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124th General Assembly

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2001-2002

Am. 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
SENATORS Oelslager, Amstutz**

A B I L L

To amend sections 181.25, 2307.62, 2913.01, 2913.04, 1
2919.25, 2925.23, 2929.01, 2929.12, 2929.13, 2
2929.14, 2929.19, 2929.20, 2951.041, 2967.16, 3
2967.28, 3719.21, 4723.09, 4723.28, 4723.72, 4
4723.74, 4723.75, 4723.77, 5120.031, 5120.032, 5
5120.033, 5145.01, and 5149.22 and to enact section 6
2929.141 of the Revised Code to clarify certain 7
provisions of the Felony Sentencing Law, to correct 8
the penalty provisions for illegal processing of 9
drug documents, to clarify the eligibility criteria 10
for intervention in lieu of conviction, to require 11
applicants for nurse licensure and dialysis 12
technician certification to have a criminal records 13
check, to expand the offense of unauthorized use of 14
property to specifically include nonconsensual 15
access to a cable service or cable system, to 16
revise certain provisions of the law governing 17
nurses and dialysis technicians as to licensing or 18
certification, duties, and training, to specify 19
that the members of the Ohio Council for Interstate 20
Adult Supervision serve without compensation but 21

are to be reimbursed for expenses, and to extend 22
until July 1, 2002, the date by which the State 23
Criminal Sentencing Commission must recommend 24
changes to the state's criminal forfeiture laws. 25

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

Section 1. That sections 181.25, 2307.62, 2913.01, 2913.04, 26
2919.25, 2925.23, 2929.01, 2929.12, 2929.13, 2929.14, 2929.19, 27
2929.20, 2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 4723.28, 28
4723.72, 4723.74, 4723.75, 4723.77, 5120.031, 5120.032, 5120.033, 29
5145.01, and 5149.22 be amended and section 2929.141 of the 30
Revised Code be enacted to read as follows: 31

Sec. 181.25. (A) If the comprehensive criminal sentencing 32
structure that it recommends to the general assembly pursuant to 33
section 181.24 of the Revised Code or any aspects of that 34
sentencing structure are enacted into law, the state criminal 35
sentencing commission shall do all of the following: 36

(1) Assist the general assembly in the implementation of 37
those aspects of the sentencing structure that are enacted into 38
law; 39

(2) Monitor the operation of the aspects of the sentencing 40
structure that are enacted into law and report to the general 41
assembly no later than January 1, 1997, and biennially thereafter, 42
on all of the following matters: 43

(a) The impact of the sentencing structure in effect on and 44
after July 1, 1996, on political subdivisions and other relevant 45
aspects of local government in this state, including all of the 46
following information: 47

(i) The number and type of offenders who were being 48

imprisoned in a state correctional institution under the law in effect prior to July 1, 1996, but who are being punished under a community control sanction, as defined in section 2929.01 of the Revised Code, under the law in effect on and after July 1, 1996;

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

(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;

(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.

(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

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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
state;

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

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

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Sec. 2307.62. (A) As used in this section: 112

(1) "Cable service" and "cable system" have the same meanings 113
as in section 2913.04 of the Revised Code. 114

(2) "Trier of fact" means the jury or, in a nonjury trial, 115
the court. 116

~~(2)~~(3) "Profits" derived from a violation of division (B) of 117
section 2913.04 or division (A) or (B) of section 2913.041 of the 118
Revised Code are equal to whichever of the following applies: 119

(a) The gross revenue derived from the violation by the 120
persons who violated division (B) of section 2913.04 or division 121
(A) or (B) of section 2913.041 of the Revised Code, as established 122
by a preponderance of the evidence by the owner or operator of the 123
cable service, cable system, cable television system, or other 124
similar closed circuit coaxial cable communications system who is 125
aggrieved by the violation; 126

(b) The gross revenue derived from the violation by the 127
persons who violated division (B) of section 2913.04 or division 128
(A) or (B) of section 2913.041 of the Revised Code, as established 129
by a preponderance of the evidence by the owner or operator of the 130
cable service, cable system, cable television system, or other 131
similar closed circuit coaxial cable communications system who is 132
aggrieved by the violation, minus deductible expenses and other 133
elements of profit that are not attributable to the violation of 134
division (B) of section 2913.04 or division (A) or (B) of section 135
2913.041 of the Revised Code, as established by a preponderance of 136
the evidence by the persons who violated either or both of those 137
divisions. 138

(B)(1) An owner or operator of a cable service, cable system, 139
cable television system, or other similar closed circuit coaxial 140
cable communications system who is aggrieved by conduct that is 141

prohibited by division (B) of section 2913.04 or division (A) or 142
(B) of section 2913.041 of the Revised Code may elect to commence 143
a civil action for damages in accordance with section 2307.60 or 144
2307.61 of the Revised Code or to commence a civil action under 145
this section in the appropriate municipal court, county court, or 146
court of common pleas to recover damages and other specified 147
moneys described in division (B)(1)(a), (b), or (c) of this 148
section and, if applicable, damages described in division (B)(2) 149
of this section from the persons who violated division (B) of 150
section 2913.04 or division (A) or (B) of section 2913.041 of the 151
Revised Code. If the owner or operator elects to commence a civil 152
action for damages and other specified moneys under this section, 153
the owner or operator shall specify in its complaint which of the 154
following categories of damages and other specified moneys the 155
owner or operator seeks to recover from the persons who violated 156
division (B) of section 2913.04 or division (A) or (B) of section 157
2913.041 of the Revised Code: 158

(a) Full compensatory damages, punitive or exemplary damages 159
if authorized by section 2315.21 of the Revised Code, and the 160
reasonable attorney's fees, court costs, and other reasonable 161
expenses incurred in maintaining the civil action under this 162
section. 163

(b) Damages equal to the actual loss suffered by the owner or 164
operator as a proximate result of the conduct that violated 165
division (B) of section 2913.04 or division (A) or (B) of section 166
2913.041 of the Revised Code and, in addition, damages equal to 167
the profits derived by the persons who violated ~~either one~~ or ~~both~~ 168
more of those divisions as a proximate result of the prohibited 169
conduct. 170

(c) ~~Liquidated~~ Regarding a violation of division (A) or (B) 171
of section 2913.041 of the Revised Code, liquidated damages in an 172
amount of not less than two hundred fifty dollars and not more 173

than ten thousand dollars, as determined by the trier of fact, for 174
each separate violation of division (A) or (B) of section 2913.041 175
of the Revised Code as described in division (D) of that section. 176
Division (B)(1)(c) of this section does not apply regarding a 177
violation of division (B) of section 2913.04 of the Revised Code. 178

(2) The trier of fact shall determine the amount of any 179
compensatory damages to be awarded pursuant to division (B)(1)(a) 180
of this section, and the court shall determine the amount of any 181
punitive or exemplary damages authorized by section 2315.21 of the 182
Revised Code and the amount of reasonable attorney's fees, court 183
costs, and other reasonable expenses to be awarded pursuant to 184
division (B)(1)(a) of this section. The trier of fact shall 185
determine the amount of damages to be awarded to the owner or 186
operator under division (B)(1)(b) of this section. 187

(3) In a civil action under this section, if an owner or 188
operator of a cable service, cable system, cable television 189
system, or other similar closed circuit coaxial cable 190
communications system establishes by a preponderance of the 191
evidence that the persons who violated division (B) of section 192
2913.04 or division (A) or (B) of section 2913.041 of the Revised 193
Code engaged in the prohibited conduct for the purpose of direct 194
or indirect commercial advantage or private financial gain, the 195
trier of fact may award to the owner or operator damages in an 196
amount not to exceed fifty thousand dollars in addition to any 197
amount recovered pursuant to division (B)(1)(a), (b), or (c) of 198
this section, whichever of those divisions applies to the owner or 199
operator. 200

(C) A person may join a civil action under this section with 201
a civil action under Chapter 2737. of the Revised Code to recover 202
any property of the owner or operator of a cable service, cable 203
system, cable television system, or other similar closed circuit 204
coaxial cable communications system that was the subject of the 205

violation of division (B) of section 2913.04 or division (A) or 206
(B) of section 2913.041 of the Revised Code. A person may commence 207
a civil action under this section regardless of whether any person 208
who allegedly violated ~~either one~~ or ~~both more~~ of those divisions 209
has pleaded guilty to or has been convicted of a violation of 210
~~either one~~ or ~~both more~~ of those divisions or has been adjudicated 211
a delinquent child for the commission of any act that constitutes 212
a violation of ~~either one~~ or ~~both more~~ of those divisions. 213
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Sec. 2913.01. As used in this chapter, unless the context 215
requires that a term be given a different meaning: 216

(A) "Deception" means knowingly deceiving another or causing 217
another to be deceived by any false or misleading representation, 218
by withholding information, by preventing another from acquiring 219
information, or by any other conduct, act, or omission that 220
creates, confirms, or perpetuates a false impression in another, 221
including a false impression as to law, value, state of mind, or 222
other objective or subjective fact. 223

(B) "Defraud" means to knowingly obtain, by deception, some 224
benefit for oneself or another, or to knowingly cause, by 225
deception, some detriment to another. 226

(C) "Deprive" means to do any of the following: 227

(1) Withhold property of another permanently, or for a period 228
that appropriates a substantial portion of its value or use, or 229
with purpose to restore it only upon payment of a reward or other 230
consideration; 231

(2) Dispose of property so as to make it unlikely that the 232
owner will recover it; 233

(3) Accept, use, or appropriate money, property, or services, 234
with purpose not to give proper consideration in return for the 235

money, property, or services, and without reasonable justification 236
or excuse for not giving proper consideration. 237

(D) "Owner" means, unless the context requires a different 238
meaning, any person, other than the actor, who is the owner of, 239
who has possession or control of, or who has any license or 240
interest in property or services, even though the ownership, 241
possession, control, license, or interest is unlawful. 242

(E) "Services" include labor, personal services, professional 243
services, public utility services, common carrier services, and 244
food, drink, transportation, entertainment, and cable television 245
services and, for purposes of section 2913.04 of the Revised Code, 246
include cable services as defined in that section. 247

(F) "Writing" means any computer software, document, letter, 249
memorandum, note, paper, plate, data, film, or other thing having 250
in or upon it any written, typewritten, or printed matter, and any 251
token, stamp, seal, credit card, badge, trademark, label, or other 252
symbol of value, right, privilege, license, or identification. 253

(G) "Forge" means to fabricate or create, in whole or in part 254
and by any means, any spurious writing, or to make, execute, 255
alter, complete, reproduce, or otherwise purport to authenticate 256
any writing, when the writing in fact is not authenticated by that 257
conduct. 258

(H) "Utter" means to issue, publish, transfer, use, put or 259
send into circulation, deliver, or display. 260

(I) "Coin machine" means any mechanical or electronic device 261
designed to do both of the following: 262

(1) Receive a coin, bill, or token made for that purpose; 263

(2) In return for the insertion or deposit of a coin, bill, 264
or token, automatically dispense property, provide a service, or 265

grant a license.

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(J) "Slug" means an object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.

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(K) "Theft offense" means any of the following:

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(1) A violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, former section 2913.47 or 2913.48, or section 2913.51, 2915.05, or 2921.41 of the Revised Code;

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(2) A violation of an existing or former municipal ordinance or law of this or any other state, or of the United States, substantially equivalent to any section listed in division (K)(1) of this section or a violation of section 2913.41, 2913.81, or 2915.06 of the Revised Code as it existed prior to July 1, 1996;

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(3) An offense under an existing or former municipal ordinance or law of this or any other state, or of the United States, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;

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(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (K)(1), (2), or (3) of this section.

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(L) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or computer network.

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(M) "Computer" means an electronic device that performs

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logical, arithmetic, and memory functions by the manipulation of 296
electronic or magnetic impulses. "Computer" includes, but is not 297
limited to, all input, output, processing, storage, computer 298
program, or communication facilities that are connected, or 299
related, in a computer system or network to an electronic device 300
of that nature. 301

(N) "Computer system" means a computer and related devices, 302
whether connected or unconnected, including, but not limited to, 303
data input, output, and storage devices, data communications 304
links, and computer programs and data that make the system capable 305
of performing specified special purpose data processing tasks. 306

(O) "Computer network" means a set of related and remotely 307
connected computers and communication facilities that includes 308
more than one computer system that has the capability to transmit 309
among the connected computers and communication facilities through 310
the use of computer facilities. 311

(P) "Computer program" means an ordered set of data 312
representing coded instructions or statements that, when executed 313
by a computer, cause the computer to process data. 314

(Q) "Computer software" means computer programs, procedures, 315
and other documentation associated with the operation of a 316
computer system. 317

(R) "Data" means a representation of information, knowledge, 318
facts, concepts, or instructions that are being or have been 319
prepared in a formalized manner and that are intended for use in a 320
computer, computer system, or computer network. For purposes of 321
section 2913.47 of the Revised Code, "data" has the additional 322
meaning set forth in division (A) of that section. 323

(S) "Cable television service" means any services provided by 324
or through the facilities of any cable television system or other 325
similar closed circuit coaxial cable communications system, or any 326

microwave or similar transmission service used in connection with 327
any cable television system or other similar closed circuit 328
coaxial cable communications system. 329

(T) "Gain access" means to approach, instruct, communicate 330
with, store data in, retrieve data from, or otherwise make use of 331
any resources of a computer, computer system, or computer network, 332
or any cable service or cable system both as defined in section 333
2913.04 of the Revised Code. 334

(U) "Credit card" includes, but is not limited to, a card, 335
code, device, or other means of access to a customer's account for 336
the purpose of obtaining money, property, labor, or services on 337
credit, or for initiating an electronic fund transfer at a 338
point-of-sale terminal, an automated teller machine, or a cash 339
dispensing machine. 340

(V) "Electronic fund transfer" has the same meaning as in 92 341
Stat. 3728, 15 U.S.C.A. 1693a, as amended. 342

(W) "Rented property" means personal property in which the 343
right of possession and use of the property is for a short and 344
possibly indeterminate term in return for consideration; the 345
rentee generally controls the duration of possession of the 346
property, within any applicable minimum or maximum term; and the 347
amount of consideration generally is determined by the duration of 348
possession of the property. 349

(X) "Telecommunication" means the origination, emission, 350
dissemination, transmission, or reception of data, images, 351
signals, sounds, or other intelligence or equivalence of 352
intelligence of any nature over any communications system by any 353
method, including, but not limited to, a fiber optic, electronic, 354
magnetic, optical, digital, or analog method. 355

(Y) "Telecommunications device" means any instrument, 356
equipment, machine, or other device that facilitates 357

telecommunication, including, but not limited to, a computer, 358
computer network, computer chip, computer circuit, scanner, 359
telephone, cellular telephone, pager, personal communications 360
device, transponder, receiver, radio, modem, or device that 361
enables the use of a modem. 362

(Z) "Telecommunications service" means the providing, 363
allowing, facilitating, or generating of any form of 364
telecommunication through the use of a telecommunications device 365
over a telecommunications system. 366

(AA) "Counterfeit telecommunications device" means a 367
telecommunications device that, alone or with another 368
telecommunications device, has been altered, constructed, 369
manufactured, or programmed to acquire, intercept, receive, or 370
otherwise facilitate the use of a telecommunications service or 371
information service without the authority or consent of the 372
provider of the telecommunications service or information service. 373
"Counterfeit telecommunications device" includes, but is not 374
limited to, a clone telephone, clone microchip, tumbler telephone, 375
or tumbler microchip; a wireless scanning device capable of 376
acquiring, intercepting, receiving, or otherwise facilitating the 377
use of telecommunications service or information service without 378
immediate detection; or a device, equipment, hardware, or software 379
designed for, or capable of, altering or changing the electronic 380
serial number in a wireless telephone. 381

(BB)(1) "Information service" means, subject to division 382
(BB)(2) of this section, the offering of a capability for 383
generating, acquiring, storing, transforming, processing, 384
retrieving, utilizing, or making available information via 385
telecommunications, including, but not limited to, electronic 386
publishing. 387

(2) "Information service" does not include any use of a 388
capability of a type described in division (BB)(1) of this section 389

for the management, control, or operation of a telecommunications system or the management of a telecommunications service. 390
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(CC) "Elderly person" means a person who is sixty-five years of age or older. 392
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(DD) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons. 394
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(EE) "Firearm" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code. 404
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(FF) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code. 406
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(GG) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code. 408
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(HH) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code. 410
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Sec. 2913.04. (A) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent. 412
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(B) No person shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of 415
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the express or implied consent of, the owner of the computer, 420
computer system, computer network, cable service, cable system, 421
telecommunications device, telecommunications service, or 422
information service or other person authorized to give consent by 423
the owner. 424

(C) The affirmative defenses contained in division (C) of 425
section 2913.03 of the Revised Code are affirmative defenses to a 426
charge under this section. 427

(D)(1) Whoever violates division (A) of this section is 428
guilty of unauthorized use of property. 429

(2) Except as otherwise provided in division (D)(3) or (4) of 430
this section, unauthorized use of property is a misdemeanor of the 431
fourth degree. 432

(3) Except as otherwise provided in division (D)(4) of this 433
section, if unauthorized use of property is committed for the 434
purpose of devising or executing a scheme to defraud or to obtain 435
property or services, unauthorized use of property is whichever of 436
the following is applicable: 437

(a) Except as otherwise provided in division (D) (3) (b), 438
(c), or (d) of this section, a misdemeanor of the first degree. 439

(b) If the value of the property or services or the loss to 440
the victim is five hundred dollars or more and is less than five 441
thousand dollars, a felony of the fifth degree. 442

(c) If the value of the property or services or the loss to 443
the victim is five thousand dollars or more and is less than one 444
hundred thousand dollars, a felony of the fourth degree. 445

(d) If the value of the property or services or the loss to 446
the victim is one hundred thousand dollars or more, a felony of 447
the third degree. 448

(4) If the victim of the offense is an elderly person or 449

disabled adult, unauthorized use of property is whichever of the
following is applicable:

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(a) Except as otherwise provided in division (D)(4)(b), (c),
(d), or (e) of this section, a felony of the fifth degree;

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(b) If the value of the property or services or loss to the
victim is five hundred dollars or more and is less than five
thousand dollars, a felony of the fourth degree;

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(c) If the value of the property or services or loss to the
victim is five thousand dollars or more and is less than
twenty-five thousand dollars, a felony of the third degree;

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(d) If the value of the property or services or loss to the
victim is twenty-five thousand dollars or more, a felony of the
second degree.

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(E) Whoever violates division (B) of this section is guilty
of unauthorized use of computer, cable, or telecommunication
property, a felony of the fifth degree.

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(F) As used in this section:

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(1) "Cable operator" means any person or group of persons
that does either of the following:

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(a) Provides cable service over a cable system and directly
or through one or more affiliates owns a significant interest in
that cable system;

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(b) Otherwise controls or is responsible for, through any
arrangement, the management and operation of a cable system.

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(2) "Cable service" means any of the following:

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(a) The one-way transmission to subscribers of video
programming or of information that a cable operator makes
available to all subscribers generally;

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(b) Subscriber interaction, if any, that is required for the

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selection or use of video programming or of information that a 479
cable operator makes available to all subscribers generally, both 480
as described in division (F)(2)(a) of this section; 481

(c) Any cable television service. 482

(3) "Cable system" means any facility, consisting of a set of 483
closed transmission paths and associated signal generation, 484
reception, and control equipment that is designed to provide cable 485
service that includes video programming and that is provided to 486
multiple subscribers within a community. "Cable system" does not 487
include any of the following: 488

(a) Any facility that serves only to retransmit the 489
television signals of one or more television broadcast stations; 490

(b) Any facility that serves subscribers without using any 491
public right-of-way; 492

(c) Any facility of a common carrier that, under 47 U.S.C.A. 493
522(7)(c), is excluded from the term "cable system" as defined in 494
47 U.S.C.A. 522(7); 495

(d) Any open video system that complies with 47 U.S.C.A. 573; 496
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(e) Any facility of any electric utility used solely for 498
operating its electric utility system. 499

Sec. 2919.25. (A) No person shall knowingly cause or attempt 500
to cause physical harm to a family or household member. 501

(B) No person shall recklessly cause serious physical harm to 502
a family or household member. 503

(C) No person, by threat of force, shall knowingly cause a 504
family or household member to believe that the offender will cause 505
imminent physical harm to the family or household member. 506

(D) Whoever violates this section is guilty of domestic 507

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:

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

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

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

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

(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.

(b) The natural parent of any child of whom the offender is 539
the other natural parent or is the putative other natural parent. 540

(2) "Person living as a spouse" means a person who is living 541
or has lived with the offender in a common law marital 542
relationship, who otherwise is cohabiting with the offender, or 543
who otherwise has cohabited with the offender within five years 544
prior to the date of the alleged commission of the act in 545
question. 546

Sec. 2925.23. (A) No person shall knowingly make a false 547
statement in any prescription, order, report, or record required 548
by Chapter 3719. or 4729. of the Revised Code. 549

(B) No person shall intentionally make, utter, or sell, or 550
knowingly possess any of the following that is a false or forged: 551

(1) Prescription; 552

(2) Uncompleted preprinted prescription blank used for 553
writing a prescription; 554

(3) Official written order; 555

(4) License for a terminal distributor of dangerous drugs as 556
required in section 4729.60 of the Revised Code; 557

(5) Registration certificate for a wholesale distributor of 558
dangerous drugs as required in section 4729.60 of the Revised 559
Code. 560

(C) No person, by theft as defined in section 2913.02 of the 561
Revised Code, shall acquire any of the following: 562

(1) A prescription; 563

(2) An uncompleted preprinted prescription blank used for 564
writing a prescription; 565

(3) An official written order; 566

(4) A blank official written order;	567
(5) A license or blank license for a terminal distributor of dangerous drugs as required in section 4729.60 of the Revised Code;	568 569 570
(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.	571 572 573
(D) No person shall knowingly make or affix any false or forged label to a package or receptacle containing any dangerous drugs.	574 575 576
(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.	577 578 579 580 581
(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 <u>division (A)</u> , 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:	582 583 584 585 586 587 588 589
(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.	590 591 592 593 594 595
(2) If the drug involved is a dangerous drug or a compound, mixture, preparation, or substance included in schedule III, IV,	596 597

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.

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

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

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

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

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Sec. 2929.01. As used in this chapter:

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(A)(1) "Alternative residential facility" means, subject to 628
division (A)(2) of this section, any facility other than an 629
offender's home or residence in which an offender is assigned to 630
live and that satisfies all of the following criteria: 631

(a) It provides programs through which the offender may seek 632
or maintain employment or may receive education, training, 633
treatment, or habilitation. 634

(b) It has received the appropriate license or certificate 635
for any specialized education, training, treatment, habilitation, 636
or other service that it provides from the government agency that 637
is responsible for licensing or certifying that type of education, 638
training, treatment, habilitation, or service. 639

(2) "Alternative residential facility" does not include a 640
community-based correctional facility, jail, halfway house, or 641
prison. 642

(B) "Bad time" means the time by which the parole board 643
administratively extends an offender's stated prison term or terms 644
pursuant to section 2967.11 of the Revised Code because the parole 645
board finds by clear and convincing evidence that the offender, 646
while serving the prison term or terms, committed an act that is a 647
criminal offense under the law of this state or the United States, 648
whether or not the offender is prosecuted for the commission of 649
that act. 650

(C) "Basic probation supervision" means a requirement that 651
the offender maintain contact with a person appointed to supervise 652
the offender in accordance with sanctions imposed by the court or 653
imposed by the parole board pursuant to section 2967.28 of the 654
Revised Code. "Basic probation supervision" includes basic parole 655
supervision and basic post-release control supervision. 656

(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and 657
"unit dose" have the same meanings as in section 2925.01 of the 658

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

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facility other than the person's home or residence while 689
undergoing assessment and treatment. 690

(M) "Economic loss" means any economic detriment suffered by 691
a victim as a result of the commission of a felony and includes 692
any loss of income due to lost time at work because of any injury 693
caused to the victim, and any property loss, medical cost, or 694
funeral expense incurred as a result of the commission of the 695
felony. 696

(N) "Education or training" includes study at, or in 697
conjunction with a program offered by, a university, college, or 698
technical college or vocational study and also includes the 699
completion of primary school, secondary school, and literacy 700
curricula or their equivalent. 701

(O) "Electronically monitored house arrest" has the same 702
meaning as in section 2929.23 of the Revised Code. 703

(P) "Eligible offender" has the same meaning as in section 704
2929.23 of the Revised Code except as otherwise specified in 705
section 2929.20 of the Revised Code. 706

(Q) "Firearm" has the same meaning as in section 2923.11 of 707
the Revised Code. 708

(R) "Halfway house" means a facility licensed by the division 709
of parole and community services of the department of 710
rehabilitation and correction pursuant to section 2967.14 of the 711
Revised Code as a suitable facility for the care and treatment of 712
adult offenders. 713

(S) "House arrest" means a period of confinement of an 714
eligible offender that is in the eligible offender's home or in 715
other premises specified by the sentencing court or by the parole 716
board pursuant to section 2967.28 of the Revised Code, that may be 717
electronically monitored house arrest, and during which all of the 718
following apply: 719

(1) The eligible offender is required to remain in the 720
eligible offender's home or other specified premises for the 721
specified period of confinement, except for periods of time during 722
which the eligible offender is at the eligible offender's place of 723
employment or at other premises as authorized by the sentencing 724
court or by the parole board. 725

(2) The eligible offender is required to report periodically 726
to a person designated by the court or parole board. 727

(3) The eligible offender is subject to any other 728
restrictions and requirements that may be imposed by the 729
sentencing court or by the parole board. 730

(T) "Intensive probation supervision" means a requirement 731
that an offender maintain frequent contact with a person appointed 732
by the court, or by the parole board pursuant to section 2967.28 733
of the Revised Code, to supervise the offender while the offender 734
is seeking or maintaining necessary employment and participating 735
in training, education, and treatment programs as required in the 736
court's or parole board's order. "Intensive probation supervision" 737
includes intensive parole supervision and intensive post-release 738
control supervision. 739

(U) "Jail" means a jail, workhouse, minimum security jail, or 740
other residential facility used for the confinement of alleged or 741
convicted offenders that is operated by a political subdivision or 742
a combination of political subdivisions of this state. 743

(V) "Delinquent child" has the same meaning as in section 744
2152.02 of the Revised Code. 745

(W) "License violation report" means a report that is made by 746
a sentencing court, or by the parole board pursuant to section 747
2967.28 of the Revised Code, to the regulatory or licensing board 748
or agency that issued an offender a professional license or a 749
license or permit to do business in this state and that specifies 750

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
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

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that a sentencing court is required to impose for a third or 783
fourth degree felony OMVI offense pursuant to division (G)(2) of 784
section 2929.13 and division (A)(4) or (8) of section 4511.99 of 785
the Revised Code. 786

(3) The term in prison imposed pursuant to section 2971.03 of 787
the Revised Code for the offenses and in the circumstances 788
described in division (F)(11) of section 2929.13 of the Revised 789
Code and that term as modified or terminated pursuant to section 790
2971.05 of the Revised Code. 791

(Z) "Monitored time" means a period of time during which an 792
offender continues to be under the control of the sentencing court 793
or parole board, subject to no conditions other than leading a 794
law-abiding life. 795

(AA) "Offender" means a person who, in this state, is 796
convicted of or pleads guilty to a felony or a misdemeanor. 797

(BB) "Prison" means a residential facility used for the 798
confinement of convicted felony offenders that is under the 799
control of the department of rehabilitation and correction but 800
does not include a violation sanction center operated under 801
authority of section 2967.141 of the Revised Code. 802

(CC) "Prison term" includes any of the following sanctions 803
for an offender: 804

(1) A stated prison term; 805

(2) A term in a prison shortened by, or with the approval of, 806
the sentencing court pursuant to section 2929.20, 2967.26, 807
5120.031, 5120.032, or 5120.073 of the Revised Code; 808

(3) A term in prison extended by bad time imposed pursuant to 809
section 2967.11 of the Revised Code or imposed for a violation of 810
post-release control pursuant to section 2967.28 of the Revised 811
Code. 812

(DD) "Repeat violent offender" means a person about whom both 813
of the following apply: 814

(1) The person has been convicted of or has pleaded guilty 815
to, and is being sentenced for committing, for complicity in 816
committing, or for an attempt to commit, aggravated murder, 817
murder, involuntary manslaughter, a felony of the first degree 818
other than one set forth in Chapter 2925. of the Revised Code, a 819
felony of the first degree set forth in Chapter 2925. of the 820
Revised Code that involved an attempt to cause serious physical 821
harm to a person or that resulted in serious physical harm to a 822
person, or a felony of the second degree that involved an attempt 823
to cause serious physical harm to a person or that resulted in 824
serious physical harm to a person. 825

(2) Either of the following applies: 826

(a) The person previously was convicted of or pleaded guilty 827
to, and previously served or, at the time of the offense was 828
serving, a prison term for, any of the following: 829

(i) Aggravated murder, murder, involuntary manslaughter, 830
rape, felonious sexual penetration as it existed under section 831
2907.12 of the Revised Code prior to September 3, 1996, a felony 832
of the first or second degree that resulted in the death of a 833
person or in physical harm to a person, or complicity in or an 834
attempt to commit any of those offenses; 835

(ii) An offense under an existing or former law of this 836
state, another state, or the United States that is or was 837
substantially equivalent to an offense listed under division 838
(DD)(2)(a)(i) of this section and that resulted in the death of a 839
person or in physical harm to a person. 840

(b) The person previously was adjudicated a delinquent child 841
for committing an act that if committed by an adult would have 842
been an offense listed in division (DD)(2)(a)(i) or (ii) of this 843

section, the person was committed to the department of youth 844
services for that delinquent act. 845

(EE) "Sanction" means any penalty imposed upon an offender 846
who is convicted of or pleads guilty to an offense, as punishment 847
for the offense. "Sanction" includes any sanction imposed pursuant 848
to any provision of sections 2929.14 to 2929.18 of the Revised 849
Code. 850

(FF) "Sentence" means the sanction or combination of 851
sanctions imposed by the sentencing court on an offender who is 852
convicted of or pleads guilty to a felony. 853

(GG) "Stated prison term" means the prison term, mandatory 854
prison term, or combination of all prison terms and mandatory 855
prison terms imposed by the sentencing court pursuant to section 856
2929.14 or 2971.03 of the Revised Code. "Stated prison term" 857
includes any credit received by the offender for time spent in 858
jail awaiting trial, sentencing, or transfer to prison for the 859
offense and any time spent under house arrest or electronically 860
monitored house arrest imposed after earning credits pursuant to 861
section 2967.193 of the Revised Code. 862

(HH) "Victim-offender mediation" means a reconciliation or 863
mediation program that involves an offender and the victim of the 864
offense committed by the offender and that includes a meeting in 865
which the offender and the victim may discuss the offense, discuss 866
restitution, and consider other sanctions for the offense. 867

(II) "Fourth degree felony OMVI offense" means a violation of 868
division (A) of section 4511.19 of the Revised Code that, under 869
section 4511.99 of the Revised Code, is a felony of the fourth 870
degree. 871

(JJ) "Mandatory term of local incarceration" means the term 872
of sixty or one hundred twenty days in a jail, a community-based 873
correctional facility, a halfway house, or an alternative 874

residential facility that a sentencing court may impose upon a 875
person who is convicted of or pleads guilty to a fourth degree 876
felony OMVI offense pursuant to division (G)(1) of section 2929.13 877
of the Revised Code and division (A)(4) or (8) of section 4511.99 878
of the Revised Code. 879

(KK) "Designated homicide, assault, or kidnapping offense," 880
"sexual motivation specification," "sexually violent offense," 881
"sexually violent predator," and "sexually violent predator 882
specification" have the same meanings as in section 2971.01 of the 883
Revised Code. 884

(LL) "Habitual sex offender," "sexually oriented offense," 885
and "sexual predator" have the same meanings as in section 2950.01 886
of the Revised Code. 887

(MM) An offense is "committed in the vicinity of a child" if 888
the offender commits the offense within thirty feet of or within 889
the same residential unit as a child who is under eighteen years 890
of age, regardless of whether the offender knows the age of the 891
child or whether the offender knows the offense is being committed 892
within thirty feet of or within the same residential unit as the 893
child and regardless of whether the child actually views the 894
commission of the offense. 895

(NN) "Family or household member" has the same meaning as in 896
section 2919.25 of the Revised Code. 897

(OO) "Motor vehicle" and "manufactured home" have the same 898
meanings as in section 4501.01 of the Revised Code. 899

(PP) "Detention" and "detention facility" have the same 900
meanings as in section 2921.01 of the Revised Code. 901

(QQ) "Third degree felony OMVI offense" means a violation of 902
division (A) of section 4511.19 of the Revised Code that, under 903
section 4511.99 of the Revised Code, is a felony of the third 904
degree. 905

(RR) "Random drug testing" has the same meaning as in section 906
5120.63 of the Revised Code. 907

(SS) "Felony sex offense" has the same meaning as in section 908
2957.28 of the Revised Code. 909

~~(RR)~~(TT) "Body armor" has the same meaning as in section 910
2941.1411 of the Revised Code. 911

Sec. 2929.12. (A) Unless otherwise required by section 912
2929.13 or 2929.14 of the Revised Code, a court that imposes a 913
sentence under this chapter upon an offender for a felony has 914
discretion to determine the most effective way to comply with the 915
purposes and principles of sentencing set forth in section 2929.11 916
of the Revised Code. In exercising that discretion, the court 917
shall consider the factors set forth in divisions (B) and (C) of 918
this section relating to the seriousness of the conduct and the 919
factors provided in divisions (D) and (E) of this section relating 920
to the likelihood of the offender's recidivism and, in addition, 921
may consider any other factors that are relevant to achieving 922
those purposes and principles of sentencing. 923

(B) The sentencing court shall consider all of the following 924
that apply regarding the offender, the offense, or the victim, and 925
any other relevant factors, as indicating that the offender's 926
conduct is more serious than conduct normally constituting the 927
offense: 928

(1) The physical or mental injury suffered by the victim of 929
the offense due to the conduct of the offender was exacerbated 930
because of the physical or mental condition or age of the victim. 931

(2) The victim of the offense suffered serious physical, 932
psychological, or economic harm as a result of the offense. 933

(3) The offender held a public office or position of trust in 934
the community, and the offense related to that office or position. 935

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(4) The offender's occupation, elected office, or profession obliged the offender to prevent the offense or bring others committing it to justice.	937 938 939
(5) The offender's professional reputation or occupation, elected office, or profession was used to facilitate the offense or is likely to influence the future conduct of others.	940 941 942
(6) The offender's relationship with the victim facilitated the offense.	943 944
(7) The offender committed the offense for hire or as a part of an organized criminal activity.	945 946
(8) In committing the offense, the offender was motivated by prejudice based on race, ethnic background, gender, sexual orientation, or religion.	947 948 949
(9) If the offense is a violation of section 2919.25 or a violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code involving a person who was a family or household member at the time of the violation, the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children.	950 951 952 953 954 955 956 957
(C) The sentencing court shall consider all of the following that apply regarding the offender, the offense, or the victim, and any other relevant factors, as indicating that the offender's conduct is less serious than conduct normally constituting the offense:	958 959 960 961 962
(1) The victim induced or facilitated the offense.	963
(2) In committing the offense, the offender acted under strong provocation.	964 965

(3) In committing the offense, the offender did not cause or expect to cause physical harm to any person or property.

(4) There are substantial grounds to mitigate the offender's conduct, although the grounds are not enough to constitute a defense.

(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:

(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.

(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.

(3) The offender has not been rehabilitated to a satisfactory degree after previously being 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 not ~~responded~~ responded favorably to sanctions previously imposed for criminal convictions.

(4) The offender has demonstrated a pattern of drug or alcohol abuse that is related to the offense, and the offender

refuses to acknowledge that the offender has demonstrated that 997
pattern, or the offender refuses treatment for the drug or alcohol 998
abuse. 999

(5) The offender shows no genuine remorse for the offense. 1000

(E) The sentencing court shall consider all of the following 1001
that apply regarding the offender, and any other relevant factors, 1002
as factors indicating that the offender is not likely to commit 1003
future crimes: 1004

(1) Prior to committing the offense, the offender had not 1005
been adjudicated a delinquent child. 1006

(2) Prior to committing the offense, the offender had not 1007
been convicted of or pleaded guilty to a criminal offense. 1008

(3) Prior to committing the offense, the offender had led a 1009
law-abiding life for a significant number of years. 1010

(4) The offense was committed under circumstances not likely 1011
to recur. 1012

(5) The offender shows genuine remorse for the offense. 1013

Sec. 2929.13. (A) Except as provided in division (E), (F), or 1014
(G) of this section and unless a specific sanction is required to 1015
be imposed or is precluded from being imposed pursuant to law, a 1016
court that imposes a sentence upon an offender for a felony may 1017
impose any sanction or combination of sanctions on the offender 1018
that are provided in sections 2929.14 to 2929.18 of the Revised 1019
Code. The sentence shall not impose an unnecessary burden on state 1020
or local government resources. 1021

If the offender is eligible to be sentenced to community 1022
control sanctions, the court shall consider the appropriateness of 1023
imposing a financial sanction pursuant to section 2929.18 of the 1024
Revised Code or a sanction of community service pursuant to 1025

section 2929.17 of the Revised Code as the sole sanction for the offense. Except as otherwise provided in this division, if the court is required to impose a mandatory prison term for the offense for which sentence is being imposed, the court also may impose a financial sanction pursuant to section 2929.18 of the Revised Code but may not impose any additional sanction or combination of sanctions under section 2929.16 or 2929.17 of the Revised Code.

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

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

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

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

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

(b) In committing the offense, the offender attempted to 1057
cause or made an actual threat of physical harm to a person with a 1058
deadly weapon. 1059

(c) In committing the offense, the offender attempted to 1060
cause or made an actual threat of physical harm to a person, and 1061
the offender previously was convicted of an offense that caused 1062
physical harm to a person. 1063

(d) The offender held a public office or position of trust 1064
and the offense related to that office or position; the offender's 1065
position obliged the offender to prevent the offense or to bring 1066
those committing it to justice; or the offender's professional 1067
reputation or position facilitated the offense or was likely to 1068
influence the future conduct of others. 1069

(e) The offender committed the offense for hire or as part of 1070
an organized criminal activity. 1071

(f) The offense is a sex offense that is a fourth or fifth 1072
degree felony violation of section 2907.03, 2907.04, 2907.05, 1073
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 1074
Revised Code. 1075

(g) The offender at the time of the offense was serving, or 1076
the offender previously had served, a prison term. 1077

(h) The offender committed the offense while under a 1078
community control sanction, while on probation, or while released 1079
from custody on a bond or personal recognizance. 1080

(i) The offender committed the offense while in possession of 1081
a firearm. 1082

(2)(a) If the court makes a finding described in division 1083
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 1084
section and if the court, after considering the factors set forth 1085
in section 2929.12 of the Revised Code, finds that a prison term 1086

is consistent with the purposes and principles of sentencing set 1087
forth in section 2929.11 of the Revised Code and finds that the 1088
offender is not amenable to an available community control 1089
sanction, the court shall impose a prison term upon the offender. 1090

(b) Except as provided in division (E), (F), or (G) of this 1091
section, if the court does not make a finding described in 1092
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 1093
this section and if the court, after considering the factors set 1094
forth in section 2929.12 of the Revised Code, finds that a 1095
community control sanction or combination of community control 1096
sanctions is consistent with the purposes and principles of 1097
sentencing set forth in section 2929.11 of the Revised Code, the 1098
court shall impose a community control sanction or combination of 1099
community control sanctions upon the offender. 1100

(C) Except as provided in division (E), (F), or (G) of this 1101
section, in determining whether to impose a prison term as a 1102
sanction for a felony of the third degree or a felony drug offense 1103
that is a violation of a provision of Chapter 2925. of the Revised 1104
Code and that is specified as being subject to this division for 1105
purposes of sentencing, the sentencing court shall comply with the 1106
purposes and principles of sentencing under section 2929.11 of the 1107
Revised Code and with section 2929.12 of the Revised Code. 1108

(D) Except as provided in division (E) or (F) of this 1109
section, for a felony of the first or second degree and for a 1110
felony drug offense that is a violation of any provision of 1111
Chapter 2925., 3719., or 4729. of the Revised Code for which a 1112
presumption in favor of a prison term is specified as being 1113
applicable, it is presumed that a prison term is necessary in 1114
order to comply with the purposes and principles of sentencing 1115
under section 2929.11 of the Revised Code. Notwithstanding the 1116
presumption established under this division, the sentencing court 1117
may impose a community control sanction or a combination of 1118

community control sanctions instead of a prison term on an 1119
offender for a felony of the first or second degree or for a 1120
felony drug offense that is a violation of any provision of 1121
Chapter 2925., 3719., or 4729. of the Revised Code for which a 1122
presumption in favor of a prison term is specified as being 1123
applicable if it makes both of the following findings: 1124

(1) A community control sanction or a combination of 1125
community control sanctions would adequately punish the offender 1126
and protect the public from future crime, because the applicable 1127
factors under section 2929.12 of the Revised Code indicating a 1128
lesser likelihood of recidivism outweigh the applicable factors 1129
under that section indicating a greater likelihood of recidivism. 1130

(2) A community control sanction or a combination of 1131
community control sanctions would not demean the seriousness of 1132
the offense, because one or more factors under section 2929.12 of 1133
the Revised Code that indicate that the offender's conduct was 1134
less serious than conduct normally constituting the offense are 1135
applicable, and they outweigh the applicable factors under that 1136
section that indicate that the offender's conduct was more serious 1137
than conduct normally constituting the offense. 1138

(E)(1) Except as provided in division (F) of this section, 1139
for any drug offense that is a violation of any provision of 1140
Chapter 2925. of the Revised Code and that is a felony of the 1141
third, fourth, or fifth degree, the applicability of a presumption 1142
under division (D) of this section in favor of a prison term or of 1143
division (B) or (C) of this section in determining whether to 1144
impose a prison term for the offense shall be determined as 1145
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 1146
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 1147
Revised Code, whichever is applicable regarding the violation. 1148

(2) If an offender who was convicted of or pleaded guilty to 1149
a felony violates the conditions of a community control sanction 1150

imposed for the offense solely by reason of producing positive
results on a drug test, the court, as punishment for the violation
of the sanction, shall not order that the offender be imprisoned
unless the court determines on the record either of the following:

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

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

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

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

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

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

thirteen years of age; 1182

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 1183
2903.11, 2903.12, or 2903.13 of the Revised Code if the section 1184
requires the imposition of a prison term; 1185

(5) A first, second, or third degree felony drug offense for 1186
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 1187
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 1188
4729.99 of the Revised Code, whichever is applicable regarding the 1189
violation, requires the imposition of a mandatory prison term; 1190

(6) Any offense that is a first or second degree felony and 1191
that is not set forth in division (F)(1), (2), (3), or (4) of this 1192
section, if the offender previously was convicted of or pleaded 1193
guilty to aggravated murder, murder, any first or second degree 1194
felony, or an offense under an existing or former law of this 1195
state, another state, or the United States that is or was 1196
substantially equivalent to one of those offenses; 1197

(7) Any offense that is a third degree felony and that is 1198
listed in division (DD)(1) of section 2929.01 of the Revised Code 1199
if the offender previously was convicted of or pleaded guilty to 1200
any offense that is listed in division (DD)(2)(a)(i) or (ii) of 1201
section 2929.01 of the Revised Code; 1202

(8) Any offense, other than a violation of section 2923.12 of 1203
the Revised Code, that is a felony, if the offender had a firearm 1204
on or about the offender's person or under the offender's control 1205
while committing the felony, with respect to a portion of the 1206
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 1207
of the Revised Code for having the firearm; 1208

(9) Any offense of violence that is a felony, if the offender 1209
wore or carried body armor while committing the felony offense of 1210
violence, with respect to the portion of the sentence imposed 1211
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 1212

Code for wearing or carrying the body armor; 1213

(10) Corrupt activity in violation of section 2923.32 of the 1214
Revised Code when the most serious offense in the pattern of 1215
corrupt activity that is the basis of the offense is a felony of 1216
the first degree; 1217

(11) Any sexually violent offense for which the offender also 1218
is convicted of or pleads guilty to a sexually violent predator 1219
specification that was included in the indictment, count in the 1220
indictment, or information charging the sexually violent offense; 1221
1222

(12) A violation of division (A)(1) or (2) of section 2921.36 1223
of the Revised Code, or a violation of division (C) of that 1224
section involving an item listed in division (A)(1) or (2) of that 1225
section, if the offender is an officer or employee of the 1226
department of rehabilitation and correction. 1227

(G) Notwithstanding divisions (A) to (E) of this section, if 1228
an offender is being sentenced for a fourth degree felony OMVI 1229
offense or for a third degree felony OMVI offense, the court shall 1230
impose upon the offender a mandatory term of local incarceration 1231
or a mandatory prison term in accordance with the following: 1232

(1) If the offender is being sentenced for a fourth degree 1233
felony OMVI offense, the court may impose upon the offender a 1234
mandatory term of local incarceration of sixty days as specified 1235
in division (A)(4) of section 4511.99 of the Revised Code or a 1236
mandatory term of local incarceration of one hundred twenty days 1237
as specified in division (A)(8) of that section. The court shall 1238
not reduce the term pursuant to section 2929.20, 2967.193, or any 1239
other provision of the Revised Code. The court that imposes a 1240
mandatory term of local incarceration under this division shall 1241
specify whether the term is to be served in a jail, a 1242
community-based correctional facility, a halfway house, or an 1243

alternative residential facility, and the offender shall serve the 1244
term in the type of facility specified by the court. A mandatory 1245
term of local incarceration imposed under division (G)(1) of this 1246
section is not subject to extension under section 2967.11 of the 1247
Revised Code, to a period of post-release control under section 1248
2967.28 of the Revised Code, or to any other Revised Code 1249
provision that pertains to a prison term. 1250

(2) If the offender is being sentenced for a third degree 1251
felony OMVI offense, or if the offender is being sentenced for a 1252
fourth degree felony OMVI offense and the court does not impose a 1253
mandatory term of local incarceration under division (G)(1) of 1254
this section, the court shall impose upon the offender a mandatory 1255
prison term of sixty days as specified in division (A)(4) of 1256
section 4511.99 of the Revised Code or a mandatory prison term of 1257
one hundred twenty days as specified in division (A)(8) of that 1258
section. The court shall not reduce the term pursuant to section 1259
2929.20, 2967.193, or any other provision of the Revised Code. In 1260
no case shall an offender who once has been sentenced to a 1261
mandatory term of local incarceration pursuant to division (G)(1) 1262
of this section for a fourth degree felony OMVI offense be 1263
sentenced to another mandatory term of local incarceration under 1264
that division for any violation of division (A) of section 4511.19 1265
of the Revised Code. The court shall not sentence the offender to 1266
a community control sanction under section 2929.16 or 2929.17 of 1267
the Revised Code. The department of rehabilitation and correction 1268
may place an offender sentenced to a mandatory prison term under 1269
this division in an intensive program prison established pursuant 1270
to section 5120.033 of the Revised Code if the department gave the 1271
sentencing judge prior notice of its intent to place the offender 1272
in an intensive program prison established under that section and 1273
if the judge did not notify the department that the judge 1274
disapproved the placement. Upon the establishment of the initial 1275

intensive program prison pursuant to section 5120.033 of the 1276
Revised Code that is privately operated and managed by a 1277
contractor pursuant to a contract entered into under section 9.06 1278
of the Revised Code, both of the following apply: 1279

(a) The department of rehabilitation and correction shall 1280
make a reasonable effort to ensure that a sufficient number of 1281
offenders sentenced to a mandatory prison term under this division 1282
are placed in the privately operated and managed prison so that 1283
the privately operated and managed prison has full occupancy. 1284

(b) Unless the privately operated and managed prison has full 1285
occupancy, the department of rehabilitation and correction shall 1286
not place any offender sentenced to a mandatory prison term under 1287
this division in any intensive program prison established pursuant 1288
to section 5120.033 of the Revised Code other than the privately 1289
operated and managed prison. 1290

(H) If an offender is being sentenced for a sexually oriented 1291
offense committed on or after January 1, 1997, the judge shall 1292
require the offender to submit to a DNA specimen collection 1293
procedure pursuant to section 2901.07 of the Revised Code if 1294
either of the following applies: 1295

(1) The offense was a sexually violent offense, and the 1296
offender also was convicted of or pleaded guilty to a sexually 1297
violent predator specification that was included in the 1298
indictment, count in the indictment, or information charging the 1299
sexually violent offense. 1300

(2) The judge imposing sentence for the sexually oriented 1301
offense determines pursuant to division (B) of section 2950.09 of 1302
the Revised Code that the offender is a sexual predator. 1303

(I) If an offender is being sentenced for a sexually oriented 1304
offense committed on or after January 1, 1997, the judge shall 1305
include in the sentence a summary of the offender's duty to 1306

register pursuant to section 2950.04 of the Revised Code, the 1307
offender's duty to provide notice of a change in residence address 1308
and register the new residence address pursuant to section 2950.05 1309
of the Revised Code, the offender's duty to periodically verify 1310
the offender's current residence address pursuant to section 1311
2950.06 of the Revised Code, and the duration of the duties. The 1312
judge shall inform the offender, at the time of sentencing, of 1313
those duties and of their duration and, if required under division 1314
(A)(2) of section 2950.03 of the Revised Code, shall perform the 1315
duties specified in that section. 1316

(J)(1) Except as provided in division (J)(2) of this section, 1317
when considering sentencing factors under this section in relation 1318
to an offender who is convicted of or pleads guilty to an attempt 1319
to commit an offense in violation of section 2923.02 of the 1320
Revised Code, the sentencing court shall consider the factors 1321
applicable to the felony category of the violation of section 1322
2923.02 of the Revised Code instead of the factors applicable to 1323
the felony category of the offense attempted. 1324

(2) When considering sentencing factors under this section in 1325
relation to an offender who is convicted of or pleads guilty to an 1326
attempt to commit a drug abuse offense for which the penalty is 1327
determined by the amount or number of unit doses of the controlled 1328
substance involved in the drug abuse offense, the sentencing court 1329
shall consider the factors applicable to the felony category that 1330
the drug abuse offense attempted would be if that drug abuse 1331
offense had been committed and had involved an amount or number of 1332
unit doses of the controlled substance that is within the next 1333
lower range of controlled substance amounts than was involved in 1334
the attempt. 1335

(K) As used in this section, "drug abuse offense" has the 1336
same meaning as in section 2925.01 of the Revised Code. 1337

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 1338
(D)(2), (D)(3), (D)(4), or (G) of this section and except in 1339
relation to an offense for which a sentence of death or life 1340
imprisonment is to be imposed, if the court imposing a sentence 1341
upon an offender for a felony elects or is required to impose a 1342
prison term on the offender pursuant to this chapter and is not 1343
prohibited by division (G)(1) of section 2929.13 of the Revised 1344
Code from imposing a prison term on the offender, the court shall 1345
impose a definite prison term that shall be one of the following: 1346

(1) For a felony of the first degree, the prison term shall 1347
be three, four, five, six, seven, eight, nine, or ten years. 1348

(2) For a felony of the second degree, the prison term shall 1349
be two, three, four, five, six, seven, or eight years. 1350

(3) For a felony of the third degree, the prison term shall 1351
be one, two, three, four, or five years. 1352

(4) For a felony of the fourth degree, the prison term shall 1353
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 1354
fourteen, fifteen, sixteen, seventeen, or eighteen months. 1355

(5) For a felony of the fifth degree, the prison term shall 1356
be six, seven, eight, nine, ten, eleven, or twelve months. 1357

(B) Except as provided in division (C), (D)(1), (D)(2), 1358
(D)(3), or (G) of this section, in section 2907.02 of the Revised 1359
Code, or in Chapter 2925. of the Revised Code, if the court 1360
imposing a sentence upon an offender for a felony elects or is 1361
required to impose a prison term on the offender ~~and if the~~ 1362
~~offender previously has not served a prison term~~, the court shall 1363
impose the shortest prison term authorized for the offense 1364
pursuant to division (A) of this section, unless the one or more 1365
of the following applies: 1366

(1) The offender was serving a prison term at the time of the 1367

offense, or the offender previously had served a prison term. 1368

(2) The court finds on the record that the shortest prison 1369
term will demean the seriousness of the offender's conduct or will 1370
not adequately protect the public from future crime by the 1371
offender or others. 1372

(C) Except as provided in division (G) of this section or in 1373
Chapter 2925. of the Revised Code, the court imposing a sentence 1374
upon an offender for a felony may impose the longest prison term 1375
authorized for the offense pursuant to division (A) of this 1376
section only upon offenders who committed the worst forms of the 1377
offense, upon offenders who pose the greatest likelihood of 1378
committing future crimes, upon certain major drug offenders under 1379
division (D)(3) of this section, and upon certain repeat violent 1380
offenders in accordance with division (D)(2) of this section. 1381

(D)(1)(a) Except as provided in division (D)(1)(e) of this 1382
section, if an offender who is convicted of or pleads guilty to a 1383
felony also is convicted of or pleads guilty to a specification of 1384
the type described in section 2941.141, 2941.144, or 2941.145 of 1385
the Revised Code, the court shall impose on the offender one of 1386
the following prison terms: 1387

(i) A prison term of six years if the specification is of the 1388
type described in section 2941.144 of the Revised Code that 1389
charges the offender with having a firearm that is an automatic 1390
firearm or that was equipped with a firearm muffler or silencer on 1391
or about the offender's person or under the offender's control 1392
while committing the felony; 1393

(ii) A prison term of three years if the specification is of 1394
the type described in section 2941.145 of the Revised Code that 1395
charges the offender with having a firearm on or about the 1396
offender's person or under the offender's control while committing 1397
the offense and displaying the firearm, brandishing the firearm, 1398

indicating that the offender possessed the firearm, or using it to
facilitate the offense;

(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.

(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.

(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
section, shall impose an additional prison term of five years upon
the offender that shall not be reduced pursuant to section
2929.20, section 2967.193, or any other provision of Chapter 2967.
or Chapter 5120. of the Revised Code. A court shall not impose
more than one additional prison term on an offender under division
(D)(1)(c) of this section for felonies committed as part of the

same act or transaction. If a court imposes an additional prison
term on an offender under division (D)(1)(c) of this section
relative to an offense, the court also shall impose a prison term
under division (D)(1)(a) of this section relative to the same
offense, provided the criteria specified in that division for
imposing an additional prison term are satisfied relative to the
offender and the offense.

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

(e) The court shall not impose any of the prison terms
described in division (D)(1)(a) of this section or any of the
additional prison terms described in division (D)(1)(c) of this
section upon an offender for a violation of section 2923.12 or
2923.123 of the Revised Code. The court shall not impose any of
the prison terms described in division (D)(1)(a) of this section
or any of the additional prison terms described in division
(D)(1)(c) of this section upon an offender for a violation of
section 2923.13 of the Revised Code unless all of the following

apply: 1463

(i) The offender previously has been convicted of aggravated 1464
murder, murder, or any felony of the first or second degree. 1465

(ii) Less than five years have passed since the offender was 1466
released from prison or post-release control, whichever is later, 1467
for the prior offense. 1468

(2)(a) If an offender who is convicted of or pleads guilty to 1469
a felony also is convicted of or pleads guilty to a specification 1470
of the type described in section 2941.149 of the Revised Code that 1471
the offender is a repeat violent offender, the court shall impose 1472
a prison term from the range of terms authorized for the offense 1473
under division (A) of this section that may be the longest term in 1474
the range and that shall not be reduced pursuant to section 1475
2929.20, section 2967.193, or any other provision of Chapter 2967. 1476
or Chapter 5120. of the Revised Code. If the court finds that the 1477
repeat violent offender, in committing the offense, caused any 1478
physical harm that carried a substantial risk of death to a person 1479
or that involved substantial permanent incapacity or substantial 1480
permanent disfigurement of a person, the court shall impose the 1481
longest prison term from the range of terms authorized for the 1482
offense under division (A) of this section. 1483

(b) If the court imposing a prison term on a repeat violent 1484
offender imposes the longest prison term from the range of terms 1485
authorized for the offense under division (A) of this section, the 1486
court may impose on the offender an additional definite prison 1487
term of one, two, three, four, five, six, seven, eight, nine, or 1488
ten years if the court finds that both of the following apply with 1489
respect to the prison terms imposed on the offender pursuant to 1490
division (D)(2)(a) of this section and, if applicable, divisions 1491
(D)(1) and (3) of this section: 1492

(i) The terms so imposed are inadequate to punish the 1493

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
charging that the offender is a major drug offender, or if the
court imposing sentence upon an offender for a felony finds that
the offender is guilty of corrupt activity with the most serious
offense in the pattern of corrupt activity being a felony of the

first degree or is guilty of an attempted forcible violation of 1526
section 2907.02 of the Revised Code with the victim being under 1527
thirteen years of age and that attempted violation is the felony 1528
for which sentence is being imposed, the court shall impose upon 1529
the offender for the felony violation a ten-year prison term that 1530
cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 1531
5120. of the Revised Code. 1532

(b) The court imposing a prison term on an offender under 1533
division (D)(3)(a) of this section may impose an additional prison 1534
term of one, two, three, four, five, six, seven, eight, nine, or 1535
ten years, if the court, with respect to the term imposed under 1536
division (D)(3)(a) of this section and, if applicable, divisions 1537
(D)(1) and (2) of this section, makes both of the findings set 1538
forth in divisions (D)(2)(b)(i) and (ii) of this section. 1539

(4) If the offender is being sentenced for a third or fourth 1540
degree felony OMVI offense under division (G)(2) of section 1541
2929.13 of the Revised Code, the sentencing court shall impose 1542
upon the offender a mandatory prison term in accordance with that 1543
division. In addition to the mandatory prison term, the sentencing 1544
court may sentence the offender to an additional prison term of 1545
any duration specified in division (A)(3) of this section minus 1546
the sixty or one hundred twenty days imposed upon the offender as 1547
the mandatory prison term. The total of the additional prison term 1548
imposed under division (D)(4) of this section plus the sixty or 1549
one hundred twenty days imposed as the mandatory prison term shall 1550
equal one of the authorized prison terms specified in division 1551
(A)(3) of this section. If the court imposes an additional prison 1552
term under division (D)(4) of this section, the offender shall 1553
serve the additional prison term after the offender has served the 1554
mandatory prison term required for the offense. The court shall 1555
not sentence the offender to a community control sanction under 1556
section 2929.16 or 2929.17 of the Revised Code. 1557

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1559 (E)(1)(a) Subject to division (E)(1)(b) of this section, if a
1560 mandatory prison term is imposed upon an offender pursuant to
1561 division (D)(1)(a) of this section for having a firearm on or
1562 about the offender's person or under the offender's control while
1563 committing a felony, if a mandatory prison term is imposed upon an
1564 offender pursuant to division (D)(1)(c) of this section for
1565 committing a felony specified in that division by discharging a
1566 firearm from a motor vehicle, or if both types of mandatory prison
1567 terms are imposed, the offender shall serve any mandatory prison
1568 term imposed under either division consecutively to any other
1569 mandatory prison term imposed under either division or under
1570 division (D)(1)(d) of this section, consecutively to and prior to
1571 any prison term imposed for the underlying felony pursuant to
1572 division (A), (D)(2), or (D)(3) of this section or any other
1573 section of the Revised Code, and consecutively to any other prison
1574 term or mandatory prison term previously or subsequently imposed
1575 upon the offender.

1576 (b) If a mandatory prison term is imposed upon an offender
1577 pursuant to division (D)(1)(d) of this section for wearing or
1578 carrying body armor while committing an offense of violence that
1579 is a felony, the offender shall serve the mandatory term so
1580 imposed consecutively to any other mandatory prison term imposed
1581 under that division or under division (D)(1)(a) or (c) of this
1582 section, consecutively to and prior to any prison term imposed for
1583 the underlying felony under division (A), (D)(2), or (D)(3) of
1584 this section or any other section of the Revised Code, and
1585 consecutively to any other prison term or mandatory prison term
1586 previously or subsequently imposed upon the offender.

1587 (2) If an offender who is an inmate in a jail, prison, or
1588 other residential detention facility violates section 2917.02,
1589 2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender

who is under detention at a detention facility commits a felony 1590
violation of section 2923.131 of the Revised Code, or if an 1591
offender who is an inmate in a jail, prison, or other residential 1592
detention facility or is under detention at a detention facility 1593
commits another felony while the offender is an escapee in 1594
violation of section 2921.34 of the Revised Code, any prison term 1595
imposed upon the offender for one of those violations shall be 1596
served by the offender consecutively to the prison term or term of 1597
imprisonment the offender was serving when the offender committed 1598
that offense and to any other prison term previously or 1599
subsequently imposed upon the offender. 1600

(3) If a prison term is imposed for a violation of division 1601
(B) of section 2911.01 of the Revised Code or if a prison term is 1602
imposed for a felony violation of division (B) of section 2921.331 1603
of the Revised Code, the offender shall serve that prison term 1604
consecutively to any other prison term or mandatory prison term 1605
previously or subsequently imposed upon the offender. 1606

(4) If multiple prison terms are imposed on an offender for 1607
convictions of multiple offenses, the court may require the 1608
offender to serve the prison terms consecutively if the court 1609
finds that the consecutive service is necessary to protect the 1610
public from future crime or to punish the offender and that 1611
consecutive sentences are not disproportionate to the seriousness 1612
of the offender's conduct and to the danger the offender poses to 1613
the public, and if the court also finds any of the following: 1614

(a) The offender committed one or more of the multiple 1615
offenses while the offender was awaiting trial or sentencing, was 1616
under a sanction imposed pursuant to section 2929.16, 2929.17, or 1617
2929.18 of the Revised Code, or was under post-release control for 1618
a prior offense. 1619

(b) ~~The~~ At least two of the multiple offenses were committed 1620
as part of one or more courses of conduct, and the harm caused by 1621

two or more of the multiple offenses so committed was so great or 1622
unusual that no single prison term for any of the offenses 1623
committed as part of ~~a single course~~ any of the courses of conduct 1624
adequately reflects the seriousness of the offender's conduct. 1625

(c) The offender's history of criminal conduct demonstrates 1626
that consecutive sentences are necessary to protect the public 1627
from future crime by the offender. 1628

(5) When consecutive prison terms are imposed pursuant to 1629
division (E)(1), (2), (3), or (4) of this section, the term to be 1630
served is the aggregate of all of the terms so imposed. 1631

(F) If a court imposes a prison term of a type described in 1632
division (B) of section 2967.28 of the Revised Code, it shall 1633
include in the sentence a requirement that the offender be subject 1634
to a period of post-release control after the offender's release 1635
from imprisonment, in accordance with that division. If a court 1636
imposes a prison term of a type described in division (C) of that 1637
section, it shall include in the sentence a requirement that the 1638
offender be subject to a period of post-release control after the 1639
offender's release from imprisonment, in accordance with that 1640
division, if the parole board determines that a period of 1641
post-release control is necessary. 1642

(G) If a person is convicted of or pleads guilty to a 1643
sexually violent offense and also is convicted of or pleads guilty 1644
to a sexually violent predator specification that was included in 1645
the indictment, count in the indictment, or information charging 1646
that offense, the court shall impose sentence upon the offender in 1647
accordance with section 2971.03 of the Revised Code, and Chapter 1648
2971. of the Revised Code applies regarding the prison term or 1649
term of life imprisonment without parole imposed upon the offender 1650
and the service of that term of imprisonment. 1651

(H) If a person who has been convicted of or pleaded guilty 1652
to a felony is sentenced to a prison term or term of imprisonment 1653

under this section, sections 2929.02 to 2929.06 of the Revised
Code, section 2971.03 of the Revised Code, or any other provision
of law, section 5120.163 of the Revised Code applies regarding the
person while the person is confined in a state correctional
institution.

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

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

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

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program prison, ~~regardless of eligibility of that nature~~, or make 1686
no recommendation on placement of the offender. In no case shall 1687
the department of rehabilitation and correction place the offender 1688
in a program or prison of that nature unless the department 1689
determines as specified in section 5120.031 or 5120.032 of the 1690
Revised Code, whichever is applicable, that the offender is 1691
eligible for the placement. 1692

If the court disapproves placement of the offender in a 1693
program or prison of that nature, the department of rehabilitation 1694
and correction shall not place the offender in any program of 1695
shock incarceration or intensive program prison. 1696

If the court ~~approves~~ recommends placement of the offender in 1697
a program of shock incarceration or in an intensive program 1698
prison, ~~the department shall notify the court and~~ if the offender 1699
is subsequently placed in the recommended program or prison, the 1700
department shall notify the court of the placement and shall 1701
include with the notice a brief description of the placement. 1702

If the court ~~approves~~ recommends placement of the offender in 1703
a program of shock incarceration or in an intensive program prison 1704
and the department does not subsequently place the offender in the 1705
recommended program or prison, the department shall send a notice 1706
to the court indicating why the offender was not placed in the 1707
recommended program or prison. 1708

If the court does not make a recommendation under this 1709
division with respect to an ~~eligible~~ offender and if the 1710
department determines as specified in section 5120.031 or 5120.032 1711
of the Revised Code, whichever is applicable, that the offender is 1712
eligible for placement in a program or prison of that nature, the 1713
department shall screen the offender and determine if there is an 1714
available program of shock incarceration or an intensive program 1715
prison for which the offender is suited. If there is an available 1716
program of shock incarceration or an intensive program prison for 1717

which the offender is suited, the department shall notify the 1718
court of the proposed placement of the offender as specified in 1719
section 5120.031 or 5120.032 of the Revised Code and shall include 1720
with the notice a brief description of the placement. The court 1721
shall have ten days from receipt of the notice to disapprove the 1722
placement. 1723

Sec. 2929.141. (A) As used in this section, "person on 1724
release" means a "releasee" or "parolee," both as defined in 1725
section 2967.01 of the Revised Code. 1726

(B) A person on release who by committing a felony violates 1727
any condition of parole, any post-release control sanction, or any 1728
conditions described in division (A) of section 2967.131 of the 1729
Revised Code that are imposed upon the person may be prosecuted 1730
for the new felony. Upon the person's conviction of or plea of 1731
guilty to the new felony, the court shall impose sentence for the 1732
new felony, the court may terminate the term of post-release 1733
control if the person is a releasee and the court may do either or 1734
both of the following for a person who is either a releasee or 1735
parolee regardless of whether the sentencing court or another 1736
court of this state imposed the original prison term for which the 1737
person is on parole or is serving a term of post-release control: 1738

(1) In addition to any prison term for the new felony, impose 1740
a prison term for the violation. If the person is a releasee, the 1741
maximum prison term for the violation shall be the greater of 1742
twelve months or the period of post-release control for the 1743
earlier felony minus any time the releasee has spent under 1744
post-release control for the earlier felony. In all cases, any 1745
prison term imposed for the violation shall be reduced by any 1746
prison term that is administratively imposed by the parole board 1747
or adult parole authority as a post-release control sanction. In 1748
all cases, a prison term imposed for the violation shall be served 1749

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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(2) Impose a sanction under sections 2929.15 to 2929.18 of
the Revised Code for the violation that shall be served
concurrently or consecutively, as specified by the court, with any
community control sanctions for the new felony.

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

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(2) Except as otherwise provided in this division, before imposing sentence on an offender who is being sentenced for a sexually oriented offense that was committed on or after January 1, 1997, and that is not a sexually violent offense, and before imposing sentence on an offender who is being sentenced for a sexually violent offense committed on or after January 1, 1997, and who was not charged with a sexually violent predator specification in the indictment, count in the indictment, or

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information charging the sexually violent offense, the court shall
conduct a hearing in accordance with division (B) of section
2950.09 of the Revised Code to determine whether the offender is a
sexual predator. The court shall not conduct a hearing under that
division if the offender is being sentenced for a sexually violent
offense and a sexually violent predator specification was included
in the indictment, count in the indictment, or information
charging the sexually violent offense. Before imposing sentence on
an offender who is being sentenced for a sexually oriented
offense, the court also shall comply with division (E) of section
2950.09 of the Revised Code.

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

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

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

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2929.13 of the Revised Code that it found to apply relative to the 1813
offender. 1814

(b) If it does not impose a prison term for a felony of the 1815
first or second degree or for a felony drug offense that is a 1816
violation of a provision of Chapter 2925. of the Revised Code and 1817
for which a presumption in favor of a prison term is specified as 1818
being applicable, its reasons for not imposing the prison term and 1819
for overriding the presumption, based upon the overriding purposes 1820
and principles of felony sentencing set forth in section 2929.11 1821
of the Revised Code, and the basis of the findings it made under 1822
divisions (D)(1) and (2) of section 2929.13 of the Revised Code. 1823

(c) If it imposes consecutive sentences under section 2929.14 1824
of the Revised Code, its reasons for imposing the consecutive 1825
sentences; 1826

(d) If the sentence is for one offense and it imposes a 1827
prison term for the offense that is the maximum prison term 1828
allowed for that offense by division (A) of section 2929.14 of the 1829
Revised Code, its reasons for imposing the maximum prison term; 1830

(e) If the sentence is for two or more offenses arising out 1831
of a single incident and it imposes a prison term for those 1832
offenses that is the maximum prison term allowed for the offense 1833
of the highest degree by division (A) of section 2929.14 of the 1834
Revised Code, its reasons for imposing the maximum prison term. 1835

(3) Subject to division (B)(4) of this section, if the 1836
sentencing court determines at the sentencing hearing that a 1837
prison term is necessary or required, the court shall do all of 1838
the following: 1839

(a) Impose a stated prison term; 1840

(b) Notify the offender that, as part of the sentence, the 1841
parole board may extend the stated prison term for certain 1842
violations of prison rules for up to one-half of the stated prison 1843

term; 1844

(c) Notify the offender that the offender will be supervised 1845
under section 2967.28 of the Revised Code after the offender 1846
leaves prison if the offender is being sentenced for a felony of 1847
the first degree or second degree, for a felony sex offense, or 1848
for a felony of the third degree in the commission of which the 1849
offender caused or threatened to cause physical harm to a person; 1850

(d) Notify the offender that the offender may be supervised 1851
under section 2967.28 of the Revised Code after the offender 1852
leaves prison if the offender is being sentenced for a felony of 1853
the third, fourth, or fifth degree that is not subject to division 1854
(B)(3)(c) of this section; 1855

(e) Notify the offender that, if a period of supervision is 1856
imposed following the offender's release from prison, as described 1857
in division (B)(3)(c) or (d) of this section, and if the offender 1858
violates that supervision or a condition of post-release control 1859
imposed under division (B) of section 2967.131 of the Revised 1860
Code, the parole board may impose a prison term, as part of the 1861
sentence, of up to one-half of the stated prison term originally 1862
imposed upon the offender; 1863

(f) Require that the offender not ingest or be injected with 1864
a drug of abuse and submit to random drug testing as provided in 1865
section 341.26, 753.33, or 5120.63 of the Revised Code, whichever 1866
is applicable to the offender who is serving a prison term, and 1867
require that the results of the drug test administered under any 1868
of those sections indicate that the offender did not ingest or was 1869
not injected with a drug of abuse. 1870

(4) If the offender is being sentenced for a sexually violent 1871
offense that the offender committed on or after January 1, 1997, 1872
and the offender also is convicted of or pleads guilty to a 1873
sexually violent predator specification that was included in the 1874

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

(5) If the sentencing court determines at the sentencing
hearing that a community control sanction should be imposed and
the court is not prohibited from imposing a community control
sanction, the court shall impose a community control sanction. The
court shall notify the offender that, if the conditions of the
sanction are violated, 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.

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

(C)(1) If the offender is being sentenced for a fourth degree
felony OMVI offense 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
degree felony OMVI offense under division (G)(2) of section
2929.13 of the Revised Code, the court shall impose the mandatory
prison term in accordance with that division, shall impose a
mandatory fine in accordance with division (B)(3) of section
2929.18 of the Revised Code, and, in addition, may impose an
additional prison term as specified in section 2929.14 of the
Revised Code. The court shall not impose any community control
sanction on the offender.

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

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Sec. 2929.20. (A) As used in this section, "eligible
offender" means any person serving a stated prison term of ten

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years or less when either of the following applies: 1938

(1) The stated prison term does not include a mandatory 1939
prison term. 1940

(2) The stated prison term includes a mandatory prison term, 1941
and the person has served the mandatory prison term. 1942

(B) Upon the filing of a motion by the eligible offender or 1943
upon its own motion, a sentencing court may reduce the offender's 1944
stated prison term through a judicial release in accordance with 1945
this section. The court shall not reduce the stated prison term of 1946
an offender who is not an eligible offender. An eligible offender 1947
may file a motion for judicial release with the sentencing court 1948
within the following applicable period of time: 1949

(1)(a) Except as otherwise provided in division (B)(1)(b) or 1950
(c) of this section, if the stated prison term was imposed for a 1951
felony of the fourth or fifth degree, the eligible offender may 1952
file the motion not earlier than thirty days or later than ninety 1953
days after the offender is delivered to a state correctional 1954
institution. 1955

(b) If the stated prison term is five years and is an 1956
aggregate of stated prison terms that are being served 1957
consecutively and that were imposed for any combination of 1958
felonies of the fourth degree and felonies of the fifth degree, 1959
the eligible offender may file the motion after the eligible 1960
offender has served four years of the stated prison term. 1961

(c) If the stated prison term is more than five years and 1962
~~less~~ not more than ten years and is an aggregate of stated prison 1963
terms that are being served consecutively and that were imposed 1964
for any combination of felonies of the fourth degree and felonies 1965
of the fifth degree, the eligible offender may file the motion 1966
after the eligible offender has served five years of the stated 1967
prison term. 1968

(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.

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(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.

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

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

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

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A hearing under this section shall be conducted in open court 2001
within sixty days after the date on which the motion is filed, 2002
provided that the court may delay the hearing for a period not to 2003
exceed one hundred eighty additional days. If the court holds a 2004
hearing on the motion, the court shall enter a ruling on the 2005
motion within ten days after the hearing. If the court denies the 2006
motion without a hearing, the court shall enter its ruling on the 2007
motion within sixty days after the motion is filed. 2008

(D) If a court schedules a hearing under division (C) of this 2009
section, the court shall notify the eligible offender of the 2010
hearing. The eligible offender promptly shall give a copy of the 2011
notice of the hearing to the head of the state correctional 2012
institution in which the eligible offender is confined. If the 2013
court schedules a hearing for judicial release, the court promptly 2014
shall give notice of the hearing to the prosecuting attorney of 2015
the county in which the eligible offender was indicted. Upon 2016
receipt of the notice from the court, the prosecuting attorney 2017
shall notify the victim of the offense for which the stated prison 2018
term was imposed or the victim's representative, pursuant to 2019
section 2930.16 of the Revised Code, of the hearing. 2020

(E) Prior to the date of the hearing on a motion for judicial 2021
release under this section, the head of the state correctional 2022
institution in which the eligible offender in question is confined 2023
shall send to the court a report on the eligible offender's 2024
conduct in the institution and in any institution from which the 2025
eligible offender may have been transferred. The report shall 2026
cover the eligible offender's participation in school, vocational 2027
training, work, treatment, and other rehabilitative activities and 2028
any disciplinary action taken against the eligible offender. The 2029
report shall be made part of the record of the hearing. 2030

(F) If the court grants a hearing on a motion for judicial 2031
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release under this section, the eligible offender shall attend the hearing if ordered to do so by the court. Upon receipt of a copy of the journal entry containing the order, the head of the state correctional institution in which the eligible offender is incarcerated shall deliver the eligible offender to the sheriff of the county in which the hearing is to be held. The sheriff shall convey the eligible offender to the hearing and return the offender to the institution after the hearing.

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

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

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Revised Code, finds both of the following:

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

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

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

(I) If the court grants a motion for judicial release under this section, the court shall order the release of the eligible offender, shall place the eligible offender under an appropriate community control sanction, under 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

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sanction by the amount of time the eligible offender spent in jail 2097
for the offense and in prison. If the court made any findings 2098
pursuant to division (H)(1) of this section, the court shall serve 2099
a copy of the findings upon counsel for the parties within fifteen 2100
days after the date on which the court grants the motion for 2101
judicial release. 2102

Prior to being released pursuant to a judicial release 2103
granted under this section, the eligible offender shall serve any 2104
extension of sentence that was imposed under section 2967.11 of 2105
the Revised Code. 2106

Sec. 2951.041. (A)(1) If an offender is charged with a 2107
criminal offense and the court has reason to believe that drug or 2108
alcohol usage by the offender was a factor leading to the 2109
offender's criminal behavior, the court may accept, prior to the 2110
entry of a guilty plea, the offender's request for intervention in 2111
lieu of conviction. The request shall include a waiver of the 2112
defendant's right to a speedy trial, the preliminary hearing, the 2113
time period within which the grand jury may consider an indictment 2114
against the offender, and arraignment, unless the hearing, 2115
indictment, or arraignment has already occurred. The court may 2116
reject an offender's request without a hearing. If the court 2117
elects to consider an offender's request, the court shall conduct 2118
a hearing to determine whether the offender is eligible under this 2119
section for intervention in lieu of conviction and shall stay all 2120
criminal proceedings pending the outcome of the hearing. If the 2121
court schedules a hearing, the court shall order an assessment of 2122
the offender for the purpose of determining the offender's 2123
eligibility for intervention in lieu of conviction and 2124
recommending an appropriate intervention plan. 2125

(2) The victim notification provisions of division (C) of 2126
section 2930.08 of the Revised Code apply in relation to any 2127

hearing held under division (A)(1) of this section. 2128

(B)(1) An offender is eligible for intervention in lieu of 2129
conviction if the court finds all of the following: 2130

(1)(a) The offender previously has not been convicted of or 2131
pleaded guilty to a felony, previously has not been through 2132
intervention in lieu of conviction under this section or any 2133
similar regimen, and is charged with a felony for which the court, 2134
upon conviction, would impose sentence under division (B)(2)(b) of 2135
section 2929.13 of the Revised Code or with a misdemeanor. 2136

(2)(b) The offense is not a felony of the first, second, or 2137
third degree, is not an offense of violence, is not a violation of 2138
division (A)(1) or (2) of section 2903.06 of the Revised Code, is 2139
not a violation of division (A)(1) of section 2903.08 of the 2140
Revised Code, is not a violation of division (A) of section 2141
4511.19 of the Revised Code or a municipal ordinance that is 2142
substantially similar to that division, and is not an offense for 2143
which a sentencing court is required to impose a mandatory prison 2144
term, a mandatory term of local incarceration, or a mandatory term 2145
of imprisonment in a jail. 2146

(3)(c) The offender is not charged with a violation of 2147
section 2925.02, 2925.03, 2925.04, or 2925.06, ~~or of the Revised~~ 2148
Code and is not charged with a violation of section 2925.11 of the 2149
Revised Code that is a felony of the first, second, or third 2150
degree. 2151

(4)(d) The offender is not charged with a violation of 2152
section 2925.11 of the Revised Code that is a felony of the fourth 2153
degree, or the offender is charged with a violation of that 2154
section that is a felony of the fourth degree, and the prosecutor 2155
in the case has recommended that the offender be classified as 2156
being eligible for intervention in lieu of conviction under this 2157
section. 2158

(5)~~(e)~~ The offender has been assessed by an appropriately 2159
licensed provider, certified facility, or licensed and 2160
credentialed professional, including, but not limited to, a 2161
program licensed by the department of alcohol and drug addiction 2162
services pursuant to section 3793.11 of the Revised Code, a 2163
program certified by that department pursuant to section 3793.06 2164
of the Revised Code, a public or private hospital, the United 2165
States department of veterans affairs, another appropriate agency 2166
of the government of the United States, or a licensed physician, 2167
psychiatrist, psychologist, independent social worker, 2168
professional counselor, or chemical dependency counselor for the 2169
purpose of determining the offender's eligibility for intervention 2170
in lieu of conviction and recommending an appropriate intervention 2171
plan. 2172

(6)~~(f)~~ The offender's drug or alcohol usage was a factor 2173
leading to the criminal offense with which the offender is 2174
charged, intervention in lieu of conviction would not demean the 2175
seriousness of the offense, and intervention would substantially 2176
reduce the likelihood of any future criminal activity. 2177

(7) The alleged victim of the offense was not sixty-five 2178
years of age or older, permanently and totally disabled, under 2179
thirteen years of age, or a peace officer engaged in the officer's 2180
official duties at the time of the alleged offense. 2181

(8) If the offender is charged with a violation of section 2182
2925.24 of the Revised Code, the alleged violation did not result 2183
in physical harm to any person, and the offender previously has 2184
not been treated for drug abuse. 2185

(9) The offender is willing to comply with all terms and 2186
conditions imposed by the court pursuant to division (D) of this 2187
section. 2188

(C)~~(2)~~ At the conclusion of a hearing held pursuant to 2189

division (A) of this section, the court shall enter its 2190
determination as to whether the offender is eligible for 2191
intervention in lieu of conviction and as to whether to grant the 2192
offender's request. If the court finds under division (B)~~(1)~~ of 2193
this section that the offender is eligible for ~~treatment~~ 2194
intervention in lieu of conviction and grants the offender's 2195
request, the court shall accept the offender's plea of guilty and 2196
waiver of the defendant's right to a speedy trial, the preliminary 2197
hearing, the time period within which the grand jury may consider 2198
an indictment against the offender, and arraignment, unless the 2199
hearing, indictment, or arraignment has already occurred. In 2200
addition, the court then may stay all criminal proceedings and 2201
order the offender to comply with all terms and conditions imposed 2202
by the court pursuant to division (D) of this section. If the 2203
court finds that the offender is not eligible or does not grant 2204
the offender's request, the criminal proceedings against the 2205
offender shall proceed as if the offender's request for 2206
intervention in lieu of conviction had not been made. 2207

(D) If the court grants an offender's request for 2208
intervention in lieu of conviction, the court shall place the 2209
offender under the general control and supervision of the county 2210
probation department, the adult parole authority, or another 2211
appropriate local probation or court services agency, if one 2212
exists, as if the offender was subject to a community control 2213
sanction imposed under section 2929.15 or 2929.18 of the Revised 2214
Code or was on probation under sections 2929.51 and 2951.02 of the 2215
Revised Code and other provisions of the misdemeanor sentencing 2216
law. The court shall establish an intervention plan for the 2217
offender. The terms and conditions of the intervention plan shall 2218
require the offender, for at least one year from the date on which 2219
the court grants the order of intervention in lieu of conviction, 2220
to abstain from the use of illegal drugs and alcohol and to submit 2221
to regular random testing for drug and alcohol use and may include 2222

any other treatment terms and conditions, or terms and conditions 2223
similar to community control sanctions, that are ordered by the 2224
court. 2225

(E) If the court grants an offender's request for 2226
intervention in lieu of conviction and the court finds that the 2227
offender has successfully completed the intervention plan for the 2228
offender, including the requirement that the offender abstain from 2229
using drugs and alcohol for a period of at least one year from the 2230
date on which the court granted the order of intervention in lieu 2231
of conviction and all other terms and conditions ordered by the 2232
court, the court shall dismiss the proceedings against the 2233
offender. Successful completion of the intervention plan and 2234
period of abstinence under this section shall be without 2235
adjudication of guilt and is not a criminal conviction for 2236
purposes of any disqualification or disability imposed by law and 2237
upon conviction of a crime, and the court may order the sealing of 2238
records related to the offense in question in the manner provided 2239
in sections 2953.31 to 2953.36 of the Revised Code. 2240

(F) If the court grants an offender's request for 2241
intervention in lieu of conviction and the offender fails to 2242
comply with any term or condition imposed as part of the 2243
intervention plan for the offender, the supervising authority for 2244
the offender promptly shall advise the court of this failure, and 2245
the court shall hold a hearing to determine whether the offender 2246
failed to comply with any term or condition imposed as part of the 2247
plan. If the court determines that the offender has failed to 2248
comply with any of those terms and conditions, it shall enter a 2249
finding of guilty and shall impose an appropriate sanction under 2250
Chapter 2929. of the Revised Code. 2251

(G) As used in this section: 2252

(1) "Community control sanction" has the same meaning as in 2253
section 2929.01 of the Revised Code. 2254

(2) "Intervention in lieu of conviction" means any 2255
court-supervised activity that complies with this section. 2256

(3) "Peace officer" has the same meaning as in section 2257
2935.01 of the Revised Code. 2258

Sec. 2967.16. (A) Except as provided in division (D) of this 2259
section, when a paroled prisoner has faithfully performed the 2260
conditions and obligations of the paroled prisoner's parole and 2261
has obeyed the rules and regulations adopted by the adult parole 2262
authority that apply to the paroled prisoner, the authority upon 2263
the recommendation of the superintendent of parole supervision may 2264
enter upon its minutes a final release and thereupon shall issue 2265
to the paroled prisoner a certificate of final release, but the 2266
authority shall not grant a final release earlier than one year 2267
after the paroled prisoner is released from the institution on 2268
parole, and, in the case of a paroled prisoner whose minimum 2269
sentence is life imprisonment, the authority shall not grant a 2270
final release earlier than five years after the paroled prisoner 2271
is released from the institution on parole. 2272

(B)(1) When a prisoner who has been released under a period 2273
of post-release control pursuant to section 2967.28 of the Revised 2274
Code has faithfully performed the conditions and obligations of 2275
the released prisoner's post-release control sanctions and has 2276
obeyed the rules and regulations adopted by the adult parole 2277
authority that apply to the released prisoner or has the period of 2278
post-release control terminated by a court pursuant to section 2279
2929.141 of the Revised Code, the authority, upon the 2280
recommendation of the superintendent of parole supervision, may 2281
enter upon its minutes a final release and, upon the entry of the 2282
final release, shall issue to the released prisoner a certificate 2283
of final release. In the case of a prisoner who has been released 2284
under a period of post-release control pursuant to division (B) of 2285

section 2967.28 of the Revised Code, the authority shall not grant 2286
a final release earlier than one year after the released prisoner 2287
is released from the institution under a period of post-release 2288
control. The authority shall classify the termination of 2289
post-release control as favorable or unfavorable depending on the 2290
offender's conduct and compliance with the conditions of 2291
supervision. In the case of a released prisoner whose sentence is 2292
life imprisonment, the authority shall not grant a final release 2293
earlier than five years after the released prisoner is released 2294
from the institution under a period of post-release control. 2295

(2) The department of rehabilitation and correction, no later 2296
than six months after the effective date of this section shall 2297
adopt a rule in accordance with Chapter 119. of the Revised Code 2298
that establishes the criteria for the classification of a 2299
post-release control termination as "favorable" or "unfavorable." 2300

(C) The following prisoners or person shall be restored to 2301
the rights and privileges forfeited by a conviction: 2302

(1) A prisoner who has served the entire prison term that 2303
comprises or is part of the prisoner's sentence and has not been 2304
placed under any post-release control sanctions; 2305

(2) A prisoner who has been granted a final release by the 2306
adult parole authority pursuant to division (A) or (B) of this 2307
section; 2308

(3) A person who has completed the period of a community 2309
control sanction or combination of community control sanctions, as 2310
defined in section 2929.01 of the Revised Code, that was imposed 2311
by the sentencing court. 2312

(D) Division (A) of this section does not apply to a prisoner 2313
in the shock incarceration program established pursuant to section 2314
5120.031 of the Revised Code. 2315

(E) The adult parole authority shall record the final release 2316

of a parolee or prisoner in the official minutes of the authority. 2317
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Sec. 2967.28. (A) As used in this section: 2319

(1) "Monitored time" means the monitored time sanction 2320
specified in section 2929.17 of the Revised Code. 2321

(2) "Deadly weapon" and "dangerous ordnance" have the same 2322
meanings as in section 2923.11 of the Revised Code. 2323

(3) "Felony sex offense" means a violation of a section 2324
contained in Chapter 2907. of the Revised Code that is a felony. 2325

(B) Each sentence to a prison term for a felony of the first 2326
degree, for a felony of the second degree, for a felony sex 2327
offense, or for a felony of the third degree that is not a felony 2328
sex offense and in the commission of which the offender caused or 2329
threatened to cause physical harm to a person shall include a 2330
requirement that the offender be subject to a period of 2331
post-release control imposed by the parole board after the 2332
offender's release from imprisonment. Unless reduced by the parole 2333
board pursuant to division (D) of this section when authorized 2334
under that division, a period of post-release control required by 2335
this division for an offender shall be of one of the following 2336
periods: 2337

(1) For a felony of the first degree or for a felony sex 2338
offense, five years; 2339

(2) For a felony of the second degree that is not a felony 2340
sex offense, three years; 2341

(3) For a felony of the third degree that is not a felony sex 2342
offense and in the commission of which the offender caused or 2343
threatened physical harm to a person, three years. 2344

(C) Any sentence to a prison term for a felony of the third, 2345
fourth, or fifth degree that is not subject to division (B)(1) or 2346

(3) of this section shall include a requirement that the offender
be subject to a period of post-release control of up to three
years after the offender's release from imprisonment, if the
parole board, in accordance with division (D) of this section,
determines that a period of post-release control is necessary for
that offender.

(D)(1) Before the prisoner is released from imprisonment, the
parole board shall impose upon a prisoner described in division
(B) of this section, may impose upon a prisoner described in
division (C) of this section, and shall impose upon a prisoner
described in division (B)(2)(b) of section 5120.031 or in division
(B)(1) of section 5120.032 of the Revised Code, one or more
post-release control sanctions to apply during the prisoner's
period of post-release control. Whenever the board imposes one or
more post-release control sanctions upon a prisoner, the board, in
addition to imposing the sanctions, also shall include as a
condition of the post-release control that the individual or felon
not leave the state without permission of the court or the
individual's or felon's parole or probation officer and that the
individual or felon abide by the law. The board may impose any
other conditions of release under a post-release control sanction
that the board considers appropriate, and the conditions of
release may include any community residential sanction, community
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. Prior to the release of
a prisoner for whom it will impose one or more post-release
control sanctions under this division, the parole board shall
review the prisoner's criminal history, all juvenile court
adjudications finding the prisoner, while a juvenile, to be a
delinquent child, and the record of the prisoner's conduct while
imprisoned. The parole board shall consider any recommendation

regarding post-release control sanctions for the prisoner made by 2379
the office of victims' services. After considering those 2380
materials, the board shall determine, for a prisoner described in 2381
division (B) of this section, division (B)(2)(b) of section 2382
5120.031, or division (B)(1) of section 5120.032 of the Revised 2383
Code, which post-release control sanction or combination of 2384
post-release control sanctions is reasonable under the 2385
circumstances or, for a prisoner described in division (C) of this 2386
section, whether a post-release control sanction is necessary and, 2387
if so, which post-release control sanction or combination of 2388
post-release control sanctions is reasonable under the 2389
circumstances. In the case of a prisoner convicted of a felony of 2390
the fourth or fifth degree other than a felony sex offense, the 2391
board shall presume that monitored time is the appropriate 2392
post-release control sanction unless the board determines that a 2393
more restrictive sanction is warranted. A post-release control 2394
sanction imposed under this division takes effect upon the 2395
prisoner's release from imprisonment. 2396

(2) At any time after a prisoner is released from 2397
imprisonment and during the period of post-release control 2398
applicable to the releasee, the adult parole authority may review 2399
the releasee's behavior under the post-release control sanctions 2400
imposed upon the releasee under this section. The authority may 2401
determine, based upon the review and in accordance with the 2402
standards established under division (E) of this section, that a 2403
more restrictive or a less restrictive sanction is appropriate and 2404
may impose a different sanction. Unless the period of post-release 2405
control was imposed for an offense described in division (B)(1) of 2406
this section, the authority also may recommend that the parole 2407
board reduce the duration of the period of post-release control 2408
imposed by the court. If the authority recommends that the board 2409
reduce the duration of control for an offense described in 2410

division (B)(2), (B)(3), or (C) of this section, the board shall
review the releasee's behavior and may reduce the duration of the
period of control imposed by the court. In no case shall the board
reduce the duration of the period of control imposed by the court
for an offense described in division (B)(1) of this section, and
in no case shall the board permit the releasee to leave the state
without permission of the court or the releasee's parole or
probation officer.

(E) The department of rehabilitation and correction, in
accordance with Chapter 119. of the Revised Code, shall adopt
rules that do all of the following:

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

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

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

(4) Establish standards to be used by the adult parole authority in modifying a releasee's post-release control sanctions pursuant to division (D)(2) of this section;	2443 2444 2445
(5) Establish standards to be used by the adult parole authority or parole board in imposing further sanctions under division (F) of this section on releasees who violate post-release control sanctions, including standards that do the following:	2446 2447 2448 2449
(a) Classify violations according to the degree of seriousness;	2450 2451
(b) Define the circumstances under which formal action by the parole board is warranted;	2452 2453
(c) Govern the use of evidence at violation hearings;	2454
(d) Ensure procedural due process to an alleged violator;	2455
(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;	2456 2457
(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.	2458 2459
(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	2460 2461 2462 2463 2464 2465 2466 2467 2468 2469 2470 2471 2472

the officer of the authority who supervises the offender. The 2473
authority's officers may treat the offender as if the offender 2474
were on parole and in violation of the parole, and otherwise shall 2475
comply with this section. 2476

(2) If the adult parole authority determines that a releasee 2477
has violated a post-release control sanction or any conditions 2478
described in division (A) of section 2967.131 of the Revised Code 2479
imposed upon the releasee and that a more restrictive sanction is 2480
appropriate, the authority may impose a more restrictive sanction 2481
upon the releasee, in accordance with the standards established 2482
under division (E) of this section, or may report the violation to 2483
the parole board for a hearing pursuant to division (F)(3) of this 2484
section. The authority may not, pursuant to this division, 2485
increase the duration of the releasee's post-release control or 2486
impose as a post-release control sanction a residential sanction 2487
that includes a prison term, but the authority may impose on the 2488
releasee any other residential sanction, nonresidential sanction, 2489
or financial sanction that the sentencing court was authorized to 2490
impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the 2491
Revised Code. 2492

(3) The parole board may hold a hearing on any alleged 2493
violation by a releasee of a post-release control sanction or any 2494
conditions described in division (A) of section 2967.131 of the 2495
Revised Code that are imposed upon the releasee. If after the 2496
hearing the board finds that the releasee violated the sanction or 2497
condition, the board may increase the duration of the releasee's 2498
post-release control up to the maximum duration authorized by 2499
division (B) or (C) of this section or impose a more restrictive 2500
post-release control sanction. When appropriate, the board may 2501
impose as a post-release control sanction a residential sanction 2502
that includes a prison term. The board shall consider a prison 2503
term as a post-release control sanction imposed for a violation of 2504

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
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.

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.

~~(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~~

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~~period of post-release control for the earlier felony under 2537
division (B) or (C) of this section minus any time the releasee 2538
has spent under post-release control for the earlier felony or 2539
twelve months, whichever is greater. A prison term imposed for the 2540
violation shall be served consecutively to any prison term imposed 2541
for the new felony. If the person is a releasee, a prison term 2542
imposed for the violation, and a prison term imposed for the new 2543
felony, shall not count as, or be credited toward, the remaining 2544
period of post-release control imposed for the earlier felony. 2545
2546~~

(5) Any period of post-release control shall commence upon an 2547
offender's actual release from prison. If an offender is serving 2548
an indefinite prison term or a life sentence in addition to a 2549
stated prison term, the offender shall serve the period of 2550
post-release control in the following manner: 2551

(a) If a period of post-release control is imposed upon the 2552
offender and if the offender also is subject to a period of parole 2553
under a life sentence or an indefinite sentence, and if the period 2554
of post-release control ends prior to the period of parole, the 2555
offender shall be supervised on parole. The offender shall receive 2556
credit for post-release control supervision during the period of 2557
parole. The offender is not eligible for final release under 2558
section 2967.16 of the Revised Code until the post-release control 2559
period otherwise would have ended. 2560

(b) If a period of post-release control is imposed upon the 2561
offender and if the offender also is subject to a period of parole 2562
under an indefinite sentence, and if the period of parole ends 2563
prior to the period of post-release control, the offender shall be 2564
supervised on post-release control. The requirements of parole 2565
supervision shall be satisfied during the post-release control 2566
period. 2567

(c) If an offender is subject to more than one period of 2568

post-release control, the period of post-release control for all 2569
of the sentences shall be the period of post-release control that 2570
expires last, as determined by the parole board. Periods of 2571
post-release control shall be served concurrently and shall not be 2572
imposed consecutively to each other. 2573

(d) The period of post-release control for a releasee who 2574
commits a felony while under post-release control for an earlier 2575
felony shall be the longer of the period of post-release control 2576
specified for the new felony under division (B) or (C) of this 2577
section or the time remaining under the period of post-release 2578
control imposed for the earlier felony as determined by the parole 2579
board. 2580

Sec. 3719.21. Except as provided in division (C) of section 2581
2923.42, division (B)(5) of section 2923.44, divisions (D)(1), 2582
(F), and (H) of section 2925.03, division (D)(1) of section 2583
2925.02, 2925.04, or 2925.05, division (E)(1) of section 2925.11, 2584
division (F) of section 2925.13 ~~or~~, division (F) of section 2585
2925.36, division (D) of section 2925.22, division (H) of section 2586
2925.23, division (M) of section 2925.37, division (B)(5) of 2587
section 2925.42, division (B) of section 2929.18, division (D) of 2588
section 3719.99, division (B)(1) of section 4729.65, and division 2589
(E)(3) of section 4729.99 of the Revised Code, the clerk of the 2590
court shall pay all fines or forfeited bail assessed and collected 2591
under prosecutions or prosecutions commenced for violations of 2592
this chapter, section 2923.42 of the Revised Code, or Chapter 2593
2925. of the Revised Code, within thirty days, to the executive 2594
director of the state board of pharmacy, and the executive 2595
director shall deposit the fines into the state treasury to the 2596
credit of the occupational licensing and regulatory fund. 2597

Sec. 4723.09. (A)(1) An application for licensure by 2598
examination to practice as a registered nurse or as a licensed 2599

practical nurse shall be submitted to the board of nursing in the 2600
form prescribed by rules of the board. The application shall 2601
include evidence that the applicant has completed requirements of 2602
a nursing education program approved by the board or approved by 2603
another jurisdiction's board that regulates nurse licensure. The 2604
application also shall include any other information required by 2605
rules of the board. The application shall be accompanied by the 2606
application fee required by section 4723.08 of the Revised Code. 2607

(2) The board shall grant a license to practice nursing as a 2608
registered nurse or as a licensed practical nurse if ~~the~~ all of 2609
the following apply: 2610

(a) For all applicants, the applicant passes the examination 2611
accepted by the board under section 4723.10 of the Revised Code 2612
and ~~the~~. 2613

(b) For an applicant who entered a prelicensure nursing 2614
education program on or after June 1, 2003, the criminal records 2615
check of the applicant that is completed by the bureau of criminal 2616
identification and investigation and includes a check of federal 2617
bureau of investigation records and that the bureau submits to the 2618
board indicates that the applicant has not been convicted of, has 2619
not pleaded guilty to, and has not had a judicial finding of guilt 2620
for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2621
2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the 2622
Revised Code or a substantially similar law of another state, the 2623
United States, or another country. 2624

(c) For all applicants, the board determines that the 2625
applicant has not committed any act that is grounds for 2626
disciplinary action under section 3123.47 or 4723.28 of the 2627
Revised Code, or determines that an applicant who has committed 2628
~~such acts~~ any act that is grounds for disciplinary action under 2629
either section has made restitution or has been rehabilitated, or 2630

both. ~~The~~ 2631

(3) The board is not required to afford an adjudication to an 2632
individual to whom it has refused to grant a license because of 2633
that individual's failure to pass the examination. 2634

(B) An application for license by endorsement to practice 2635
nursing as a registered nurse or as a licensed practical nurse 2636
shall be submitted to the board in the form prescribed by rules of 2637
the board and shall be accompanied by the application fee required 2638
by section 4723.08 of the Revised Code. The application shall 2639
include evidence that the applicant holds a license in good 2640
standing in another jurisdiction granted after passing an 2641
examination approved by the board of that jurisdiction that is 2642
equivalent to the examination requirements under this chapter for 2643
a license to practice nursing as a registered nurse or licensed 2644
practical nurse, and shall include other information required by 2645
rules of the board of nursing. The board shall grant a license by 2646
endorsement if the applicant is licensed or certified by another 2647
jurisdiction and the board determines, pursuant to rules 2648
established under section 4723.07 of the Revised Code, that all of 2649
the following apply: 2650

(1) ~~The~~ For all applicants, the educational preparation of 2651
the applicant is substantially similar to the minimum curricula 2652
and standards for nursing education programs established by the 2653
board under section 4723.07 of the Revised Code. 2654

(2) ~~The~~ For all applicants, the examination, at the time it 2655
is successfully completed, is equivalent to the examination 2656
requirements in effect at that time for applicants who were 2657
licensed by examination in this state. 2658

(3) For all applicants, the criminal records check of the 2659
applicant that is completed by the bureau of criminal 2660
identification and investigation and includes a check of federal 2661
bureau of investigation records and that the bureau submits to the 2662

board indicates that the applicant has not been convicted of, has 2663
not pleaded guilty to, and has not had a judicial finding of guilt 2664
for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2665
2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the 2666
Revised Code or a substantially similar law of another state, the 2667
United States, or another country. 2668

The (4) For all applicants, the applicant has not committed 2669
any act that is grounds for disciplinary action under section 2670
3123.47, 4723.28, or 4723.281 of the Revised Code, or the board 2671
determines that an applicant who has committed ~~such acts~~ any act 2672
that is grounds for disciplinary action under any of those 2673
sections has made restitution or has been rehabilitated, or both. 2674

The board may grant a nonrenewable temporary permit to 2675
practice nursing as a registered nurse or as a licensed practical 2676
nurse to an applicant for license by endorsement if the board is 2677
satisfied by the evidence that the applicant holds a current, 2678
active license in good standing in another jurisdiction. ~~The~~ 2679
Subject to earlier automatic termination as described in this 2680
paragraph, the temporary permit shall expire at the earlier of one 2681
hundred ~~twenty~~ ~~eighty~~ days after issuance or upon the issuance of 2682
a license by endorsement. The temporary permit shall terminate 2683
automatically if the criminal records check completed by the 2684
bureau of criminal identification and investigation as described 2685
in this section regarding the applicant indicates that the 2686
applicant previously has been convicted of, pleaded guilty to, or 2687
had a judicial finding of guilt for a violation of section 2688
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2689
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 2690
substantially similar law of another state, the United States, or 2691
another country. An applicant whose temporary permit is 2692
automatically terminated is permanently prohibited from obtaining 2693
a license to practice nursing in this state as a registered nurse 2694

or as a licensed practical nurse. 2695

(C) An applicant under this section shall submit a request to 2696
the bureau of criminal identification and investigation for a 2697
criminal records check of the applicant. The request shall be on 2698
the form prescribed pursuant to division (C)(1) of section 109.572 2699
of the Revised Code, accompanied by a standard impression sheet to 2700
obtain fingerprints prescribed pursuant to division (C)(2) of that 2701
section, and accompanied by the fee prescribed pursuant to 2702
division (C)(3) of that section. Upon receipt of the completed 2703
form, the completed impression sheet, and the fee, the bureau 2704
shall conduct a criminal records check of the applicant. Upon 2705
completion of the criminal records check, the bureau shall send 2706
the results of the check to the board. An applicant requesting a 2707
criminal records check under this division shall ask the 2708
superintendent of the bureau of criminal identification and 2709
investigation to also request the federal bureau of investigation 2710
to provide the superintendent with any information it has with 2711
respect to the applicant. 2712

The results of any criminal records check conducted pursuant 2713
to a request made under this section, and any report containing 2714
those results, are not public records for purposes of section 2715
149.43 of the Revised Code and shall not be made available to any 2716
person or for any purpose other than the following: 2717

(1) The results may be made available to any person for use 2718
in determining under this section and division (N) of section 2719
4723.28 of the Revised Code whether the individual who is the 2720
subject of the check should be granted a license to practice 2721
nursing as a registered nurse or as a licensed practical nurse or 2722
whether any temporary permit granted to the individual under this 2723
section has terminated automatically. 2724

(2) The results may be made available to the individual who 2725
is the subject of the check or that individual's representative. 2726

Sec. 4723.28. (A) The board of nursing, by a vote of a 2727
quorum, may revoke or may refuse to grant a nursing license, 2728
certificate of authority, or dialysis technician certificate to a 2729
person found by the board to have committed fraud in passing an 2730
examination required to obtain the license, certificate of 2731
authority, or dialysis technician certificate or to have committed 2732
fraud, misrepresentation, or deception in applying for or securing 2733
any nursing license, certificate of authority, or dialysis 2734
technician certificate issued by the board. 2735

(B) ~~The Subject to division (N) of this section,~~ the board of 2736
nursing, ~~and~~ by a vote of a quorum, may impose one or more of the 2737
following sanctions: deny, revoke, suspend, or place restrictions 2738
on any nursing license, certificate of authority, or dialysis 2739
technician certificate issued by the board; reprimand or otherwise 2740
discipline a holder of a nursing license, certificate of 2741
authority, or dialysis technician certificate; or impose a fine of 2742
not more than five hundred dollars per violation. The sanctions 2743
may be imposed for any of the following: 2744

(1) Denial, revocation, suspension, or restriction of 2745
authority to practice a health care occupation, including nursing 2746
or practice as a dialysis technician, for any reason other than a 2747
failure to renew, in Ohio or another state or jurisdiction; 2748

(2) Engaging in the practice of nursing or engaging in 2749
practice as a dialysis technician, having failed to renew a 2750
nursing license or dialysis technician certificate issued under 2751
this chapter, or while a nursing license or dialysis technician 2752
certificate is under suspension; 2753

(3) Conviction of, a plea of guilty to, a judicial finding of 2754
guilt of, a judicial finding of guilt resulting from a plea of no 2755
contest to, or a judicial finding of eligibility for intervention 2756
in lieu of conviction for, a misdemeanor committed in the course 2757

of practice;	2758
(4) Conviction of, a plea of guilty to, a judicial finding of	2759
guilt of, a judicial finding of guilt resulting from a plea of no	2760
contest to, or a judicial finding of eligibility for intervention	2761
in lieu of conviction for, any felony or of any crime involving	2762
gross immorality or moral turpitude;	2763
(5) Selling, giving away, or administering drugs or	2764
therapeutic devices for other than legal and legitimate	2765
therapeutic purposes; or conviction of, a plea of guilty to, a	2766
judicial finding of guilt of, a judicial finding of guilt	2767
resulting from a plea of no contest to, or a judicial finding of	2768
eligibility for intervention in lieu of conviction for, violating	2769
any municipal, state, county, or federal drug law;	2770
(6) Conviction of, a plea of guilty to, a judicial finding of	2771
guilt of, a judicial finding of guilt resulting from a plea of no	2772
contest to, or a judicial finding of eligibility for intervention	2773
in lieu of conviction for, an act in another jurisdiction that	2774
would constitute a felony or a crime of moral turpitude in Ohio;	2775
	2776
(7) Conviction of, a plea of guilty to, a judicial finding of	2777
guilt of, a judicial finding of guilt resulting from a plea of no	2778
contest to, or a judicial finding of eligibility for intervention	2779
in lieu of conviction for, an act in the course of practice in	2780
another jurisdiction that would constitute a misdemeanor in Ohio;	2781
	2782
(8) Self-administering or otherwise taking into the body any	2783
dangerous drug, as defined in section 4729.01 of the Revised Code,	2784
in any way not in accordance with a legal, valid prescription	2785
<u>prescription</u> issued for that individual;	2786
(9) Habitual indulgence in the use of controlled substances,	2787
other habit-forming drugs, or alcohol or other chemical substances	2788

to an extent that impairs ability to practice;	2789
(10) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of habitual or excessive use of drugs, alcohol, or other chemical substances that impair the ability to practice;	2790 2791 2792 2793
(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of a physical or mental disability;	2794 2795 2796
(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;	2797 2798
(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;	2799 2800 2801
(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.	2802 2803 2804 2805 2806 2807
(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;	2808 2809 2810
(16) Violation of this chapter or any rules adopted under it;	2811 2812
(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	2813 2814
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	2815 2816 2817
(19) Failure to practice in accordance with acceptable and	2818

prevailing standards of safe nursing care or safe dialysis care;	2819
(20) In the case of a registered nurse, engaging in	2820
activities that exceed the practice of nursing as a registered	2821
nurse;	2822
(21) In the case of a licensed practical nurse, engaging in	2823
activities that exceed the practice of nursing as a licensed	2824
practical nurse;	2825
(22) In the case of a dialysis technician, engaging in	2826
activities that exceed those permitted under section 4723.72 of	2827
the Revised Code;	2828
(23) Aiding and abetting a person in that person's practice	2829
of nursing without a license or practice as a dialysis technician	2830
without a certificate issued under this chapter;	2831
(24) In the case of a certified registered nurse anesthetist,	2832
clinical nurse specialist, certified nurse-midwife, certified	2833
nurse practitioner, or advanced practice nurse, except as provided	2834
in division (M) of this section, either of the following:	2835
	2836
(a) Waiving the payment of all or any part of a deductible or	2837
copayment that a patient, pursuant to a health insurance or health	2838
care policy, contract, or plan that covers such nursing services,	2839
would otherwise be required to pay if the waiver is used as an	2840
enticement to a patient or group of patients to receive health	2841
care services from that provider;	2842
(b) Advertising that the nurse will waive the payment of all	2843
or any part of a deductible or copayment that a patient, pursuant	2844
to a health insurance or health care policy, contract, or plan	2845
that covers such nursing services, would otherwise be required to	2846
pay.	2847
(25) Failure to comply with the terms and conditions of	2848

participation in the chemical dependency monitoring program	2849
established under section 4723.35 of the Revised Code;	2850
(26) Failure to comply with the terms and conditions required	2851
under the practice intervention and improvement program	2852
established under section 4723.282 of the Revised Code;	2853
(27) In the case of a certified registered nurse anesthetist,	2854
clinical nurse specialist, certified nurse-midwife, or certified	2855
nurse practitioner:	2856
(a) Engaging in activities that exceed those permitted for	2857
the nurse's nursing specialty under section 4723.43 of the Revised	2858
Code;	2859
(b) Failure to meet the quality assurance standards	2860
established under section 4723.07 of the Revised Code.	2861
(28) In the case of a clinical nurse specialist, certified	2862
nurse-midwife, or certified nurse practitioner, failure to	2863
maintain a standard care arrangement in accordance with section	2864
4723.431 of the Revised Code or to practice in accordance with the	2865
standard care arrangement;	2866
(29) In the case of a clinical nurse specialist, certified	2867
nurse-midwife, or certified nurse practitioner who holds a	2868
certificate to prescribe issued under section 4723.48 of the	2869
Revised Code, failure to prescribe drugs and therapeutic devices	2870
in accordance with section 4723.481 of the Revised Code;	2871
(30) Prescribing any drug or device to perform or induce an	2872
abortion, or otherwise performing or inducing an abortion;	2873
(31) Failure to establish and maintain professional	2874
boundaries with a patient, as specified in rules adopted under	2875
section 4723.07 of the Revised Code;	2876
(32) Regardless of whether the contact or verbal behavior is	2877
consensual, engaging with a patient other than the spouse of the	2878

registered nurse, licensed practical nurse, or dialysis technician 2879
in any of the following: 2880

(a) Sexual contact, as defined in section 2907.01 of the 2881
Revised Code; 2882

(b) Verbal behavior that is sexually demeaning to the patient 2883
or may be reasonably interpreted by the patient as sexually 2884
demeaning. 2885

(c) Disciplinary actions taken by the board under divisions 2886
(A) and (B) of this section shall be taken pursuant to an 2887
adjudication conducted under Chapter 119. of the Revised Code, 2888
except that in lieu of a hearing, the board may enter into a 2889
consent agreement with an individual to resolve an allegation of a 2890
violation of this chapter or any rule adopted under it. A consent 2891
agreement, when ratified by a vote of a quorum, shall constitute 2892
the findings and order of the board with respect to the matter 2893
addressed in the agreement. If the board refuses to ratify a 2894
consent agreement, the admissions and findings contained in the 2895
agreement shall be of no effect. 2896

(d) The hearings of the board shall be conducted in 2897
accordance with Chapter 119. of the Revised Code, the board may 2898
appoint a hearing examiner, as provided in section 119.09 of the 2899
Revised Code, to conduct any hearing the board is authorized to 2900
hold under Chapter 119. of the Revised Code. 2901

In any instance in which the board is required under Chapter 2902
119. of the Revised Code to give notice of an opportunity for a 2903
hearing and the applicant or license holder does not make a timely 2904
request for a hearing in accordance with section 119.07 of the 2905
Revised Code, the board is not required to hold a hearing, but may 2906
adopt, by a vote of a quorum, a final order that contains the 2907
board's findings. In the final order, the board may order any of 2908
the sanctions listed in division (A) or (B) of this section. 2909

(E) If a criminal action is brought against a registered nurse, licensed practical nurse, or dialysis technician for an act or crime described in divisions (B)(3) to (7) of this section and the action is dismissed by the trial court other than on the merits, the board shall conduct an adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the action was based. If the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed the act, or if the registered nurse, licensed practical nurse, or dialysis technician fails to participate in the adjudication, the board may take action as though the registered nurse, licensed practical nurse, or dialysis technician had been convicted of the act.

If the board takes action on the basis of a conviction, plea, or a judicial finding as described in divisions (B)(3) to (7) of this section that is overturned on appeal, the registered nurse, licensed practical nurse, or dialysis technician may, on exhaustion of the appeal process, petition the board for reconsideration of its action. On receipt of the petition and supporting court documents, the board shall temporarily rescind its action. If the board determines that the decision on appeal was a decision on the merits, it shall permanently rescind its action. If the board determines that the decision on appeal was not a decision on the merits, it shall conduct an adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the original conviction, plea, or judicial finding was based. If the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed such act, or if the registered nurse, licensed practical nurse, or dialysis technician does not request an adjudication, the board

shall reinstate its action; otherwise, the board shall permanently
rescind its action. 2942
2943

Notwithstanding the provision of division (C)(2) of section 2944
2953.32 of the Revised Code specifying that if records pertaining 2945
to a criminal case are sealed under that section the proceedings 2946
in the case shall be deemed not to have occurred, sealing of the 2947
records of a conviction on which the board has based an action 2948
under this section shall have no effect on the board's action or 2949
any sanction imposed by the board under this section. 2950

The board shall not be required to seal, destroy, redact, or 2951
otherwise modify its records to reflect the court's sealing of 2952
conviction records. 2953

(F) The board may investigate an individual's criminal 2954
background in performing its duties under this section. 2955

(G) During the course of an investigation conducted under 2956
this section, the board may compel any registered nurse, licensed 2957
practical nurse, or dialysis technician or applicant under this 2958
chapter to submit to a mental or physical examination, or both, as 2959
required by the board and at the expense of the individual, if the 2960
board finds reason to believe that the individual under 2961
investigation may have a physical or mental impairment that may 2962
affect the individual's ability to provide safe nursing care. 2963
Failure of any individual to submit to a mental or physical 2964
examination when directed constitutes an admission of the 2965
allegations, unless the failure is due to circumstances beyond the 2966
individual's control, and a default and final order may be entered 2967
without the taking of testimony or presentation of evidence. 2968

If the board finds that an individual is impaired, the board 2969
shall require the individual to submit to care, counseling, or 2970
treatment approved or designated by the board, as a condition for 2971
initial, continued, reinstated, or renewed authority to practice. 2972

The individual shall be afforded an opportunity to demonstrate to
the board that the individual can begin or resume the individual's
occupation in compliance with acceptable and prevailing standards
of care under the provisions of the individual's authority to
practice.

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

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

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

(1) Information received by the board pursuant to an
investigation is confidential and not subject to discovery in any
civil action, except that the board may disclose information to
law enforcement officers and government entities investigating a
registered nurse, licensed practical nurse, or dialysis technician
or a person who may have engaged in the unauthorized practice of
nursing. No law enforcement officer or government entity with
knowledge of any information disclosed by the board pursuant to
this division shall divulge the information to any other person or

government entity except for the purpose of an adjudication by a 3005
court or licensing or registration board or officer to which the 3006
person to whom the information relates is a party. 3007

(2) If an investigation requires a review of patient records, 3008
the investigation and proceeding shall be conducted in such a 3009
manner as to protect patient confidentiality. 3010

(3) All adjudications and investigations of the board shall 3011
be considered civil actions for the purposes of section 2305.251 3012
of the Revised Code. 3013

(4) Any board activity that involves continued monitoring of 3014
an individual as part of or following any disciplinary action 3015
taken under this section shall be conducted in a manner that 3016
maintains the individual's confidentiality. Information received 3017
or maintained by the board with respect to the board's monitoring 3018
activities is confidential and not subject to discovery in any 3019
civil action. 3020

(J) Any action taken by the board under this section 3021
resulting in a suspension from practice shall be accompanied by a 3022
written statement of the conditions under which the person may be 3023
reinstated to practice. 3024

(K) When the board refuses to grant a license or certificate 3025
to an applicant, revokes a license or certificate, or refuses to 3026
reinstate a license or certificate, the board may specify that its 3027
action is permanent. An individual subject to permanent action 3028
taken by the board is forever ineligible to hold a license or 3029
certificate of the type that was refused or revoked and the board 3030
shall not accept from the individual an application for 3031
reinstatement of the license or certificate or for a new license 3032
or certificate. 3033

(L) No unilateral surrender of a nursing license, certificate 3034
of authority, or dialysis technician certificate issued under this 3035

chapter shall be effective unless accepted by majority vote of the 3036
board. No application for a nursing license, certificate of 3037
authority, or dialysis technician certificate issued under this 3038
chapter may be withdrawn without a majority vote of the board. The 3039
board's jurisdiction to take disciplinary action under this 3040
section is not removed or limited when an individual has a license 3041
or certificate classified as inactive or fails to renew a license 3042
or certificate. 3043

(M) Sanctions shall not be imposed under division (B)(24) of 3044
this section against any licensee who waives deductibles and 3045
copayments as follows: 3046

(1) In compliance with the health benefit plan that expressly 3047
allows such a practice. Waiver of the deductibles or copayments 3048
shall be made only with the full knowledge and consent of the plan 3049
purchaser, payer, and third-party administrator. Documentation of 3050
the consent shall be made available to the board upon request. 3051

(2) For professional services rendered to any other person 3053
licensed pursuant to this chapter to the extent allowed by this 3054
chapter and the rules of the board. 3055

(N)(1) Any person who enters a prelicensure nursing education 3056
program on or after June 1, 2003, and who subsequently applies 3057
under division (A) of section 4723.09 of the Revised Code for 3058
licensure to practice as a registered nurse or as a licensed 3059
practical nurse and any person who applies under division (B) of 3060
that section for license by endorsement to practice nursing as a 3061
registered nurse or as a licensed practical nurse shall submit a 3062
request to the bureau of criminal identification and investigation 3063
for the bureau to conduct a criminal records check of the 3064
applicant and to send the results to the board, in accordance with 3065
section 4723.09 of the Revised Code. 3066

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 who entered a prelicensure nursing education program on or after June 1, 2003, and applied under division (A) of section 4723.09 of the Revised Code for the license or a person who applied under division (B) of that section for the license, if the criminal records 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) Any person who enters a dialysis training program on or after June 1, 2003, and who subsequently applies for a certificate to practice as a dialysis technician shall submit a request to the bureau of criminal identification and investigation for the bureau to conduct a criminal records check of the applicant and to send the results to the board, in accordance with section 4723.75 of the Revised Code.

The board shall refuse to issue a certificate to practice as a dialysis technician under section 4723.75 of the Revised Code to a person who entered a dialysis training program on or after June 1, 2003, and whose criminal records 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. 4723.72. (A) A dialysis technician may engage in	3098
dialysis care by doing the following:	3099
(1) Performing and monitoring dialysis procedures, including	3100
initiating, monitoring, and discontinuing dialysis;	3101
(2) Drawing blood;	3102
(3) Administering any of the medications specified in	3103
division (C) of this section when the administration is essential	3104
to the dialysis process;	3105
(4) Responding to complications that arise during dialysis.	3106
(B) A dialysis technician may provide the dialysis care	3107
specified in division (A) of this section only if the care has	3108
been delegated to the technician by a physician or registered	3109
nurse and the technician is under the supervision of a physician	3110
or registered nurse. Supervision requires that the dialysis	3111
technician be in the immediate presence of a physician or	3112
registered nurse, or, in the case of dialysis care provided in a	3113
patient's home, that the dialysis technician be supervised in	3114
accordance with the rules adopted under section 4723.79 of the	3115
Revised Code for supervision of dialysis technicians who provide	3116
dialysis care in a patient's home. Division (E)(5) of section	3117
4723.73 of the Revised Code does not allow a dialysis technician	3118
who provides dialysis care in a patient's home to provide dialysis	3119
care that is not authorized under this section.	3120
(C) A dialysis technician may administer medication only as	3121
ordered by a licensed health professional authorized to prescribe	3122
drugs as defined in section 4729.01 of the Revised Code and in	3123
accordance with the standards established in rules adopted under	3124
section 4723.79 of the Revised Code. A dialysis technician may	3125
administer only the following medications:	3126
(1) Intradermal lidocaine or other single therapeutically	3127
equivalent local anesthetic for the purpose of initiating dialysis	3128

treatment; 3129

(2) Intravenous heparin or other single therapeutically 3130
equivalent anticoagulant for the purpose of initiating and 3131
maintaining dialysis treatment; 3132

(3) Intravenous normal saline; 3133

(4) Patient-specific dialysate, to which the person may add 3134
electrolytes but no other additives or medications; 3135

(5) Oxygen, when the administration of the oxygen has been 3136
delegated to the technician by a registered nurse. 3137

Sec. 4723.74. (A) A person who seeks to operate a dialysis 3138
training program shall apply to the board of nursing for approval 3139
of the program. Applications shall be submitted in accordance with 3140
rules adopted under section 4723.79 of the Revised Code. The 3141
person shall include with the application the fee prescribed in 3142
those rules. If the program meets the requirements for approval as 3143
specified in the rules, the board shall approve the program. A 3144
program shall apply for reapproval and may be reapproved in 3145
accordance with rules adopted under section 4723.79 of the Revised 3146
Code. 3147

The board may withdraw the approval of a program that ceases 3148
to meet the requirements for approval. Any action to withdraw the 3149
approval shall be taken in ~~accordance~~ accordance with ~~chapter~~ 3150
Chapter 119. of the Revised Code. 3151

(B) A person shall not be permitted to enroll, and shall not 3152
enroll, in a dialysis training program approved by the board under 3153
division (A) of this section unless the person is eighteen years 3154
of age or older and possesses a high school diploma or high school 3155
equivalence diploma. 3156

Sec. 4723.75. (A) The board of nursing shall issue a 3157

certificate to practice as a dialysis technician to a person who 3158
meets all of the following requirements: 3159

(1) ~~The~~ For all persons, the person applies to the board in 3160
accordance with rules adopted under section 4723.79 of the Revised 3161
Code and includes with the application the fee established in 3162
those rules. 3163

~~(2) The person is eighteen years of age or older and 3164
possesses a high school diploma or high school equivalence 3165
diploma. 3166~~

~~(3) The~~ (2) For all persons, the person meets the 3167
requirements established by the board's rules. 3168

~~(4) The~~ (3) For all persons, the person demonstrates 3169
competency to practice as a dialysis technician, as specified 3170
under division (B) of this section. 3171

(4) For persons who entered a dialysis training program on or 3172
after June 1, 2003, the criminal records check of the person that 3173
is completed by the bureau of criminal identification and 3174
investigation and includes a check of federal bureau of 3175
investigation records and that the bureau submits to the board 3176
indicates that the person has not been convicted of, has not 3177
pleaded guilty to, and has not had a judicial finding of guilt for 3178
violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 3179
2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the 3180
Revised Code or a substantially similar law of another state, the 3181
United States, or another country. 3182

(B) For a person to demonstrate competence to practice as a 3183
dialysis technician, one of the following must apply: 3184

(1) The person meets all of the following requirements: 3185

(a) The person has successfully completed a dialysis training 3186
program approved by the board under section 4723.74 of the Revised 3187
Code. 3188

(b) The person has been employed to perform dialysis care by 3189
a dialysis provider for not less than twelve months prior to the 3190
date of application. 3191

(c) The person passes a certification examination 3192
demonstrating competence to perform dialysis care. The person must 3193
pass the examination not later than eighteen months after entering 3194
a dialysis training program approved by the board under section 3195
4723.74 of the Revised Code. A person who does not pass the 3196
examination within eighteen months after entering a dialysis 3197
training program must repeat and successfully complete the 3198
training program, or successfully complete another dialysis 3199
training program approved by the board, and pass the examination 3200
not less than six months after entering the new or repeated 3201
program. A person who does not pass the examination within six 3202
months after entering the new or repeated program must wait at 3203
least one year before entering or reentering any dialysis training 3204
program approved by the board, after which the person must 3205
successfully complete a dialysis training program approved by the 3206
board and pass the examination not later than six months after 3207
entering the program. 3208

(2) The person meets both of the following requirements: 3209

(a) The person holds, on ~~the effective date of this section~~ 3210
December 24, 2000, a current, valid certificate from a qualifying 3211
testing organization specified by the board under division (B) of 3212
section 4723.751 of the Revised Code or provides evidence 3213
satisfactory to the board of having passed the examination of a 3214
qualifying testing organization not longer than five years prior 3215
to ~~the effective date of this section~~ December 24, 2000. 3216

(b) The dialysis provider who employs the person provides the 3217
board with the information specified in rules adopted under 3218
section 4723.79 of the Revised Code attesting to the person's 3219
competence to perform dialysis care. 3220

(3) The person submits evidence satisfactory to the board 3221
that the person holds a current, valid license, certificate, or 3222
other authorization to perform dialysis care issued by another 3223
state that has standards for dialysis technicians that the board 3224
considers substantially similar to those established under 3225
sections 4723.71 to 4723.79 of the Revised Code. 3226

(C) A person who applies under this section to be certified 3227
to practice as a dialysis technician shall submit a request to the 3228
bureau of criminal identification and investigation for a criminal 3229
records check of the applicant. The request shall be on the form 3230
prescribed pursuant to division (C)(1) of section 109.572, 3231
accompanied by a standard impression sheet to obtain fingerprints 3232
prescribed pursuant to division (C)(2) of that section, and 3233
accompanied by the fee prescribed pursuant to division (C)(3) of 3234
that section. Upon receipt of the completed form, the completed 3235
impression sheet, and the fee, the bureau shall conduct a criminal 3236
records check of the applicant. Upon completion of the criminal 3237
records check, the bureau shall send the results of the check to 3238
the board. A person requesting a criminal records check under this 3239
division shall ask the superintendent of the bureau of criminal 3240
identification and investigation to also request the federal 3241
bureau of investigation to provide the superintendent with any 3242
information it has with respect to the person. 3243

The results of any criminal records check conducted pursuant 3244
to a request made under this section, and any report containing 3245
those results, are not public records for purposes of section 3246
149.43 of the Revised Code and shall not be made available to any 3247
person or for any purpose other than the following: 3248

(1) The results may be made available to any person for use 3249
in determining under this section and division (N) of section 3250
4723.28 of the Revised Code whether the individual who is the 3251
subject of the check should be issued a certificate to practice as 3252

a dialysis technician. 3253

(2) The results may be made available to the individual who 3254
is the subject of the check or that individual's representative. 3255

Sec. 4723.77. A certificate issued under section 4723.75 of 3256
the Revised Code expires biennially and shall be renewed according 3257
to a schedule established by the board of nursing in rules adopted 3258
under section 4723.79 of the Revised Code. An application for 3259
renewal of a certificate shall be accompanied by the renewal fee 3260
established in rules adopted by the board under section 4723.79 of 3261
the Revised Code. A certificate may be renewed only if, during the 3262
period for which the certificate was issued, the certificate 3263
holder satisfied the continuing education requirements established 3264
by the board's rules. Of the hours of continuing education 3265
completed during the period for which the certificate was issued, 3266
at least one hour of the education must be directly related to the 3267
statutes and rules pertaining to the practice of nursing in this 3268
state or the practice as a dialysis technician in this state. 3269

Sec. 5120.031. (A) As used in this section: 3270

(1) "Certificate of high school equivalence" means a 3271
statement that is issued by the state board of education or an 3272
equivalent agency of another state and that indicates that its 3273
holder has achieved the equivalent of a high school education as 3274
measured by scores obtained on the tests of general educational 3275
development published by the American council on education. 3276

(2) "Certificate of adult basic education" means a statement 3277
that is issued by the department of rehabilitation and correction 3278
through the Ohio central school system approved by the state board 3279
of education and that indicates that its holder has achieved a 6.0 3280
grade level, or higher, as measured by scores of nationally 3281
standardized or recognized tests. 3282

(3) "Deadly weapon" and "firearm" have the same meanings as 3283
in section 2923.11 of the Revised Code. 3284

(4) "Eligible offender" means a person, other than one who is 3285
ineligible to participate in an intensive program prison under the 3286
criteria specified in section 5120.032 of the Revised Code, who 3287
has been convicted of or pleaded guilty to, and has been sentenced 3288
for, a felony. 3289

(5) "Shock incarceration" means the program of incarceration 3290
that is established pursuant to the rules of the department of 3291
rehabilitation and correction adopted under this section. 3292

(B)(1) The director of rehabilitation and correction, by 3293
rules adopted under Chapter 119. of the Revised Code, shall 3294
establish a pilot program of shock incarceration that may be used 3295
for ~~eligible~~ offenders who are sentenced to serve a term of 3296
imprisonment under the custody of the department of rehabilitation 3297
and correction, whom the department determines to be eligible 3298
offenders, and whom the department, subject to the approval of the 3299
sentencing judge, may permit to serve their sentence as a sentence 3300
of shock incarceration in accordance with this section. 3301

(2) The rules for the pilot program shall require that the 3302
program be established at an appropriate state correctional 3303
institution designated by the director and that the program 3304
consist of both of the following for each eligible offender whom 3305
the department, with the approval of the sentencing judge, permits 3306
to serve the eligible offender's sentence as a sentence of shock 3307
incarceration: 3308

(a) A period of imprisonment at that institution of ninety 3309
days that shall consist of a military style combination of 3310
discipline, physical training, and hard labor and substance abuse 3311
education, employment skills training, social skills training, and 3312
psychological treatment. During the ninety-day period, the 3313

department may permit an eligible offender to participate in a
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

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under sections 2301.51 to 2301.56 of the Revised Code, or in any 3346
other facility approved by the director that provides for 3347
detention to serve as a transition between imprisonment in a state 3348
correctional institution and release from imprisonment. 3349

(ii) A release under a post-release control sanction imposed 3350
in accordance with section 2967.28 of the Revised Code. 3351

(3) The rules for the pilot program also shall include, but 3352
are not limited to, all of the following: 3353

(a) Rules identifying the locations within the state 3354
correctional institution designated by the director that will be 3355
used for eligible offenders serving a sentence of shock 3356
incarceration; 3357

(b) Rules establishing specific schedules of discipline, 3358
physical training, and hard labor for eligible offenders serving a 3359
sentence of shock incarceration, based upon the offender's 3360
physical condition and needs; 3361

(c) Rules establishing standards and criteria for the 3362
department to use in determining which eligible offenders the 3363
department will permit to serve their sentence of imprisonment as 3364
a sentence of shock incarceration; 3365

(d) Rules establishing guidelines for the selection of 3366
post-release control sanctions for eligible offenders; 3367

(e) Rules establishing procedures for notifying sentencing 3368
courts of the performance of eligible offenders serving their 3369
sentences of imprisonment as a sentence of shock incarceration; 3370

(f) Any other rules that are necessary for the proper conduct 3371
of the pilot program. 3372

(C)(1) If an offender is sentenced to a term of imprisonment 3373
under the custody of the department, ~~if the sentencing court~~ 3374
~~determined that the offender is eligible for placement in a~~ 3375

~~program of shock incarceration under this section, and if the~~ 3376
sentencing court either recommends the offender for placement in a 3377
program of shock incarceration under this section or makes no 3378
recommendation on placement of the offender, and if the department 3379
determines that the offender is an eligible offender for placement 3380
in a program of shock incarceration under this section, the 3381
department may permit the eligible offender to serve the sentence 3382
in a program of shock incarceration, in accordance with division 3383
(K) of section 2929.14 of the Revised Code, with this section, and 3384
with the rules adopted under this section. If the sentencing court 3385
disapproves placement of the offender in a program of shock 3386
incarceration, the department shall not place the offender in any 3387
program of shock incarceration. 3388

If the sentencing court recommends the offender for placement 3389
in a program of shock incarceration and if the department 3390
subsequently places the offender in the recommended program, the 3391
department shall notify the court of the offender's placement in 3392
the recommended program and shall include with the notice a brief 3393
description of the placement. 3394

If the sentencing court ~~approves~~ recommends placement of the 3395
offender in a program of shock incarceration and the department 3396
for any reason does not subsequently place the offender in the 3397
recommended program, the department shall send a notice to the 3398
court indicating why the offender was not placed in the 3399
recommended program. 3400

If the sentencing court does not make a recommendation on the 3401
placement of an ~~eligible~~ offender in a program of shock 3402
incarceration and if the department determines that the offender 3403
is an eligible offender for placement in a program of that nature, 3404
the department shall screen the offender and determine if the 3405
offender is suited for the program of shock incarceration. If the 3406
offender is suited for the program of shock incarceration, at 3407

least three weeks prior to permitting an eligible offender to 3408
serve the sentence in a program of shock incarceration, the 3409
department shall notify the sentencing court of the proposed 3410
placement of the offender in the program and shall include with 3411
the notice a brief description of the placement. The court shall 3412
have ten days from receipt of the notice to disapprove the 3413
placement. If the sentencing court disapproves of the placement, 3414
the department shall not permit the eligible offender to serve the 3415
sentence in a program of shock incarceration. If the judge does 3416
not timely disapprove of placement of the offender in the program 3417
of shock incarceration, the department may proceed with plans for 3418
placement of the offender. 3419

If the ~~sentencing court determined~~ department determines that 3420
the offender is not eligible for placement in a program of shock 3421
incarceration ~~or if the sentencing court disapproves placement of~~ 3422
~~the offender in a program of that nature,~~ the department of 3423
~~rehabilitation and correction~~ shall not place the offender in any 3424
program of shock incarceration. 3425

(2) If the department permits an eligible offender to serve 3426
the eligible offender's sentence of imprisonment as a sentence of 3427
shock incarceration and the eligible offender does not 3428
satisfactorily complete the entire period of imprisonment 3429
described in division (B)(2)(a) of this section, the offender 3430
shall be removed from the pilot program for shock incarceration 3431
and shall be required to serve the remainder of the offender's 3432
sentence of imprisonment imposed by the sentencing court as a 3433
regular term of imprisonment. If the eligible offender commences a 3434
period of post-release control described in division (B)(2)(b) of 3435
this section and violates the conditions of that post-release 3436
control, the eligible offender shall be subject to the provisions 3437
of sections 2929.141, 2967.15, and 2967.28 of the Revised Code 3438
regarding violation of post-release control sanctions. 3439

(3) If an eligible offender's stated prison term expires at 3440
any time during the eligible offender's participation in the shock 3441
incarceration program, the adult parole authority shall terminate 3442
the eligible offender's participation in the program and shall 3443
issue to the eligible offender a certificate of expiration of the 3444
stated prison term. 3445

(D) The director shall keep sentencing courts informed of the 3446
performance of eligible offenders serving their sentences of 3447
imprisonment as a sentence of shock incarceration, including, but 3448
not limited to, notice of eligible offenders who fail to 3449
satisfactorily complete their entire sentence of shock 3450
incarceration or who satisfactorily complete their entire sentence 3451
of shock incarceration. 3452

(E) Within a reasonable period of time after November 20, 3453
1990, the director shall appoint a committee to search for one or 3454
more suitable sites at which one or more programs of shock 3455
incarceration, in addition to the pilot program required by 3456
division (B)(1) of this section, may be established. The search 3457
committee shall consist of the director or the director's 3458
designee, as chairperson; employees of the department of 3459
rehabilitation and correction appointed by the director; and any 3460
other persons that the director, in the director's discretion, 3461
appoints. In searching for such sites, the search committee shall 3462
give preference to any site owned by the state or any other 3463
governmental entity and to any existing structure that reasonably 3464
could be renovated, enlarged, converted, or remodeled for purposes 3465
of establishing such a program. The search committee shall prepare 3466
a report concerning its activities and, on the earlier of the day 3467
that is twelve months after the first day on which an eligible 3468
offender began serving a sentence of shock incarceration under the 3469
pilot program or January 1, 1992, shall file the report with the 3470
president and the minority leader of the senate, the speaker and 3471

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

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

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

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

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

118th general assembly or their successors. The pilot program 3504
shall not terminate at the time of the filing of the report, but 3505
shall continue in operation in accordance with this section. The 3506
report required by this division shall include all of the 3507
following: 3508

(1) A summary of the pilot program as initially established, 3509
a summary of all changes in the pilot program made during the 3510
period covered by the report and the reasons for the changes, and 3511
a summary of the pilot program as it exists on the date of 3512
preparation of the report; 3513

(2) A summary of the effectiveness of the pilot program, in 3514
the opinion of the director and employees of the department 3515
involved in its operation; 3516

(3) An analysis of the total cost of the pilot program, of 3517
its cost per inmate who was permitted to serve a sentence of shock 3518
incarceration and who served the entire sentence of shock 3519
incarceration, and of its cost per inmate who was permitted to 3520
serve a sentence of shock incarceration; 3521

(4) A summary of the standards and criteria used by the 3522
department in determining which eligible offenders were permitted 3523
to serve their sentence of imprisonment as a sentence of shock 3524
incarceration; 3525

(5) A summary of the characteristics of the eligible 3526
offenders who were permitted to serve their sentence of 3527
imprisonment as a sentence of shock incarceration, which summary 3528
shall include, but not be limited to, a listing of every offense 3529
of which any such eligible offender was convicted or to which any 3530
such eligible offender pleaded guilty and in relation to which the 3531
eligible offender served a sentence of shock incarceration, and 3532
the total number of such eligible offenders who were convicted of 3533
or pleaded guilty to each such offense; 3534

(6) A listing of the number of eligible offenders who were 3535
permitted to serve a sentence of shock incarceration and who did 3536
not serve the entire sentence of shock incarceration, and, to the 3537
extent possible, a summary of the length of the terms of 3538
imprisonment served by such eligible offenders after they were 3539
removed from the pilot program; 3540

(7) A summary of the effect of the pilot program on 3541
overcrowding at state correctional institutions; 3542

(8) To the extent possible, an analysis of the rate of 3543
recidivism of eligible offenders who were permitted to serve a 3544
sentence of shock incarceration and who served the entire sentence 3545
of shock incarceration; 3546

(9) Recommendations as to legislative changes to the pilot 3547
program that would assist in its operation or that could further 3548
alleviate overcrowding at state correctional institutions, and 3549
recommendations as to whether the pilot program should be 3550
expanded. 3551

Sec. 5120.032. (A) No later than January 1, 1998, the 3552
department of rehabilitation and correction shall develop and 3553
implement intensive program prisons for male and female prisoners 3554
other than prisoners described in division (B)(2) of this section. 3555
The intensive program prisons shall include institutions at which 3556
imprisonment of the type described in division (B)(2)(a) of 3557
section 5120.031 of the Revised Code is provided and prisons that 3558
focus on educational achievement, vocational training, alcohol and 3559
other drug abuse treatment, community service and conservation 3560
work, and other intensive regimens or combinations of intensive 3561
regimens. 3562

(B)(1)(a) Except as provided in division (B)(2) of this 3563
section, if an offender is sentenced to a term of imprisonment 3564
under the custody of the department, if the sentencing court 3565

determines that a prisoner is eligible for placement in an 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 3598
and shall include with the notice a brief description of the 3599
placement. The court shall have ten days from receipt of the 3600
notice to disapprove the placement. If the sentencing court 3601
disapproves the placement, the department shall not proceed with 3602
it. If the sentencing court does not timely disapprove of the 3603
placement, the department may proceed with plans for it. 3604

If the ~~sentencing court~~ department determines that a prisoner 3605
is not eligible for placement in an intensive program prison ~~or if~~ 3606
~~the sentencing court disapproves placement of an offender in a~~ 3607
~~prison of that nature~~, the department of ~~rehabilitation and~~ 3608
~~correction~~ shall not place the prisoner in any intensive program 3609
prison. 3610

(b) The department may reduce the stated prison term of a 3611
prisoner upon the prisoner's successful completion of a ninety-day 3612
period in an intensive program prison. A prisoner whose term has 3613
been so reduced shall be required to serve an intermediate, 3614
transitional type of detention followed by a release under 3615
post-release control sanctions or, in the alternative, shall be 3616
placed under post-release control sanctions, as described in 3617
division (B)(2)(b)(ii) of section 5120.031 of the Revised Code. In 3618
either case, the placement under post-release control sanctions 3619
shall be under terms set by the parole board in accordance with 3620
section 2967.28 of the Revised Code and shall be subject to the 3621
provisions of that section and section 2929.141 of the Revised 3622
Code with respect to a violation of any post-release control 3623
sanction. 3624

(2) A prisoner who is in any of the following categories is 3625
not eligible to participate in an intensive program prison 3626
established pursuant to division (A) of this section: 3627

(a) The prisoner is serving a prison term for aggravated 3628
murder, murder, or a felony of the first or second degree or a 3629

comparable offense under the law in effect prior to July 1, 1996, 3630
or the prisoner previously has been imprisoned for aggravated 3631
murder, murder, or a felony of the first or second degree or a 3632
comparable offense under the law in effect prior to July 1, 1996. 3633

(b) The prisoner is serving a mandatory prison term, as 3634
defined in section 2929.01 of the Revised Code. 3635

(c) The prisoner is serving a prison term for a felony of the 3636
third, fourth, or fifth degree that either is a sex offense, an 3637
offense betraying public trust, or an offense in which the 3638
prisoner caused or attempted to cause actual physical harm to a 3639
person, the prisoner is serving a prison term for a comparable 3640
offense under the law in effect prior to July 1, 1996, or the 3641
prisoner previously has been imprisoned for an offense of that 3642
type or a comparable ~~offence~~ offense under the law in effect prior 3643
to July 1, 1996. 3644

(d) The prisoner is serving a mandatory prison term in prison 3645
for a third or ~~fourth~~ fourth degree felony OMVI offense, as defined 3646
in section 2929.01 of the Revised Code, that was imposed pursuant 3647
to division (G)(2) of section 2929.13 of the Revised Code. 3648
3649

(C) Upon the implementation of intensive program prisons 3650
pursuant to division (A) of this section, the department at all 3651
times shall maintain intensive program prisons sufficient in 3652
number to reduce the prison terms of at least three hundred fifty 3653
prisoners who are eligible for reduction of their stated prison 3654
terms as a result of their completion of a regimen in an intensive 3655
program prison under this section. 3656

Sec. 5120.033. (A) As used in this section, "third degree 3657
felony OMVI offense" and "fourth degree felony OMVI offense" have 3658
the same meanings as in section 2929.01 of the Revised Code. 3659

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

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

sanctions, as described in division (B)(2)(b)(ii) of section 3692
5120.031 of the Revised Code. In either case, the placement under 3693
post-release control sanctions shall be under terms set by the 3694
parole board in accordance with section 2967.28 of the Revised 3695
Code and shall be subject to the provisions of that section and 3696
section 2929.141 of the Revised Code with respect to a violation 3697
of any post-release control sanction. Upon the establishment of 3698
the initial intensive program prison pursuant to division (B) of 3699
this section that is privately operated and managed by a 3700
contractor pursuant to a contract entered into under section 9.06 3701
of the Revised Code, the department shall comply with divisions 3702
(G)(2)(a) and (b) of section 2929.13 of the Revised Code in 3703
placing prisoners in intensive program prisons under this section. 3704
3705

(D) A prisoner who is sentenced to a mandatory prison term 3706
for a third or fourth degree felony OMVI offense is not eligible 3707
to participate in an intensive program prison established under 3708
division (B) of this section if any of the following applies 3709
regarding the prisoner: 3710

(1) In addition to the mandatory prison term for the third or 3711
fourth degree felony OMVI offense, the prisoner also is serving a 3712
prison term of a type described in division (B)(2)(a), (b), or (c) 3713
of section 5120.032 of the Revised Code. 3714

(2) The prisoner previously has been imprisoned for an 3715
offense of a type described in division (B)(2)(a) or (c) of 3716
section 5120.032 of the Revised Code or a comparable offense under 3717
the law in effect prior to July 1, 1996. 3718

(E) Intensive program prisons established under division (B) 3719
of this section are not subject to section 5120.032 of the Revised 3720
Code. 3721

Sec. 5145.01. Courts shall impose sentences to a state 3722

correctional institution for felonies pursuant to sections 2929.13 3723
and 2929.14 of the Revised Code. All prison terms may be ended in 3724
the manner provided by law, but no prison term shall exceed the 3725
maximum term provided for the felony of which the prisoner was 3726
convicted as extended pursuant to section 2929.141, 2967.11, or 3727
2967.28 of the Revised Code. 3728

If a prisoner is sentenced for two or more separate felonies, 3729
the prisoner's term of imprisonment shall run as a concurrent 3730
sentence, except if the consecutive sentence provisions of 3731
sections 2929.14 and 2929.41 of the Revised Code apply. If 3732
sentenced consecutively, for the purposes of sections 5145.01 to 3733
5145.27 of the Revised Code, the prisoner shall be held to be 3734
serving one continuous term of imprisonment. 3735

If a court imposes a sentence to a state correctional 3736
institution for a felony of the fourth or fifth degree, the 3737
department of rehabilitation and correction, notwithstanding the 3738
court's designation of a state correctional institution as the 3739
place of service of the sentence, may designate that the person 3740
sentenced is to be housed in a county, multicounty, municipal, 3741
municipal-county, or multicounty-municipal jail or workhouse if 3742
authorized pursuant to section 5120.161 of the Revised Code. 3743

If, through oversight or otherwise, a person is sentenced to 3744
a state correctional institution under a definite term for an 3745
offense for which a definite term of imprisonment is not provided 3746
by statute, the sentence shall not thereby become void, but the 3747
person shall be subject to the liabilities of such sections and 3748
receive the benefits thereof, as if the person had been sentenced 3749
in the manner required by this section. 3750

As used in this section, "prison term" has the same meaning 3751
as in section 2929.01 of the Revised Code. 3752

Sec. 5149.22. There is hereby established the Ohio council 3753

for interstate adult offender supervision pursuant to Article IV 3754
of the interstate compact for adult offender supervision. The 3755
council shall be comprised of seven members. One member shall be 3756
the compact administrator for this state for the interstate 3757
compact for adult offender supervision, or the administrator's 3758
designee. The speaker of the house of representatives shall 3759
appoint one member, who shall be a member of the house of 3760
representatives. The president of the senate shall appoint one 3761
member, who shall be a member of the senate. The chief justice of 3762
the supreme court shall appoint one member, who shall be a member 3763
of the judiciary. The governor shall appoint three members, one of 3764
whom shall be a representative of a crime victim's organization, 3765
and one of whom shall be from the executive branch. The Ohio 3766
council for interstate adult offender supervision is not subject 3767
to section 101.84 of the Revised Code. 3768

Each appointee to the state council shall be appointed in 3769
consultation with the department of rehabilitation and correction 3770
and shall serve at the pleasure of the appointing authority. The 3771
members of the council shall serve without compensation, but each 3772
member shall be reimbursed for the member's actual and necessary 3773
expenses incurred in the performance of the member's official 3774
duties on the council. 3775

The compact administrator for this state for the interstate 3776
compact for adult offender supervision, or the administrator's 3777
designee shall serve as commissioner of the state council and as 3778
this state's representative to the interstate commission 3779
established under Article III of that compact. 3780

Section 2. That existing sections 181.25, 2307.62, 2913.01, 3781
2913.04, 2919.25, 2925.23, 2929.01, 2929.12, 2929.13, 2929.14, 3782
2929.19, 2929.20, 2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 3783
4723.28, 4723.72, 4723.74, 4723.75, 4723.77, 5120.031, 5120.032, 3784
5120.033, 5145.01, and 5149.22 of the Revised Code are hereby 3785

repealed. 3786

Section 3. The amendments to section 5149.22 of the Revised 3787
Code that are made in Sections 1 and 2 of this act shall take 3788
effect on the effective date of section 5149.22 of the Revised 3789
Code, which is the time specified in Section 3 of Sub. H.B. 269 of 3790
the 124th General Assembly, or on the earliest date permitted by 3791
law, whichever is later. 3792

Section 4. Section 2919.25 of the Revised Code is presented 3793
in this act as a composite of the section as amended by both H.B. 3794
238 and Am. Sub. S.B. 1 of the 122nd General Assembly. Section 3795
2929.01 of the Revised Code is presented in this act as a 3796
composite of the section as amended by Am. Sub. H.B. 349, Am. Sub. 3797
S.B. 179, and Am. Sub. S.B. 222 of the 123rd General Assembly. 3798
Section 2929.13 of the Revised Code is presented in this act as a 3799
composite of the section as amended by Am. H.B. 528, Am. Sub. S.B. 3800
22, Am. Sub. S.B. 107, Am. S.B. 142, and Am. Sub. S.B. 222 of the 3801
123rd General Assembly. Section 2929.19 of the Revised Code is 3802
presented in this act as a composite of the section as amended by 3803
Am. Sub. H.B. 349, Am. Sub. S.B. 22, and Am. Sub. S.B. 107 of the 3804
123rd General Assembly. Section 2951.041 of the Revised Code is 3805
presented in this act as a composite of the section as amended by 3806
both Sub. H.B. 202 and Am. Sub. S.B. 107 of the 123rd General 3807
Assembly. Section 4723.09 of the Revised Code is presented in this 3808
act as a composite of the section as amended by both Sub. H.B. 511 3809
and Am. Sub. S.B. 180 of the 123rd General Assembly. Section 3810
5120.032 of the Revised Code is presented in this act as a 3811
composite of the section as amended by both Am. Sub. S.B. 22 and 3812
Am. Sub. S.B. 107 of the 123rd General Assembly. The General 3813
Assembly, applying the principle stated in division (B) of section 3814
1.52 of the Revised Code that amendments are to be harmonized if 3815
reasonably capable of simultaneous operation, finds that the 3816

composites are the resulting versions of the sections in effect	3817
prior to the effective date of the sections as presented in this	3818
act.	3819