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code imposed upon the releasee and that a more restrictive sanction is appropriate, the authority may impose a more restrictive sanction	2210
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upon the releasee, in accordance with the standards established
under division (E) of this section, or may report the violation to
the parole board for a hearing pursuant to division (F)(3) of this
section. The authority may not, pursuant to this division,
increase the duration of the releasee's post-release control or
impose as a post-release control sanction a residential sanction
that includes a prison term, but the authority may impose on the
releasee any other residential sanction, nonresidential sanction,
or financial sanction that the sentencing court was authorized to
impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the
Revised Code.

(3) The parole board may hold a hearing on any alleged
violation by a releasee of a post-release control sanction or any
conditions described in division (A) of section 2967.131 of the
Revised Code that are imposed upon the releasee. If after the
hearing the board finds that the releasee violated the sanction or
condition, the board may increase the duration of the releasee's
post-release control up to the maximum duration authorized by
division (B) or (C) of this section or impose a more restrictive
post-release control sanction. When appropriate, the board may
impose as a post-release control sanction a residential sanction
that includes a prison term. The board shall consider a prison
term as a post-release control sanction imposed for a violation of
post-release control when the violation involves a deadly weapon
or dangerous ordnance, physical harm or attempted serious physical
harm to a person, or sexual misconduct, or when the releasee
committed repeated violations of post-release control sanctions.
The period of a prison term that is imposed as a post-release
control sanction under this division shall not exceed nine months,
and the maximum cumulative prison term for all violations under
this division shall not exceed one-half of the stated prison term
originally imposed upon the offender as part of this sentence. The

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period of a prison term that is imposed as a post-release control
sanction under this division shall not count as, or be credited
toward, the remaining period of post-release control.

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If an offender is imprisoned for a felony committed while
under post-release control supervision and is again released on
post-release control for a period of time determined by division
(F)(4)(d) of this section, the maximum cumulative prison term for
all violations under this division shall not exceed one-half of
the total stated prison terms of the earlier felony, reduced by
any prison term administratively imposed by the parole board, plus
one-half of the total stated prison term of the new felony.

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~~(4) A parolee or releasee who has violated any condition of
parole, any post-release control sanction, or any conditions
described in division (A) of section 2967.131 of the Revised Code
that are imposed upon the releasee by committing a felony may be
prosecuted for the new felony, and, upon conviction, the court
shall impose sentence for the new felony. In addition to the
sentence imposed for the new felony, the court may impose a prison
term for the violation, and the term imposed for the violation
shall be reduced by any prison term that is administratively
imposed by the parole board or adult parole authority as a
post-release control sanction. If the person is a releasee, the
maximum prison term for the violation shall be either the maximum
period of post-release control for the earlier felony under
division (B) or (C) of this section minus any time the releasee
has spent under post-release control for the earlier felony or
twelve months, whichever is greater. A prison term imposed for the
violation shall be served consecutively to any prison term imposed
for the new felony. If the person is a releasee, a prison term
imposed for the violation, and a prison term imposed for the new
felony, shall not count as, or be credited toward, the remaining
period of post-release control imposed for the earlier felony.~~

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(5) Any period of post-release control shall commence upon an
offender's actual release from prison. If an offender is serving
an indefinite prison term or a life sentence in addition to a
stated prison term, the offender shall serve the period of
post-release control in the following manner:

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(a) If a period of post-release control is imposed upon the
offender and if the offender also is subject to a period of parole
under a life sentence or an indefinite sentence, and if the period
of post-release control ends prior to the period of parole, the
offender shall be supervised on parole. The offender shall receive
credit for post-release control supervision during the period of
parole. The offender is not eligible for final release under
section 2967.16 of the Revised Code until the post-release control
period otherwise would have ended.

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(b) If a period of post-release control is imposed upon the
offender and if the offender also is subject to a period of parole
under an indefinite sentence, and if the period of parole ends
prior to the period of post-release control, the offender shall be
supervised on post-release control. The requirements of parole
supervision shall be satisfied during the post-release control
period.

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(c) If an offender is subject to more than one period of
post-release control, the period of post-release control for all
of the sentences shall be the period of post-release control that
expires last, as determined by the parole board. Periods of
post-release control shall be served concurrently and shall not be
imposed consecutively to each other.

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(d) The period of post-release control for a releasee who
commits a felony while under post-release control for an earlier
felony shall be the longer of the period of post-release control
specified for the new felony under division (B) or (C) of this

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section or the time remaining under the period of post-release control imposed for the earlier felony as determined by the parole board. 2330
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Sec. 3719.21. Except as provided in division (C) of section 2333
2923.42, division (B)(5) of section 2923.44, divisions (D)(1), 2334
(F), and (H) of section 2925.03, division (D)(1) of section 2335
2925.02, 2925.04, or 2925.05, division (E)(1) of section 2925.11, 2336
division (F) of section 2925.13 ~~or~~, division (E) of section 2337
2925.36, division (D) of section 2925.22, division (H) of section 2338
2925.23, division (M) of section 2925.37, division (B)(5) of 2339
section 2925.42, division (B) of section 2929.18, division (D) of 2340
section 3719.99, division (B)(1) of section 4729.65, and division 2341
(E)(3) of section 4729.99 of the Revised Code, the clerk of the 2342
court shall pay all fines or forfeited bail assessed and collected 2343
under prosecutions or prosecutions commenced for violations of 2344
this chapter, section 2923.42 of the Revised Code, or Chapter 2345
2925. of the Revised Code, within thirty days, to the executive 2346
director of the state board of pharmacy, and the executive 2347
director shall deposit the fines into the state treasury to the 2348
credit of the occupational licensing and regulatory fund. 2349

Sec. 4723.09. (A)(1) An application for licensure by 2350
examination to practice as a registered nurse or as a licensed 2351
practical nurse shall be submitted to the board of nursing in the 2352
form prescribed by rules of the board. The application shall 2353
include evidence that the applicant has completed requirements of 2354
a nursing education program approved by the board or approved by 2355
another jurisdiction's board that regulates nurse licensure. The 2356
application also shall include any other information required by 2357
rules of the board. The application shall be accompanied by the 2358
application fee required by section 4723.08 of the Revised Code. 2359

(2) The board shall grant a license to practice nursing as a 2360

registered nurse or as a licensed practical nurse if ~~the~~ all of 2361
the following apply: 2362

(a) The applicant passes the examination accepted by the 2363
board under section 4723.10 of the Revised Code ~~and the.~~ 2364

(b) The applicant submits the results of a criminal records 2365
check completed by the bureau of criminal identification and 2366
investigation that includes a check of federal bureau of 2367
investigation records. 2368

(c) The criminal records check submitted by the applicant 2369
indicates that the applicant has not been convicted of, has not 2370
pleaded guilty to, and has not had a judicial finding of guilt for 2371
violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2372
2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the 2373
Revised Code or a substantially similar law of another state, the 2374
United States, or another country. 2375

(d) The board determines that the applicant has not committed 2376
any act that is grounds for disciplinary action under section 2377
3123.47 or 4723.28 of the Revised Code, ~~or determines that an~~ 2378
applicant who has committed ~~such acts~~ any act that is grounds for 2379
disciplinary action under either section has made restitution or 2380
has been rehabilitated, or both. ~~The~~ 2381

(3) The board is not required to afford an adjudication to an 2382
individual to whom it has refused to grant a license because of 2383
that individual's failure to pass the examination. 2384

(B) An application for license by endorsement to practice 2385
nursing as a registered nurse or as a licensed practical nurse 2386
shall be submitted to the board in the form prescribed by rules of 2387
the board and shall be accompanied by the application fee required 2388
by section 4723.08 of the Revised Code. The application shall 2389
include evidence that the applicant holds a license in good 2390
standing in another jurisdiction granted after passing an 2391

examination approved by the board of that jurisdiction that is
equivalent to the examination requirements under this chapter for
a license to practice nursing as a registered nurse or licensed
practical nurse, and shall include other information required by
rules of the board of nursing. The board shall grant a license by
endorsement if the applicant is licensed or certified by another
jurisdiction and the board determines, pursuant to rules
established under section 4723.07 of the Revised Code, that all of
the following apply:

(1) The educational preparation of the applicant is
substantially similar to the minimum curricula and standards for
nursing education programs established by the board under section
4723.07 of the Revised Code.

(2) The examination, at the time it is successfully
completed, is equivalent to the examination requirements in effect
at that time for applicants who were licensed by examination in
this state.

(3) The applicant has submitted the results of a criminal
background check completed by the bureau of criminal
identification and investigation that includes a check of federal
bureau of investigation records.

(4) The criminal records check submitted by the applicant
indicates that the applicant has not been convicted of, has not
pleaded guilty to, and has not had a judicial finding of guilt for
violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01,
2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the
Revised Code or a substantially similar law of another state, the
United States, or another country.

(5) The applicant has not committed any act that is grounds
for disciplinary action under section 3123.47, 4723.28, or
4723.281 of the Revised Code, or the board determines that an

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applicant who has committed ~~such acts~~ any act that is grounds for 2423
disciplinary action under any of those sections has made 2424
restitution or has been rehabilitated, or both. 2425

The board may grant a nonrenewable temporary permit to 2426
practice nursing as a registered nurse or as a licensed practical 2427
nurse to an applicant for license by endorsement if the board is 2428
satisfied by the evidence that the applicant holds a current, 2429
active license in good standing in another jurisdiction. The 2430
temporary permit shall expire at the earlier of one hundred ~~twenty~~ 2431
eighty days after issuance or upon the issuance of a license by 2432
endorsement. 2433

(C) The bureau of criminal identification and investigation 2434
shall conduct a criminal records check of an applicant under this 2435
section if the applicant requests a criminal records check of the 2436
applicant and pays to the bureau a fee for the criminal records 2437
check that the bureau establishes. The fee shall not exceed the 2438
actual cost of conducting the criminal records check. An applicant 2439
requesting a criminal records check under this division shall ask 2440
the superintendent of the bureau of criminal identification and 2441
investigation to also request the federal bureau of investigation 2442
to provide the superintendent with any information it has with 2443
respect to the applicant. 2444

Sec. 4723.28. (A) The board of nursing, by a vote of a 2445
quorum, may revoke or may refuse to grant a nursing license, 2446
certificate of authority, or dialysis technician certificate to a 2447
person found by the board to have committed fraud in passing an 2448
examination required to obtain the license, certificate of 2449
authority, or dialysis technician certificate or to have committed 2450
fraud, misrepresentation, or deception in applying for or securing 2451
any nursing license, certificate of authority, or dialysis 2452
technician certificate issued by the board. 2453

(B) ~~The Subject to division (N) of this section,~~ the board of 2454
nursing, ~~and~~ by a vote of a quorum, may impose one or more of the 2455
following sanctions: deny, revoke, suspend, or place restrictions 2456
on any nursing license, certificate of authority, or dialysis 2457
technician certificate issued by the board; reprimand or otherwise 2458
discipline a holder of a nursing license, certificate of 2459
authority, or dialysis technician certificate; or impose a fine of 2460
not more than five hundred dollars per violation. The sanctions 2461
may be imposed for any of the following: 2462

(1) Denial, revocation, suspension, or restriction of 2463
authority to practice a health care occupation, including nursing 2464
or practice as a dialysis technician, for any reason other than a 2465
failure to renew, in Ohio or another state or jurisdiction; 2466

(2) Engaging in the practice of nursing or engaging in 2467
practice as a dialysis technician, having failed to renew a 2468
nursing license or dialysis technician certificate issued under 2469
this chapter, or while a nursing license or dialysis technician 2470
certificate is under suspension; 2471

(3) Conviction of, a plea of guilty to, a judicial finding of 2472
guilt of, a judicial finding of guilt resulting from a plea of no 2473
contest to, or a judicial finding of eligibility for intervention 2474
in lieu of conviction for, a misdemeanor committed in the course 2475
of practice; 2476

(4) Conviction of, a plea of guilty to, a judicial finding of 2477
guilt of, a judicial finding of guilt resulting from a plea of no 2478
contest to, or a judicial finding of eligibility for intervention 2479
in lieu of conviction for, any felony or of any crime involving 2480
gross immorality or moral turpitude; 2481

(5) Selling, giving away, or administering drugs or 2482
therapeutic devices for other than legal and legitimate 2483
therapeutic purposes; or conviction of, a plea of guilty to, a 2484

judicial finding of guilt of, a judicial finding of guilt	2485
resulting from a plea of no contest to, or a judicial finding of	2486
eligibility for intervention in lieu of conviction for, violating	2487
any municipal, state, county, or federal drug law;	2488
(6) Conviction of, a plea of guilty to, a judicial finding of	2489
guilt of, a judicial finding of guilt resulting from a plea of no	2490
contest to, or a judicial finding of eligibility for intervention	2491
in lieu of conviction for, an act in another jurisdiction that	2492
would constitute a felony or a crime of moral turpitude in Ohio;	2493
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(7) Conviction of, a plea of guilty to, a judicial finding of	2495
guilt of, a judicial finding of guilt resulting from a plea of no	2496
contest to, or a judicial finding of eligibility for intervention	2497
in lieu of conviction for, an act in the course of practice in	2498
another jurisdiction that would constitute a misdemeanor in Ohio;	2499
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(8) Self-administering or otherwise taking into the body any	2501
dangerous drug, as defined in section 4729.01 of the Revised Code,	2502
in any way not in accordance with a legal, valid prescription	2503
<u>prescription</u> issued for that individual;	2504
(9) Habitual indulgence in the use of controlled substances,	2505
other habit-forming drugs, or alcohol or other chemical substances	2506
to an extent that impairs ability to practice;	2507
(10) Impairment of the ability to practice according to	2508
acceptable and prevailing standards of safe nursing care because	2509
of habitual or excessive use of drugs, alcohol, or other chemical	2510
substances that impair the ability to practice;	2511
(11) Impairment of the ability to practice according to	2512
acceptable and prevailing standards of safe nursing care because	2513
of a physical or mental disability;	2514
(12) Assaulting or causing harm to a patient or depriving a	2515

patient of the means to summon assistance;	2516
(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;	2517 2518 2519
(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may restore the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.	2520 2521 2522 2523 2524 2525
(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;	2526 2527 2528
(16) Violation of this chapter or any rules adopted under it;	2529 2530
(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	2531 2532
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	2533 2534 2535
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	2536 2537
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	2538 2539 2540
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	2541 2542 2543
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of	2544 2545

the Revised Code;	2546
(23) Aiding and abetting a person in that person's practice	2547
of nursing without a license or practice as a dialysis technician	2548
without a certificate issued under this chapter;	2549
(24) In the case of a certified registered nurse anesthetist,	2550
clinical nurse specialist, certified nurse-midwife, certified	2551
nurse practitioner, or advanced practice nurse, except as provided	2552
in division (M) of this section, either of the following:	2553
	2554
(a) Waiving the payment of all or any part of a deductible or	2555
copayment that a patient, pursuant to a health insurance or health	2556
care policy, contract, or plan that covers such nursing services,	2557
would otherwise be required to pay if the waiver is used as an	2558
enticement to a patient or group of patients to receive health	2559
care services from that provider;	2560
(b) Advertising that the nurse will waive the payment of all	2561
or any part of a deductible or copayment that a patient, pursuant	2562
to a health insurance or health care policy, contract, or plan	2563
that covers such nursing services, would otherwise be required to	2564
pay.	2565
(25) Failure to comply with the terms and conditions of	2566
participation in the chemical dependency monitoring program	2567
established under section 4723.35 of the Revised Code;	2568
(26) Failure to comply with the terms and conditions required	2569
under the practice intervention and improvement program	2570
established under section 4723.282 of the Revised Code;	2571
(27) In the case of a certified registered nurse anesthetist,	2572
clinical nurse specialist, certified nurse-midwife, or certified	2573
nurse practitioner:	2574
(a) Engaging in activities that exceed those permitted for	2575

the nurse's nursing specialty under section 4723.43 of the Revised Code;	2576 2577
(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.	2578 2579
(28) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;	2580 2581 2582 2583 2584
(29) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;	2585 2586 2587 2588 2589
(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	2590 2591
(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	2592 2593 2594
(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	2595 2596 2597 2598
(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	2599 2600
(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.	2601 2602 2603
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an	2604 2605

adjudication conducted under Chapter 119. of the Revised Code, 2606
except that in lieu of a hearing, the board may enter into a 2607
consent agreement with an individual to resolve an allegation of a 2608
violation of this chapter or any rule adopted under it. A consent 2609
agreement, when ratified by a vote of a quorum, shall constitute 2610
the findings and order of the board with respect to the matter 2611
addressed in the agreement. If the board refuses to ratify a 2612
consent agreement, the admissions and findings contained in the 2613
agreement shall be of no effect. 2614

(D) The hearings of the board shall be conducted in 2615
accordance with Chapter 119. of the Revised Code, the board may 2616
appoint a hearing examiner, as provided in section 119.09 of the 2617
Revised Code, to conduct any hearing the board is authorized to 2618
hold under Chapter 119. of the Revised Code. 2619

In any instance in which the board is required under Chapter 2620
119. of the Revised Code to give notice of an opportunity for a 2621
hearing and the applicant or license holder does not make a timely 2622
request for a hearing in accordance with section 119.07 of the 2623
Revised Code, the board is not required to hold a hearing, but may 2624
adopt, by a vote of a quorum, a final order that contains the 2625
board's findings. In the final order, the board may order any of 2626
the sanctions listed in division (A) or (B) of this section. 2627

(E) If a criminal action is brought against a registered 2628
nurse, licensed practical nurse, or dialysis technician for an act 2629
or crime described in divisions (B)(3) to (7) of this section and 2630
the action is dismissed by the trial court other than on the 2631
merits, the board shall conduct an adjudication to determine 2632
whether the registered nurse, licensed practical nurse, or 2633
dialysis technician committed the act on which the action was 2634
based. If the board determines on the basis of the adjudication 2635
that the registered nurse, licensed practical nurse, or dialysis 2636
technician committed the act, or if the registered nurse, licensed 2637

practical nurse, or dialysis technician fails to participate in 2638
the adjudication, the board may take action as though the 2639
registered nurse, licensed practical nurse, or dialysis technician 2640
had been convicted of the act. 2641

If the board takes action on the basis of a conviction, plea, 2642
or a judicial finding as described in divisions (B)(3) to (7) of 2643
this section that is overturned on appeal, the registered nurse, 2644
licensed practical nurse, or dialysis technician may, on 2645
exhaustion of the appeal process, petition the board for 2646
reconsideration of its action. On receipt of the petition and 2647
supporting court documents, the board shall temporarily rescind 2648
its action. If the board determines that the decision on appeal 2649
was a decision on the merits, it shall permanently rescind its 2650
action. If the board determines that the decision on appeal was 2651
not a decision on the merits, it shall conduct an adjudication to 2652
determine whether the registered nurse, licensed practical nurse, 2653
or dialysis technician committed the act on which the original 2654
conviction, plea, or judicial finding was based. If the board 2655
determines on the basis of the adjudication that the registered 2656
nurse, licensed practical nurse, or dialysis technician committed 2657
such act, or if the registered nurse, licensed practical nurse, or 2658
dialysis technician does not request an adjudication, the board 2659
shall reinstate its action; otherwise, the board shall permanently 2660
rescind its action. 2661

Notwithstanding the provision of division (C)(2) of section 2662
2953.32 of the Revised Code specifying that if records pertaining 2663
to a criminal case are sealed under that section the proceedings 2664
in the case shall be deemed not to have occurred, sealing of the 2665
records of a conviction on which the board has based an action 2666
under this section shall have no effect on the board's action or 2667
any sanction imposed by the board under this section. 2668

The board shall not be required to seal, destroy, redact, or 2669

otherwise modify its records to reflect the court's sealing of 2670
conviction records. 2671

(F) The board may investigate an individual's criminal 2672
background in performing its duties under this section. 2673

(G) During the course of an investigation conducted under 2674
this section, the board may compel any registered nurse, licensed 2675
practical nurse, or dialysis technician or applicant under this 2676
chapter to submit to a mental or physical examination, or both, as 2677
required by the board and at the expense of the individual, if the 2678
board finds reason to believe that the individual under 2679
investigation may have a physical or mental impairment that may 2680
affect the individual's ability to provide safe nursing care. 2681
Failure of any individual to submit to a mental or physical 2682
examination when directed constitutes an admission of the 2683
allegations, unless the failure is due to circumstances beyond the 2684
individual's control, and a default and final order may be entered 2685
without the taking of testimony or presentation of evidence. 2686

If the board finds that an individual is impaired, the board 2687
shall require the individual to submit to care, counseling, or 2688
treatment approved or designated by the board, as a condition for 2689
initial, continued, reinstated, or renewed authority to practice. 2690
The individual shall be afforded an opportunity to demonstrate to 2691
the board that the individual can begin or resume the individual's 2692
occupation in compliance with acceptable and prevailing standards 2693
of care under the provisions of the individual's authority to 2694
practice. 2695

For purposes of this division, any registered nurse, licensed 2696
practical nurse, or dialysis technician or applicant under this 2697
chapter shall be deemed to have given consent to submit to a 2698
mental or physical examination when directed to do so in writing 2699
by the board, and to have waived all objections to the 2700
admissibility of testimony or examination reports that constitute 2701

a privileged communication. 2702

(H) The board shall investigate evidence that appears to show 2703
that any person has violated any provision of this chapter or any 2704
rule of the board. Any person may report to the board any 2705
information the person may have that appears to show a violation 2706
of any provision of this chapter or rule of the board. In the 2707
absence of bad faith, any person who reports such information or 2708
who testifies before the board in any adjudication conducted under 2709
Chapter 119. of the Revised Code shall not be liable for civil 2710
damages as a result of the report or testimony. 2711

(I) All of the following apply under this chapter with 2712
respect to the confidentiality of information: 2713

(1) Information received by the board pursuant to an 2714
investigation is confidential and not subject to discovery in any 2715
civil action, except that the board may disclose information to 2716
law enforcement officers and government entities investigating a 2717
registered nurse, licensed practical nurse, or dialysis technician 2718
or a person who may have engaged in the unauthorized practice of 2719
nursing. No law enforcement officer or government entity with 2720
knowledge of any information disclosed by the board pursuant to 2721
this division shall divulge the information to any other person or 2722
government entity except for the purpose of an adjudication by a 2723
court or licensing or registration board or officer to which the 2724
person to whom the information relates is a party. 2725

(2) If an investigation requires a review of patient records, 2726
the investigation and proceeding shall be conducted in such a 2727
manner as to protect patient confidentiality. 2728

(3) All adjudications and investigations of the board shall 2729
be considered civil actions for the purposes of section 2305.251 2730
of the Revised Code. 2731

(4) Any board activity that involves continued monitoring of 2732

an individual as part of or following any disciplinary action 2733
taken under this section shall be conducted in a manner that 2734
maintains the individual's confidentiality. Information received 2735
or maintained by the board with respect to the board's monitoring 2736
activities is confidential and not subject to discovery in any 2737
civil action. 2738

(J) Any action taken by the board under this section 2739
resulting in a suspension from practice shall be accompanied by a 2740
written statement of the conditions under which the person may be 2741
reinstated to practice. 2742

(K) When the board refuses to grant a license or certificate 2743
to an applicant, revokes a license or certificate, or refuses to 2744
reinstate a license or certificate, the board may specify that its 2745
action is permanent. An individual subject to permanent action 2746
taken by the board is forever ineligible to hold a license or 2747
certificate of the type that was refused or revoked and the board 2748
shall not accept from the individual an application for 2749
reinstatement of the license or certificate or for a new license 2750
or certificate. 2751

(L) No unilateral surrender of a nursing license, certificate 2752
of authority, or dialysis technician certificate issued under this 2753
chapter shall be effective unless accepted by majority vote of the 2754
board. No application for a nursing license, certificate of 2755
authority, or dialysis technician certificate issued under this 2756
chapter may be withdrawn without a majority vote of the board. The 2757
board's jurisdiction to take disciplinary action under this 2758
section is not removed or limited when an individual has a license 2759
or certificate classified as inactive or fails to renew a license 2760
or certificate. 2761

(M) Sanctions shall not be imposed under division (B)(24) of 2762
this section against any licensee who waives deductibles and 2763
copayments as follows: 2764

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

(N)(1) The board shall refuse to grant a license to practice nursing as a registered nurse or as a licensed practical nurse under section 4723.09 of the Revised Code to a person whose criminal record check performed in accordance with division (C) of that section indicates that the person has pleaded guilty to, been convicted of, or has had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country.

(2) The board shall refuse to grant a certificate to practice as a dialysis technician under section 4723.75 of the Revised Code to a person whose criminal record check performed in accordance with division (C) of that section indicates that the person has pleaded guilty to, been convicted of, or has had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country.

Sec. 4723.75. (A) The board of nursing shall issue a certificate to practice as a dialysis technician to a person who meets all of the following requirements:

(1) The person applies to the board in accordance with rules adopted under section 4723.79 of the Revised Code and includes with the application the fee established in those rules.	2796 2797 2798
(2) The person is eighteen years of age or older and possesses a high school diploma or high school equivalence diploma.	2799 2800 2801
(3) The person meets the requirements established by the board's rules.	2802 2803
(4) The person demonstrates competency to practice as a dialysis technician, as specified under division (B) of this section.	2804 2805 2806
<u>(5) The person has submitted the results of a criminal background check completed by the bureau of criminal identification and investigation that includes a check of federal bureau of investigation records.</u>	2807 2808 2809 2810
<u>(6) The criminal records check submitted by the person indicates that the person has not been convicted of, has not pleaded guilty to, and has not had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country.</u>	2811 2812 2813 2814 2815 2816 2817
(B) For a person to demonstrate competence to practice as a dialysis technician, one of the following must apply:	2818 2819
(1) The person meets all of the following requirements:	2820
(a) The person has successfully completed a dialysis training program approved by the board under section 4723.74 of the Revised Code.	2821 2822 2823
(b) The person has been employed to perform dialysis care by a dialysis provider for not less than twelve months prior to the	2824 2825

date of application. 2826

(c) The person passes a certification examination 2827
demonstrating competence to perform dialysis care. The person must 2828
pass the examination not later than eighteen months after entering 2829
a dialysis training program approved by the board under section 2830
4723.74 of the Revised Code. A person who does not pass the 2831
examination within eighteen months after entering a dialysis 2832
training program must repeat and successfully complete the 2833
training program, or successfully complete another dialysis 2834
training program approved by the board, and pass the examination 2835
not less than six months after entering the new or repeated 2836
program. A person who does not pass the examination within six 2837
months after entering the new or repeated program must wait at 2838
least one year before entering or reentering any dialysis training 2839
program approved by the board, after which the person must 2840
successfully complete a dialysis training program approved by the 2841
board and pass the examination not later than six months after 2842
entering the program. 2843

(2) The person meets both of the following requirements: 2844

(a) The person holds, on ~~the effective date of this section~~ 2845
December 24, 2000, a current, valid certificate from a qualifying 2846
testing organization specified by the board under division (B) of 2847
section 4723.751 of the Revised Code or provides evidence 2848
satisfactory to the board of having passed the examination of a 2849
qualifying testing organization not longer than five years prior 2850
to ~~the effective date of this section~~ December 24, 2000. 2851

(b) The dialysis provider who employs the person provides the 2852
board with the information specified in rules adopted under 2853
section 4723.79 of the Revised Code attesting to the person's 2854
competence to perform dialysis care. 2855

(3) The person submits evidence satisfactory to the board 2856

that the person holds a current, valid license, certificate, or
other authorization to perform dialysis care issued by another
state that has standards for dialysis technicians that the board
considers substantially similar to those established under
sections 4723.71 to 4723.79 of the Revised Code.

(C) The bureau of criminal identification and investigation shall conduct a criminal records check of a person applying to be certified to practice as a dialysis technician under this section if the person requests a criminal records check of the person and pays to the bureau a fee for the criminal records check that the bureau establishes. The fee shall not exceed the actual cost of conducting the criminal records check. A person requesting a criminal records check under this division shall ask the superintendent of the bureau of criminal identification and investigation to also request the federal bureau of investigation to provide the superintendent with any information it has with respect to the person.

Sec. 5120.031. (A) As used in this section:

(1) "Certificate of high school equivalence" means a statement that is issued by the state board of education or an equivalent agency of another state and that indicates that its holder has achieved the equivalent of a high school education as measured by scores obtained on the tests of general educational development published by the American council on education.

(2) "Certificate of adult basic education" means a statement that is issued by the department of rehabilitation and correction through the Ohio central school system approved by the state board of education and that indicates that its holder has achieved a 6.0 grade level, or higher, as measured by scores of nationally standardized or recognized tests.

(3) "Deadly weapon" and "firearm" have the same meanings as

in section 2923.11 of the Revised Code. 2888

(4) "Eligible offender" means a person, other than one who is 2889
ineligible to participate in an intensive program prison under the 2890
criteria specified in section 5120.032 of the Revised Code, who 2891
has been convicted of or pleaded guilty to, and has been sentenced 2892
for, a felony. 2893

(5) "Shock incarceration" means the program of incarceration 2894
that is established pursuant to the rules of the department of 2895
rehabilitation and correction adopted under this section. 2896

(B)(1) The director of rehabilitation and correction, by 2897
rules adopted under Chapter 119. of the Revised Code, shall 2898
establish a pilot program of shock incarceration that may be used 2899
for ~~eligible~~ offenders who are sentenced to serve a term of 2900
imprisonment under the custody of the department of rehabilitation 2901
and correction, whom the department determines to be eligible 2902
offenders, and whom the department, subject to the approval of the 2903
sentencing judge, may permit to serve their sentence as a sentence 2904
of shock incarceration in accordance with this section. 2905

(2) The rules for the pilot program shall require that the 2906
program be established at an appropriate state correctional 2907
institution designated by the director and that the program 2908
consist of both of the following for each eligible offender whom 2909
the department, with the approval of the sentencing judge, permits 2910
to serve the eligible offender's sentence as a sentence of shock 2911
incarceration: 2912

(a) A period of imprisonment at that institution of ninety 2913
days that shall consist of a military style combination of 2914
discipline, physical training, and hard labor and substance abuse 2915
education, employment skills training, social skills training, and 2916
psychological treatment. During the ninety-day period, the 2917
department may permit an eligible offender to participate in a 2918

self-help program. Additionally, during the ninety-day period, an
eligible offender who holds a high school diploma or a certificate
of high school equivalence may be permitted to tutor other
eligible offenders in the shock incarceration program. If an
eligible offender does not hold a high school diploma or
certificate of high school equivalence, the eligible offender may
elect to participate in an education program that is designed to
award a certificate of adult basic education or an education
program that is designed to award a certificate of high school
equivalence to those eligible offenders who successfully complete
the education program, whether the completion occurs during or
subsequent to the ninety-day period. To the extent possible, the
department shall use as teachers in the education program persons
who have been issued a license pursuant to sections 3319.22 to
3319.31 of the Revised Code, who have volunteered their services
to the education program, and who satisfy any other criteria
specified in the rules for the pilot project.

(b) Immediately following the ninety-day period of
imprisonment, and notwithstanding any other provision governing
the early release of a prisoner from imprisonment or the transfer
of a prisoner to transitional control, one of the following, as
determined by the director:

(i) An intermediate, transitional type of detention for the
period of time determined by the director and, immediately
following the intermediate, transitional type of detention, a
release under a post-release control sanction imposed in
accordance with section 2967.28 of the Revised Code. The period of
intermediate, transitional type of detention imposed by the
director under this division may be in a halfway house, in a
community-based correctional facility and program or district
community-based correctional facility and program established
under sections 2301.51 to 2301.56 of the Revised Code, or in any

other facility approved by the director that provides for 2951
detention to serve as a transition between imprisonment in a state 2952
correctional institution and release from imprisonment. 2953

(ii) A release under a post-release control sanction imposed 2954
in accordance with section 2967.28 of the Revised Code. 2955

(3) The rules for the pilot program also shall include, but 2956
are not limited to, all of the following: 2957

(a) Rules identifying the locations within the state 2958
correctional institution designated by the director that will be 2959
used for eligible offenders serving a sentence of shock 2960
incarceration; 2961

(b) Rules establishing specific schedules of discipline, 2962
physical training, and hard labor for eligible offenders serving a 2963
sentence of shock incarceration, based upon the offender's 2964
physical condition and needs; 2965

(c) Rules establishing standards and criteria for the 2966
department to use in determining which eligible offenders the 2967
department will permit to serve their sentence of imprisonment as 2968
a sentence of shock incarceration; 2969

(d) Rules establishing guidelines for the selection of 2970
post-release control sanctions for eligible offenders; 2971

(e) Rules establishing procedures for notifying sentencing 2972
courts of the performance of eligible offenders serving their 2973
sentences of imprisonment as a sentence of shock incarceration; 2974

(f) Any other rules that are necessary for the proper conduct 2975
of the pilot program. 2976

(C)(1) If an offender is sentenced to a term of imprisonment 2977
under the custody of the department, ~~if the sentencing court~~ 2978
~~determined that the offender is eligible for placement in a~~ 2979
~~program of shock incarceration under this section, and if the~~ 2980

sentencing court either recommends the offender for placement in a 2981
program of shock incarceration under this section or makes no 2982
recommendation on placement of the offender, and if the department 2983
determines that the offender is an eligible offender for placement 2984
in a program of shock incarceration under this section, the 2985
department may permit the eligible offender to serve the sentence 2986
in a program of shock incarceration, in accordance with division 2987
(K) of section 2929.14 of the Revised Code, with this section, and 2988
with the rules adopted under this section. If the sentencing court 2989
disapproves placement of the offender in a program of shock 2990
incarceration, the department shall not place the offender in any 2991
program of shock incarceration. 2992

If the sentencing court recommends the offender for placement 2993
in a program of shock incarceration and if the department 2994
subsequently places the offender in the recommended program, the 2995
department shall notify the court of the offender's placement in 2996
the recommended program and shall include with the notice a brief 2997
description of the placement. 2998

If the sentencing court ~~approves~~ recommends placement of the 2999
offender in a program of shock incarceration and the department 3000
for any reason does not subsequently place the offender in the 3001
recommended program, the department shall send a notice to the 3002
court indicating why the offender was not placed in the 3003
recommended program. 3004

If the sentencing court does not make a recommendation on the 3005
placement of an ~~eligible~~ offender in a program of shock 3006
incarceration and if the department determines that the offender 3007
is an eligible offender for placement in a program of that nature, 3008
the department shall screen the offender and determine if the 3009
offender is suited for the program of shock incarceration. If the 3010
offender is suited for the program of shock incarceration, at 3011
least three weeks prior to permitting an eligible offender to 3012

serve the sentence in a program of shock incarceration, the 3013
department shall notify the sentencing court of the proposed 3014
placement of the offender in the program and shall include with 3015
the notice a brief description of the placement. The court shall 3016
have ten days from receipt of the notice to disapprove the 3017
placement. If the sentencing court disapproves of the placement, 3018
the department shall not permit the eligible offender to serve the 3019
sentence in a program of shock incarceration. If the judge does 3020
not timely disapprove of placement of the offender in the program 3021
of shock incarceration, the department may proceed with plans for 3022
placement of the offender. 3023

If the ~~sentencing court determined~~ department determines that 3024
the offender is not eligible for placement in a program of shock 3025
incarceration ~~or if the sentencing court disapproves placement of~~ 3026
~~the offender in a program of that nature,~~ the department of 3027
~~rehabilitation and correction~~ shall not place the offender in any 3028
program of shock incarceration. 3029

(2) If the department permits an eligible offender to serve 3030
the eligible offender's sentence of imprisonment as a sentence of 3031
shock incarceration and the eligible offender does not 3032
satisfactorily complete the entire period of imprisonment 3033
described in division (B)(2)(a) of this section, the offender 3034
shall be removed from the pilot program for shock incarceration 3035
and shall be required to serve the remainder of the offender's 3036
sentence of imprisonment imposed by the sentencing court as a 3037
regular term of imprisonment. If the eligible offender commences a 3038
period of post-release control described in division (B)(2)(b) of 3039
this section and violates the conditions of that post-release 3040
control, the eligible offender shall be subject to the provisions 3041
of sections 2929.14, 2967.15, and 2967.28 of the Revised Code 3042
regarding violation of post-release control sanctions. 3043

(3) If an eligible offender's stated prison term expires at 3044

any time during the eligible offender's participation in the shock 3045
incarceration program, the adult parole authority shall terminate 3046
the eligible offender's participation in the program and shall 3047
issue to the eligible offender a certificate of expiration of the 3048
stated prison term. 3049

(D) The director shall keep sentencing courts informed of the 3050
performance of eligible offenders serving their sentences of 3051
imprisonment as a sentence of shock incarceration, including, but 3052
not limited to, notice of eligible offenders who fail to 3053
satisfactorily complete their entire sentence of shock 3054
incarceration or who satisfactorily complete their entire sentence 3055
of shock incarceration. 3056

(E) Within a reasonable period of time after November 20, 3057
1990, the director shall appoint a committee to search for one or 3058
more suitable sites at which one or more programs of shock 3059
incarceration, in addition to the pilot program required by 3060
division (B)(1) of this section, may be established. The search 3061
committee shall consist of the director or the director's 3062
designee, as chairperson; employees of the department of 3063
rehabilitation and correction appointed by the director; and any 3064
other persons that the director, in the director's discretion, 3065
appoints. In searching for such sites, the search committee shall 3066
give preference to any site owned by the state or any other 3067
governmental entity and to any existing structure that reasonably 3068
could be renovated, enlarged, converted, or remodeled for purposes 3069
of establishing such a program. The search committee shall prepare 3070
a report concerning its activities and, on the earlier of the day 3071
that is twelve months after the first day on which an eligible 3072
offender began serving a sentence of shock incarceration under the 3073
pilot program or January 1, 1992, shall file the report with the 3074
president and the minority leader of the senate, the speaker and 3075
the minority leader of the house of representatives, the members 3076

of the senate who were members of the senate judiciary committee 3077
in the 118th general assembly or their successors, and the members 3078
of the house of representatives who were members of the select 3079
committee to hear drug legislation that was established in the 3080
118th general assembly or their successors. Upon the filing of the 3081
report, the search committee shall terminate. The report required 3082
by this division shall contain all of the following: 3083
3084

(1) A summary of the process used by the search committee in 3085
performing its duties under this division; 3086

(2) A summary of all of the sites reviewed by the search 3087
committee in performing its duties under this division, and the 3088
benefits and disadvantages it found relative to the establishment 3089
of a program of shock incarceration at each such site; 3090

(3) The findings and recommendations of the search committee 3091
as to the suitable site or sites, if any, at which a program of 3092
shock incarceration, in addition to the pilot program required by 3093
division (B)(1) of this section, may be established. 3094

(F) The director periodically shall review the pilot program 3095
for shock incarceration required to be established by division 3096
(B)(1) of this section. The director shall prepare a report 3097
relative to the pilot program and, on the earlier of the day that 3098
is twelve months after the first day on which an eligible offender 3099
began serving a sentence of shock incarceration under the pilot 3100
program or January 1, 1992, shall file the report with the 3101
president and the minority leader of the senate, the speaker and 3102
the minority leader of the house of representatives, the members 3103
of the senate who were members of the senate judiciary committee 3104
in the 118th general assembly or their successors, and the members 3105
of the house of representatives who were members of the select 3106
committee to hear drug legislation that was established in the 3107
118th general assembly or their successors. The pilot program 3108

shall not terminate at the time of the filing of the report, but 3109
shall continue in operation in accordance with this section. The 3110
report required by this division shall include all of the 3111
following: 3112

(1) A summary of the pilot program as initially established, 3113
a summary of all changes in the pilot program made during the 3114
period covered by the report and the reasons for the changes, and 3115
a summary of the pilot program as it exists on the date of 3116
preparation of the report; 3117

(2) A summary of the effectiveness of the pilot program, in 3118
the opinion of the director and employees of the department 3119
involved in its operation; 3120

(3) An analysis of the total cost of the pilot program, of 3121
its cost per inmate who was permitted to serve a sentence of shock 3122
incarceration and who served the entire sentence of shock 3123
incarceration, and of its cost per inmate who was permitted to 3124
serve a sentence of shock incarceration; 3125

(4) A summary of the standards and criteria used by the 3126
department in determining which eligible offenders were permitted 3127
to serve their sentence of imprisonment as a sentence of shock 3128
incarceration; 3129

(5) A summary of the characteristics of the eligible 3130
offenders who were permitted to serve their sentence of 3131
imprisonment as a sentence of shock incarceration, which summary 3132
shall include, but not be limited to, a listing of every offense 3133
of which any such eligible offender was convicted or to which any 3134
such eligible offender pleaded guilty and in relation to which the 3135
eligible offender served a sentence of shock incarceration, and 3136
the total number of such eligible offenders who were convicted of 3137
or pleaded guilty to each such offense; 3138

(6) A listing of the number of eligible offenders who were 3139

permitted to serve a sentence of shock incarceration and who did 3140
not serve the entire sentence of shock incarceration, and, to the 3141
extent possible, a summary of the length of the terms of 3142
imprisonment served by such eligible offenders after they were 3143
removed from the pilot program; 3144

(7) A summary of the effect of the pilot program on 3145
overcrowding at state correctional institutions; 3146

(8) To the extent possible, an analysis of the rate of 3147
recidivism of eligible offenders who were permitted to serve a 3148
sentence of shock incarceration and who served the entire sentence 3149
of shock incarceration; 3150

(9) Recommendations as to legislative changes to the pilot 3151
program that would assist in its operation or that could further 3152
alleviate overcrowding at state correctional institutions, and 3153
recommendations as to whether the pilot program should be 3154
expanded. 3155

Sec. 5120.032. (A) No later than January 1, 1998, the 3156
department of rehabilitation and correction shall develop and 3157
implement intensive program prisons for male and female prisoners 3158
other than prisoners described in division (B)(2) of this section. 3159
The intensive program prisons shall include institutions at which 3160
imprisonment of the type described in division (B)(2)(a) of 3161
section 5120.031 of the Revised Code is provided and prisons that 3162
focus on educational achievement, vocational training, alcohol and 3163
other drug abuse treatment, community service and conservation 3164
work, and other intensive regimens or combinations of intensive 3165
regimens. 3166

(B)(1)(a) Except as provided in division (B)(2) of this 3167
section, if an offender is sentenced to a term of imprisonment 3168
under the custody of the department, if the sentencing court 3169
~~determines that a prisoner is eligible for placement in an~~ 3170

~~intensive program prison under this section and the sentencing court either recommends the offender prisoner for placement in the intensive program prison under this section or makes no recommendation on placement of the prisoner, and if the department determines that the prisoner is eligible for placement in an intensive program prison under this section, the department may place the prisoner in an intensive program prison established pursuant to division (A) of this section. If the sentencing court disapproves placement of the prisoner in an intensive program prison, the department shall not place the prisoner in any intensive program prison.~~

If the sentencing court recommends a prisoner for placement in an intensive program prison and if the department subsequently places the prisoner in the recommended prison, the department shall notify the court of the prisoner's placement in the recommended intensive program prison and shall include with the notice a brief description of the placement.

If the sentencing court ~~approves~~ recommends placement of a prisoner in an intensive program prison and the department for any reason does not subsequently place the ~~offender prisoner~~ in the recommended prison, the department shall send a notice to the court indicating why the prisoner was not placed in the recommended prison.

If the sentencing court does not make a recommendation on the placement of ~~an eligible~~ a prisoner in an intensive program prison and if the department determines that the prisoner is eligible for placement in a prison of that nature, the department shall screen the prisoner and determine if the prisoner is suited for the prison. If the prisoner is suited for the intensive program prison, at least three weeks prior to placing the prisoner in the prison, the department shall notify the sentencing court of the proposed placement of the prisoner in the intensive program prison

and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement. If the sentencing court disapproves the placement, the department shall not proceed with it. If the sentencing court does not timely disapprove of the placement, the department may proceed with plans for it.

If the ~~sentencing court~~ department determines that a prisoner is not eligible for placement in an intensive program prison ~~or if the sentencing court disapproves placement of an offender in a prison of that nature,~~ the department of ~~rehabilitation and correction~~ shall not place the prisoner in any intensive program prison.

(b) 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 and section 2929.141 of the Revised Code 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 July 1, 1996,

or the prisoner previously has been imprisoned for aggravated 3235
murder, murder, or a felony of the first or second degree or a 3236
comparable offense under the law in effect prior to July 1, 1996. 3237

(b) The prisoner is serving a mandatory prison term, as 3238
defined in section 2929.01 of the Revised Code. 3239

(c) The prisoner is serving a prison term for a felony of the 3240
third, fourth, or fifth degree that either is a sex offense, an 3241
offense betraying public trust, or an offense in which the 3242
prisoner caused or attempted to cause actual physical harm to a 3243
person, the prisoner is serving a prison term for a comparable 3244
offense under the law in effect prior to July 1, 1996, or the 3245
prisoner previously has been imprisoned for an offense of that 3246
type or a comparable ~~offence~~ offense under the law in effect prior 3247
to July 1, 1996. 3248

(d) The prisoner is serving a mandatory prison term in prison 3249
for a third or ~~fourth~~ fourth degree felony OMVI offense, as defined 3250
in section 2929.01 of the Revised Code, that was imposed pursuant 3251
to division (G)(2) of section 2929.13 of the Revised Code. 3252

(C) Upon the implementation of intensive program prisons 3254
pursuant to division (A) of this section, the department at all 3255
times shall maintain intensive program prisons sufficient in 3256
number to reduce the prison terms of at least three hundred fifty 3257
prisoners who are eligible for reduction of their stated prison 3258
terms as a result of their completion of a regimen in an intensive 3259
program prison under this section. 3260

Sec. 5120.033. (A) As used in this section, "third degree 3261
felony OMVI offense" and "fourth degree felony OMVI offense" have 3262
the same meanings as in section 2929.01 of the Revised Code. 3263

(B) Within eighteen months after October 17, 1996, the 3264

department of rehabilitation and correction shall develop and 3265
implement intensive program prisons for male and female prisoners 3266
who are sentenced pursuant to division (G)(2) of section 2929.13 3267
of the Revised Code to a mandatory prison term for a third or 3268
fourth degree felony OMVI offense. The department shall contract 3269
pursuant to section 9.06 of the Revised Code for the private 3270
operation and management of the initial intensive program prison 3271
established under this section and may contract pursuant to that 3272
section for the private operation and management of any other 3273
intensive program prison established under this section. The 3274
intensive program prisons established under this section shall 3275
include prisons that focus on educational achievement, vocational 3276
training, alcohol and other drug abuse treatment, community 3277
service and conservation work, and other intensive regimens or 3278
combinations of intensive regimens. 3279

(C) Except as provided in division (D) of this section, the 3280
department may place a prisoner who is sentenced to a mandatory 3281
prison term for a third or fourth degree felony OMVI offense in an 3282
intensive program prison established pursuant to division (B) of 3283
this section if the sentencing judge, upon notification by the 3284
department of its intent to place the prisoner in an intensive 3285
program prison, does not notify the department that the judge 3286
disapproves the placement. If the stated prison term imposed on a 3287
prisoner who is so placed is longer than the mandatory prison term 3288
that is required to be imposed on the prisoner, the department may 3289
reduce the stated prison term upon the prisoner's successful 3290
completion of the prisoner's mandatory prison term in an intensive 3291
program prison. A prisoner whose term has been so reduced shall be 3292
required to serve an intermediate, transitional type of detention 3293
followed by a release under post-release control sanctions or, in 3294
the alternative, shall be placed under post-release control 3295
sanctions, as described in division (B)(2)(b)(ii) of section 3296

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 and
section 2929.141 of the Revised Code 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. 5145.01. Courts shall impose sentences to a state
correctional institution for felonies pursuant to sections 2929.13

and 2929.14 of the Revised Code. All prison terms may be ended in 3328
the manner provided by law, but no prison term shall exceed the 3329
maximum term provided for the felony of which the prisoner was 3330
convicted as extended pursuant to section 2929.141, 2967.11, or 3331
2967.28 of the Revised Code. 3332

If a prisoner is sentenced for two or more separate felonies, 3333
the prisoner's term of imprisonment shall run as a concurrent 3334
sentence, except if the consecutive sentence provisions of 3335
sections 2929.14 and 2929.41 of the Revised Code apply. If 3336
sentenced consecutively, for the purposes of sections 5145.01 to 3337
5145.27 of the Revised Code, the prisoner shall be held to be 3338
serving one continuous term of imprisonment. 3339

If a court imposes a sentence to a state correctional 3340
institution for a felony of the fourth or fifth degree, the 3341
department of rehabilitation and correction, notwithstanding the 3342
court's designation of a state correctional institution as the 3343
place of service of the sentence, may designate that the person 3344
sentenced is to be housed in a county, multicounty, municipal, 3345
municipal-county, or multicounty-municipal jail or workhouse if 3346
authorized pursuant to section 5120.161 of the Revised Code. 3347

If, through oversight or otherwise, a person is sentenced to 3348
a state correctional institution under a definite term for an 3349
offense for which a definite term of imprisonment is not provided 3350
by statute, the sentence shall not thereby become void, but the 3351
person shall be subject to the liabilities of such sections and 3352
receive the benefits thereof, as if the person had been sentenced 3353
in the manner required by this section. 3354

As used in this section, "prison term" has the same meaning 3355
as in section 2929.01 of the Revised Code. 3356

Section 2. That existing sections 181.25, 2919.25, 2921.34, 3357
2925.23, 2925.36, 2929.01, 2929.12, 2929.13, 2929.14, 2929.19, 3358

2929.20, 2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 4723.28, 3359
4723.75, 5120.031, 5120.032, 5120.033, and 5145.01 of the Revised 3360
Code are hereby repealed. 3361

Section 3. Persons enrolled in and actively pursuing 3362
completion of a prelicensure nursing education program upon the 3363
effective date of this act may apply for licensure under section 3364
4723.09 of the Revised Code, as amended by this act. The Board of 3365
Nursing may deny, but is not required to deny, the application in 3366
accordance with the amendments to sections 4723.09 and 4723.28 of 3367
the Revised Code made by this act. 3368

Section 4. Section 2919.25 of the Revised Code is presented 3369
in this act as a composite of the section as amended by both H.B. 3370
238 and Am. Sub. S.B. 1 of the 122nd General Assembly. Section 3371
2921.34 of the Revised Code is presented in this act as a 3372
composite of the section as amended by both Am. Sub. H.B. 180 and 3373
Am. Sub. S.B. 285 of the 121st General Assembly. Section 2929.01 3374
of the Revised Code is presented in this act as a composite of the 3375
section as amended by Am. Sub. H.B. 349, Am. Sub. S.B. 179, and 3376
Am. Sub. S.B. 222 of the 123rd General Assembly. Section 2929.13 3377
of the Revised Code is presented in this act as a composite of the 3378
section as amended by Am. H.B. 528, Am. Sub. S.B. 22, Am. Sub. 3379
S.B. 107, Am. S.B. 142, and Am. Sub. S.B. 222 of the 123rd General 3380
Assembly. Section 2929.19 of the Revised Code is presented in this 3381
act as a composite of the section as amended by Am. Sub. H.B. 349, 3382
Am. Sub. S.B. 22, and Am. Sub. S.B. 107 of the 123rd General 3383
Assembly. Section 2951.041 of the Revised Code is presented in 3384
this act as a composite of the section as amended by both Sub. 3385
H.B. 202 and Am. Sub. S.B. 107 of the 123rd General Assembly. 3386
Section 4723.09 of the Revised Code is presented in this act as a 3387
composite of the section as amended by both Sub. H.B. 511 and Am. 3388
Sub. S.B. 180 of the 123rd General Assembly. Section 5120.032 of 3389

the Revised Code is presented in this act as a composite of the 3390
section as amended by both Am. Sub. S.B. 22 and Am. Sub. S.B. 107 3391
of the 123rd General Assembly. The General Assembly, applying the 3392
principle stated in division (B) of section 1.52 of the Revised 3393
Code that amendments are to be harmonized if reasonably capable of 3394
simultaneous operation, finds that the composites are the 3395
resulting versions of the sections in effect prior to the 3396
effective date of the sections as presented in this act. 3397