

# As Reported by the House Criminal Justice Committee

124th General Assembly

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Sub. H. B. No. 327

REPRESENTATIVES Latta, Goodman, Seitz, Reinhard, Lendrum,  
Willamowski, Schmidt, Aslanides, Fedor, Carano, Womer Benjamin

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## A B I L L

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

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

**Section 1.** That sections 181.25, 2919.25, 2921.34, 2925.23, 17  
2925.36, 2929.01, 2929.12, 2929.13, 2929.14, 2929.19, 2929.20, 18  
2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 4723.28, 4723.75, 19  
5120.031, 5120.032, 5120.033, and 5145.01 be amended and sections 20

2921.341 and 2929.141 of the Revised Code be enacted to read as 21  
follows: 22

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

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

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

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

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

(ii) The fiscal and other impact of the law in effect on and 44  
after July 1, 1996, on political subdivisions and other relevant 45  
aspects of local government in this state, including law 46  
enforcement agencies, the court system, prosecutors, as defined in 47  
section 2935.01 of the Revised Code, the public defender and 48  
assigned counsel system, jails and workhouses, probation 49  
departments, the drug and alcohol abuse intervention and treatment 50

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 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.

(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;

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

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

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

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

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

(D) Whoever violates this section is guilty of domestic 110  
violence. Except as otherwise provided in this division, a 111  
violation of division (C) of this section is a misdemeanor of the 112

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."

(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  
the other natural parent or is the putative other natural parent.

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

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

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

(B) Irregularity in bringing about or maintaining detention, 171  
or lack of jurisdiction of the committing or detaining authority, 172  
is not a defense to a charge under this section if the detention 173  
is pursuant to judicial order or in a detention facility. In the 174

case of any other detention, irregularity or lack of jurisdiction 175  
is an affirmative defense only if either of the following occurs: 176

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

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

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

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

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

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

(b) A felony of the third degree, when the most serious 202  
offense for which the person was under detention or adjudicated a 203  
sexually violent predator is a felony of the third, fourth, or 204  
fifth degree or an unclassified felony or, if the person was under 205

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

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

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

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

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

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

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

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

(3) Fail to maintain contacts required by that supervision  
for more than six months.



<u>(B) Whoever violates this section is guilty of absconding</u>	236
<u>from supervision, a felony of the fifth degree.</u>	237
<b>Sec. 2925.23.</b> (A) No person shall knowingly make a false	238
statement in any prescription, order, report, or record required	239
by Chapter 3719. or 4729. of the Revised Code.	240
(B) No person shall intentionally make, utter, or sell, or	241
knowingly possess any of the following that is a false or forged:	242
(1) Prescription;	243
(2) Uncompleted preprinted prescription blank used for	244
writing a prescription;	245
(3) Official written order;	246
(4) License for a terminal distributor of dangerous drugs as	247
required in section 4729.60 of the Revised Code;	248
(5) Registration certificate for a wholesale distributor of	249
dangerous drugs as required in section 4729.60 of the Revised	250
Code.	251
(C) No person, by theft as defined in section 2913.02 of the	252
Revised Code, shall acquire any of the following:	253
(1) A prescription;	254
(2) An uncompleted preprinted prescription blank used for	255
writing a prescription;	256
(3) An official written order;	257
(4) A blank official written order;	258
(5) A license or blank license for a terminal distributor of	259
dangerous drugs as required in section 4729.60 of the Revised	260
Code;	261
(6) A registration certificate or blank registration	262
certificate for a wholesale distributor of dangerous drugs as	263

required in section 4729.60 of the Revised Code.

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

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

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

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

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

(G) In addition to any prison term authorized or required by 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:

(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.

(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.

(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.

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

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

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

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

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

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

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

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

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

(D) In addition to any prison term authorized or required by 352  
division (C) ~~or (E)~~ of this section and sections 2929.13 and 353  
2929.14 of the Revised Code and in addition to any other sanction 354  
imposed for the offense under this section or sections 2929.11 to 355

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2929.18 of the Revised Code, the court that sentences an offender 356  
who is convicted of or pleads guilty to a violation of division 357  
(A) of this section shall do both of the following: 358

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

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

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

~~(F)~~ Notwithstanding any contrary provision of section 3719.21 382  
of the Revised Code, the clerk of the court shall pay a fine 383  
imposed for a violation of this section pursuant to division (A) 384  
of section 2929.18 of the Revised Code in accordance with and 385  
subject to the requirements of division (F) of section 2925.03 of 386  
the Revised Code. The agency that receives the fine shall use the 387

fine as specified in division (F) of section 2925.03 of the 388  
Revised Code. 389

**Sec. 2929.01.** As used in this chapter: 390

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

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

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

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

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

(C) "Basic probation supervision" means a requirement that 414  
the offender maintain contact with a person appointed to supervise 415  
the offender in accordance with sanctions imposed by the court or 416  
imposed by the parole board pursuant to section 2967.28 of the 417

Revised Code. "Basic probation supervision" includes basic parole 418  
supervision and basic post-release control supervision. 419

(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and 420  
"unit dose" have the same meanings as in section 2925.01 of the 421  
Revised Code. 422

(E) "Community-based correctional facility" means a 423  
community-based correctional facility and program or district 424  
community-based correctional facility and program developed 425  
pursuant to sections 2301.51 to 2301.56 of the Revised Code. 426

(F) "Community control sanction" means a sanction that is not 427  
a prison term and that is described in section 2929.15, 2929.16, 428  
2929.17, or 2929.18 of the Revised Code. 429

(G) "Controlled substance," "marihuana," "schedule I," and 430  
"schedule II" have the same meanings as in section 3719.01 of the 431  
Revised Code. 432

(H) "Curfew" means a requirement that an offender during a 433  
specified period of time be at a designated place. 434

(I) "Day reporting" means a sanction pursuant to which an 435  
offender is required each day to report to and leave a center or 436  
other approved reporting location at specified times in order to 437  
participate in work, education or training, treatment, and other 438  
approved programs at the center or outside the center. 439

(J) "Deadly weapon" has the same meaning as in section 440  
2923.11 of the Revised Code. 441

(K) "Drug and alcohol use monitoring" means a program under 442  
which an offender agrees to submit to random chemical analysis of 443  
the offender's blood, breath, or urine to determine whether the 444  
offender has ingested any alcohol or other drugs. 445

(L) "Drug treatment program" means any program under which a 446  
person undergoes assessment and treatment designed to reduce or 447

completely eliminate the person's physical or emotional reliance  
upon alcohol, another drug, or alcohol and another drug and under  
which the person may be required to receive assessment and  
treatment on an outpatient basis or may be required to reside at a  
facility other than the person's home or residence while  
undergoing assessment and treatment.

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

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

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

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

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

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

(S) "House arrest" means a period of confinement of an  
eligible offender that is in the eligible offender's home or in



other premises specified by the sentencing court or by the parole  
board pursuant to section 2967.28 of the Revised Code, that may be  
electronically monitored house arrest, and during which all of the  
following apply:

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

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

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

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

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

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

(W) "License violation report" means a report that is made by

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

(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.

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

(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.

(2) The term of sixty or one hundred twenty days in prison that a sentencing court is required to impose for a third or fourth degree felony OMVI offense pursuant to division (G)(2) of section 2929.13 and division (A)(4) or (8) of section 4511.99 of the Revised Code.

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

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

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

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

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

(1) A stated prison term;

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

(3) A term in prison extended by bad time imposed pursuant to 572  
section 2967.11 of the Revised Code or imposed for a violation of 573  
post-release control pursuant to section 2967.28 of the Revised 574  
Code. 575

(DD) "Repeat violent offender" means a person about whom both 576  
of the following apply: 577

(1) The person has been convicted of or has pleaded guilty 578  
to, and is being sentenced for committing, for complicity in 579  
committing, or for an attempt to commit, aggravated murder, 580  
murder, involuntary manslaughter, a felony of the first degree 581  
other than one set forth in Chapter 2925. of the Revised Code, a 582  
felony of the first degree set forth in Chapter 2925. of the 583  
Revised Code that involved an attempt to cause serious physical 584  
harm to a person or that resulted in serious physical harm to a 585  
person, or a felony of the second degree that involved an attempt 586  
to cause serious physical harm to a person or that resulted in 587  
serious physical harm to a person. 588

(2) Either of the following applies: 589

(a) The person previously was convicted of or pleaded guilty 590  
to, and previously served or, at the time of the offense was 591  
serving, a prison term for, any of the following: 592

(i) Aggravated murder, murder, involuntary manslaughter, 593  
rape, felonious sexual penetration as it existed under section 594  
2907.12 of the Revised Code prior to September 3, 1996, a felony 595  
of the first or second degree that resulted in the death of a 596  
person or in physical harm to a person, or complicity in or an 597  
attempt to commit any of those offenses; 598

(ii) An offense under an existing or former law of this 599  
state, another state, or the United States that is or was 600  
substantially equivalent to an offense listed under division 601

(DD)(2)(a)(i) of this section and that resulted in the death of a 602

person or in physical harm to a person.

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

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

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

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

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

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

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degree.

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

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

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

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

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

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

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

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

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

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

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

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

(B) 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 more serious than conduct normally constituting the  
offense:

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

(2) The victim of the offense suffered serious physical, 695  
psychological, or economic harm as a result of the offense. 696

(3) The offender held a public office or position of trust in 697  
the community, and the offense related to that office or position. 698  
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(4) The offender's occupation, elected office, or profession 700  
obliged the offender to prevent the offense or bring others 701  
committing it to justice. 702

(5) The offender's professional reputation or occupation, 703  
elected office, or profession was used to facilitate the offense 704  
or is likely to influence the future conduct of others. 705

(6) The offender's relationship with the victim facilitated 706  
the offense. 707

(7) The offender committed the offense for hire or as a part 708  
of an organized criminal activity. 709

(8) In committing the offense, the offender was motivated by 710  
prejudice based on race, ethnic background, gender, sexual 711  
orientation, or religion. 712

(9) If the offense is a violation of section 2919.25 or a 713  
violation of section 2903.11, 2903.12, or 2903.13 of the Revised 714  
Code involving a person who was a family or household member at 715  
the time of the violation, the offender committed the offense in 716  
the vicinity of one or more children who are not victims of the 717  
offense, and the offender or the victim of the offense is a 718  
parent, guardian, custodian, or person in loco parentis of one or 719  
more of those children. 720

(C) The sentencing court shall consider all of the following 721  
that apply regarding the offender, the offense, or the victim, and 722  
any other relevant factors, as indicating that the offender's 723  
conduct is less serious than conduct normally constituting the 724



offense:	725
(1) The victim induced or facilitated the offense.	726
(2) In committing the offense, the offender acted under strong provocation.	727 728
(3) In committing the offense, the offender did not cause or expect to cause physical harm to any person or property.	729 730
(4) There are substantial grounds to mitigate the offender's conduct, although the grounds are not enough to constitute a defense.	731 732 733
(D) The sentencing court shall consider all of the following that apply regarding the offender, and any other relevant factors, as factors indicating that the offender is likely to commit future crimes:	734 735 736 737
(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 <u>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.</u>	738 739 740 741 742 743 744 745
(2) The offender previously was adjudicated a delinquent child pursuant to Chapter 2151. of the Revised Code prior to <del>the effective date of this amendment</del> <u>January 1, 2002</u> , or pursuant to Chapter 2152. of the Revised Code, or the offender has a history of criminal convictions.	746 747 748 749 750
(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 <del>the effective date of this amendment</del> <u>January 1, 2002</u> , or pursuant to	751 752 753 754

Chapter 2152. of the Revised Code, or the offender has not 755  
~~resonded~~ responded favorably to sanctions previously imposed for 756  
criminal convictions. 757

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

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

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

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

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

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

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

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

**Sec. 2929.13.** (A) Except as provided in division (E), (F), or 777  
(G) of this section and unless a specific sanction is required to 778  
be imposed or is precluded from being imposed pursuant to law, a 779  
court that imposes a sentence upon an offender for a felony may 780  
impose any sanction or combination of sanctions on the offender 781  
that are provided in sections 2929.14 to 2929.18 of the Revised 782  
Code. The sentence shall not impose an unnecessary burden on state 783  
or local government resources. 784

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

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

(1) For a fourth degree felony OMVI offense for which sentence is imposed under division (G)(1) of this section, 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: 817
- (a) In committing the offense, the offender caused physical 818  
harm to a person. 819
- (b) In committing the offense, the offender attempted to 820  
cause or made an actual threat of physical harm to a person with a 821  
deadly weapon. 822
- (c) In committing the offense, the offender attempted to 823  
cause or made an actual threat of physical harm to a person, and 824  
the offender previously was convicted of an offense that caused 825  
physical harm to a person. 826
- (d) The offender held a public office or position of trust 827  
and the offense related to that office or position; the offender's 828  
position obliged the offender to prevent the offense or to bring 829  
those committing it to justice; or the offender's professional 830  
reputation or position facilitated the offense or was likely to 831  
influence the future conduct of others. 832
- (e) The offender committed the offense for hire or as part of 833  
an organized criminal activity. 834
- (f) The offense is a sex offense that is a fourth or fifth 835  
degree felony violation of section 2907.03, 2907.04, 2907.05, 836  
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 837  
Revised Code. 838
- (g) The offender at the time of the offense was serving, or 839  
the offender previously had served, a prison term. 840
- (h) The offender committed the offense while under a 841  
community control sanction, while on probation, or while released 842  
from custody on a bond or personal recognizance. 843
- (i) The offender committed the offense while in possession of 844  
a firearm. 845
- (2)(a) If the court makes a finding described in division 846

## As Reported by the House Criminal Justice Committee

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

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

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

(D) Except as provided in division (E) or (F) of this section, for a felony of the first or second degree and for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing

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

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

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

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

Revised Code, whichever is applicable regarding the violation. 911

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

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

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

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

(1) Aggravated murder when death is not imposed or murder; 935  
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(2) Any rape, regardless of whether force was involved and 937  
regardless of the age of the victim, or an attempt to commit rape 938  
by force when the victim is under thirteen years of age; 939

(3) Gross sexual imposition or sexual battery, if the victim 940  
is under thirteen years of age, if the offender previously was 941

convicted of or pleaded guilty to rape, the former offense of 942  
felonious sexual penetration, gross sexual imposition, or sexual 943  
battery, and if the victim of the previous offense was under 944  
thirteen years of age; 945

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

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

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

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

(8) Any offense, other than a violation of section 2923.12 of 966  
the Revised Code, that is a felony, if the offender had a firearm 967  
on or about the offender's person or under the offender's control 968  
while committing the felony, with respect to a portion of the 969  
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 970  
of the Revised Code for having the firearm; 971

(9) Any offense of violence that is a felony, if the offender 972



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

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

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

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

(1) If the offender is being sentenced for a fourth degree 996  
felony OMVI offense, the court may impose upon the offender a 997  
mandatory term of local incarceration of sixty days as specified 998  
in division (A)(4) of section 4511.99 of the Revised Code or a 999  
mandatory term of local incarceration of one hundred twenty days 1000  
as specified in division (A)(8) of that section. The court shall 1001  
not reduce the term pursuant to section 2929.20, 2967.193, or any 1002  
other provision of the Revised Code. The court that imposes a 1003

mandatory term of local incarceration under this division shall  
specify whether the term is to be served in a jail, a  
community-based correctional facility, a halfway house, or an  
alternative residential facility, and the offender shall serve the  
term in the type of facility specified by the court. A mandatory  
term of local incarceration imposed under division (G)(1) of this  
section is not subject to extension under section 2967.11 of the  
Revised Code, to a period of post-release control under section  
2967.28 of the Revised Code, or to any other Revised Code  
provision that pertains to a prison term.

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

in an intensive program prison established under that section and  
if the judge did not notify the department that the judge  
disapproved the placement. Upon the establishment of the initial  
intensive program prison pursuant to section 5120.033 of the  
Revised Code that is privately operated and managed by a  
contractor pursuant to a contract entered into under section 9.06  
of the Revised Code, both of the following apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Except as provided in division (C), (D)(1), (D)(2), 1121  
(D)(3), or (G) of this section, in section 2907.02 of the Revised 1122  
Code, or in Chapter 2925. of the Revised Code, if the court 1123  
imposing a sentence upon an offender for a felony elects or is 1124  
required to impose a prison term on the offender ~~and if the~~ 1125  
~~offender previously has not served a prison term~~, the court shall 1126  
impose the shortest prison term authorized for the offense 1127

pursuant to division (A) of this section, unless ~~the~~ one or more  
of the following applies:

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

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

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

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

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

(ii) A prison term of three years if the specification is of  
the type described in section 2941.145 of the Revised Code that

charges the offender with having a firearm on or about the  
offender's person or under the offender's control while committing  
the offense and displaying the firearm, brandishing the firearm,  
indicating that the offender possessed the firearm, or using it to  
facilitate the offense;

(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 1223  
(D)(1)(c) of this section upon an offender for a violation of 1224  
section 2923.13 of the Revised Code unless all of the following 1225  
apply: 1226

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

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

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

(b) If the court imposing a prison term on a repeat violent 1247  
offender imposes the longest prison term from the range of terms 1248  
authorized for the offense under division (A) of this section, the 1249  
court may impose on the offender an additional definite prison 1250  
term of one, two, three, four, five, six, seven, eight, nine, or 1251  
ten years if the court finds that both of the following apply with 1252  
respect to the prison terms imposed on the offender pursuant to 1253  
division (D)(2)(a) of this section and, if applicable, divisions 1254

(D)(1) and (3) of this section: 1255

(i) The terms so imposed are inadequate to punish the 1256  
offender and protect the public from future crime, because the 1257  
applicable factors under section 2929.12 of the Revised Code 1258  
indicating a greater likelihood of recidivism outweigh the 1259  
applicable factors under that section indicating a lesser 1260  
likelihood of recidivism. 1261

(ii) The terms so imposed are demeaning to the seriousness of 1262  
the offense, because one or more of the factors under section 1263  
2929.12 of the Revised Code indicating that the offender's conduct 1264  
is more serious than conduct normally constituting the offense are 1265  
present, and they outweigh the applicable factors under that 1266  
section indicating that the offender's conduct is less serious 1267  
than conduct normally constituting the offense. 1268

(3)(a) Except when an offender commits a violation of section 1269  
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 1270  
the violation is life imprisonment or commits a violation of 1271  
section 2903.02 of the Revised Code, if the offender commits a 1272  
violation of section 2925.03 or 2925.11 of the Revised Code and 1273  
that section classifies the offender as a major drug offender and 1274  
requires the imposition of a ten-year prison term on the offender, 1275  
if the offender commits a felony violation of section 2925.02, 1276  
2925.04, 2925.05, ~~2925.36~~, 3719.07, 3719.08, 3719.16, 3719.161, 1277  
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 1278  
division (C) of section 4729.51, or division (J) of section 1279  
4729.54 of the Revised Code that includes the sale, offer to sell, 1280  
or possession of a schedule I or II controlled substance, with the 1281  
exception of marihuana, and the court imposing sentence upon the 1282  
offender finds that the offender is guilty of a specification of 1283  
the type described in section 2941.1410 of the Revised Code 1284  
charging that the offender is a major drug offender, or if the 1285  
court imposing sentence upon an offender for a felony finds that 1286

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

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

(4) If the offender is being sentenced for a third or fourth 1303  
degree felony OMVI offense under division (G)(2) of section 1304  
2929.13 of the Revised Code, the sentencing court shall impose 1305  
upon the offender a mandatory prison term in accordance with that 1306  
division. In addition to the mandatory prison term, the sentencing 1307  
court may sentence the offender to an additional prison term of 1308  
any duration specified in division (A)(3) of this section minus 1309  
the sixty or one hundred twenty days imposed upon the offender as 1310  
the mandatory prison term. The total of the additional prison term 1311  
imposed under division (D)(4) of this section plus the sixty or 1312  
one hundred twenty days imposed as the mandatory prison term shall 1313  
equal one of the authorized prison terms specified in division 1314  
(A)(3) of this section. If the court imposes an additional prison 1315  
term under division (D)(4) of this section, the offender shall 1316  
serve the additional prison term after the offender has served the 1317  
mandatory prison term required for the offense. The court shall 1318

not sentence the offender to a community control sanction under 1319  
section 2929.16 or 2929.17 of the Revised Code. 1320  
1321

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a 1322  
mandatory prison term is imposed upon an offender pursuant to 1323  
division (D)(1)(a) of this section for having a firearm on or 1324  
about the offender's person or under the offender's control while 1325  
committing a felony, if a mandatory prison term is imposed upon an 1326  
offender pursuant to division (D)(1)(c) of this section for 1327  
committing a felony specified in that division by discharging a 1328  
firearm from a motor vehicle, or if both types of mandatory prison 1329  
terms are imposed, the offender shall serve any mandatory prison 1330  
term imposed under either division consecutively to any other 1331  
mandatory prison term imposed under either division or under 1332  
division (D)(1)(d) of this section, consecutively to and prior to 1333  
any prison term imposed for the underlying felony pursuant to 1334  
division (A), (D)(2), or (D)(3) of this section or any other 1335  
section of the Revised Code, and consecutively to any other prison 1336  
term or mandatory prison term previously or subsequently imposed 1337  
upon the offender. 1338

(b) If a mandatory prison term is imposed upon an offender 1339  
pursuant to division (D)(1)(d) of this section for wearing or 1340  
carrying body armor while committing an offense of violence that 1341  
is a felony, the offender shall serve the mandatory term so 1342  
imposed consecutively to any other mandatory prison term imposed 1343  
under that division or under division (D)(1)(a) or (c) of this 1344  
section, consecutively to and prior to any prison term imposed for 1345  
the underlying felony under division (A), (D)(2), or (D)(3) of 1346  
this section or any other section of the Revised Code, and 1347  
consecutively to any other prison term or mandatory prison term 1348  
previously or subsequently imposed upon the offender. 1349

(2) If an offender who is an inmate in a jail, prison, or 1350

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

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

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

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

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

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

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

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

(G) If a person is convicted of or pleads guilty to a 1406  
sexually violent offense and also is convicted of or pleads guilty 1407  
to a sexually violent predator specification that was included in 1408  
the indictment, count in the indictment, or information charging 1409  
that offense, the court shall impose sentence upon the offender in 1410  
accordance with section 2971.03 of the Revised Code, and Chapter 1411  
2971. of the Revised Code applies regarding the prison term or 1412  
term of life imprisonment without parole imposed upon the offender 1413  
and the service of that term of imprisonment. 1414

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

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

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

(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

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

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

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

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

If the court does not make a recommendation under this 1472  
division with respect to an eligible offender and if the 1473  
department determines as specified in section 5120.031 or 5120.032 1474  
of the Revised Code, whichever is applicable, that the offender is 1475  
eligible for placement in a program or prison of that nature, the 1476  
department shall screen the offender and determine if there is an 1477  
available program of shock incarceration or an intensive program 1478



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

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

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

(B) Impose a sanction under sections 2929.15 to 2929.18 of 1507  
the Revised Code for the violation that shall be served 1508  
concurrently with any community control sanctions for the new 1509  
felony. 1510

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

(2) Except as otherwise provided in this division, before 1525  
imposing sentence on an offender who is being sentenced for a 1526  
sexually oriented offense that was committed on or after January 1527  
1, 1997, and that is not a sexually violent offense, and before 1528  
imposing sentence on an offender who is being sentenced for a 1529  
sexually violent offense committed on or after January 1, 1997, 1530  
and who was not charged with a sexually violent predator 1531  
specification in the indictment, count in the indictment, or 1532  
information charging the sexually violent offense, the court shall 1533  
conduct a hearing in accordance with division (B) of section 1534  
2950.09 of the Revised Code to determine whether the offender is a 1535  
sexual predator. The court shall not conduct a hearing under that 1536  
division if the offender is being sentenced for a sexually violent 1537  
offense and a sexually violent predator specification was included 1538  
in the indictment, count in the indictment, or information 1539  
charging the sexually violent offense. Before imposing sentence on 1540  
an offender who is being sentenced for a sexually oriented 1541  
offense, the court also shall comply with division (E) of section 1542

2950.09 of the Revised Code.

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

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

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divisions (D)(1) and (2) of section 2929.13 of the Revised Code. 1575

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

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

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

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

(a) Impose a stated prison term; 1592

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

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

(d) Notify the offender that the offender may be supervised 1603  
under section 2967.28 of the Revised Code after the offender 1604

leaves prison if the offender is being sentenced for a felony of 1605  
the third, fourth, or fifth degree that is not subject to division 1606  
(B)(3)(c) of this section; 1607

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

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

(4) If the offender is being sentenced for a sexually violent 1623  
offense that the offender committed on or after January 1, 1997, 1624  
and the offender also is convicted of or pleads guilty to a 1625  
sexually violent predator specification that was included in the 1626  
indictment, count in the indictment, or information charging the 1627  
sexually violent offense or if the offender is being sentenced for 1628  
a sexually oriented offense that the offender committed on or 1629  
after January 1, 1997, and the court imposing the sentence has 1630  
determined pursuant to division (B) of section 2950.09 of the 1631  
Revised Code that the offender is a sexual predator, the court 1632  
shall include in the offender's sentence a statement that the 1633  
offender has been adjudicated as being a sexual predator and shall 1634  
comply with the requirements of section 2950.03 of the Revised 1635  
Code. Additionally, in the circumstances described in division (G) 1636

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.

(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.

(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.

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

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

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

(B) Upon the filing of a motion by the eligible offender or  
upon its own motion, a sentencing court may reduce the offender's  
stated prison term through a judicial release in accordance with  
this section. The court shall not reduce the stated prison term of  
an offender who is not an eligible offender. An eligible offender

may file a motion for judicial release with the sentencing court 1700  
within the following applicable period of time: 1701

(1)(a) Except as otherwise provided in division (B)(1)(b) or 1702  
(c) of this section, if the stated prison term was imposed for a 1703  
felony of the fourth or fifth degree, the eligible offender may 1704  
file the motion not earlier than thirty days or later than ninety 1705  
days after the offender is delivered to a state correctional 1706  
institution. 1707

(b) If the stated prison term is five years and is an 1708  
aggregate of stated prison terms that are being served 1709  
consecutively and that were imposed for any combination of 1710  
felonies of the fourth degree and felonies of the fifth degree, 1711  
the eligible offender may file the motion after the eligible 1712  
offender has served four years of the stated prison term. 1713

(c) If the stated prison term is more than five years and 1714  
~~less~~ not more than ten years and is an aggregate of stated prison 1715  
terms that are being served consecutively and that were imposed 1716  
for any combination of felonies of the fourth degree and felonies 1717  
of the fifth degree, the eligible offender may file the motion 1718  
after the eligible offender has served five years of the stated 1719  
prison term. 1720

(2) Except as otherwise provided in division (B)(3) or (4) of 1721  
this section, if the stated prison term was imposed for a felony 1722  
of the first, second, or third degree, the eligible offender may 1723  
file the motion not earlier than one hundred eighty days after the 1724  
offender is delivered to a state correctional institution. 1725  
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(3) If the stated prison term is five years, the eligible 1727  
offender may file the motion after the eligible offender has 1728  
served four years of the stated prison term. 1729

(4) If the stated prison term is more than five years and 1730



~~less~~ not more than ten years, the eligible offender may file the 1731  
motion after the eligible offender has served five years of the 1732  
stated prison term. 1733

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

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

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

(D) If a court schedules a hearing under division (C) of this 1761  
section, the court shall notify the eligible offender of the 1762

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

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

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

(G) At the hearing on a motion for judicial release under  
this section, the court shall afford the eligible offender and the

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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  
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 1827  
factors indicating that the eligible offender's conduct was more 1828  
serious than conduct normally constituting the offense. 1829

(2) A court that grants a judicial release to an eligible 1830  
offender under division (H)(1) of this section shall specify on 1831  
the record both findings required in that division and also shall 1832  
list all the factors described in that division that were 1833  
presented at the hearing. 1834

(I) If the court grants a motion for judicial release under 1835  
this section, the court shall order the release of the eligible 1836  
offender, shall place the eligible offender under an appropriate 1837  
community control sanction, under appropriate community control 1838  
conditions, and under the supervision of the department of 1839  
probation serving the court, and shall reserve the right to 1840  
reimpose the sentence that it reduced pursuant to the judicial 1841  
release if the offender violates the sanction. If the court 1842  
reimposes the reduced sentence pursuant to this reserved right, it 1843  
may do so either concurrently with, or consecutive to, any new 1844  
sentence imposed upon the eligible offender as a result of the 1845  
violation that is a new offense. The period of the community 1846  
control sanction shall be no longer than five years. The court, in 1847  
its discretion, may reduce the period of the community control 1848  
sanction by the amount of time the eligible offender spent in jail 1849  
for the offense and in prison. If the court made any findings 1850  
pursuant to division (H)(1) of this section, the court shall serve 1851  
a copy of the findings upon counsel for the parties within fifteen 1852  
days after the date on which the court grants the motion for 1853  
judicial release. 1854

Prior to being released pursuant to a judicial release 1855  
granted under this section, the eligible offender shall serve any 1856  
extension of sentence that was imposed under section 2967.11 of 1857  
the Revised Code. 1858

**Sec. 2951.041.** (A)(1) If an offender is charged with a 1859  
criminal offense and the court has reason to believe that drug or 1860  
alcohol usage by the offender was a factor leading to the 1861  
offender's criminal behavior, the court may accept, prior to the 1862  
entry of a guilty plea, the offender's request for intervention in 1863  
lieu of conviction. The request shall include a waiver of the 1864  
defendant's right to a speedy trial, the preliminary hearing, the 1865  
time period within which the grand jury may consider an indictment 1866  
against the offender, and arraignment, unless the hearing, 1867  
indictment, or arraignment has already occurred. The court may 1868  
reject an offender's request without a hearing. If the court 1869  
elects to consider an offender's request, the court shall conduct 1870  
a hearing to determine whether the offender is eligible under this 1871  
section for intervention in lieu of conviction and shall stay all 1872  
criminal proceedings pending the outcome of the hearing. If the 1873  
court schedules a hearing, the court shall order an assessment of 1874  
the offender for the purpose of determining the offender's 1875  
eligibility for intervention in lieu of conviction and 1876  
recommending an appropriate intervention plan. 1877

(2) The victim notification provisions of division (C) of 1878  
section 2930.08 of the Revised Code apply in relation to any 1879  
hearing held under division (A)(1) of this section. 1880

(B)~~(1)~~ An offender is eligible for intervention in lieu of 1881  
conviction if the court finds all of the following: 1882

(1)~~(a)~~ The offender previously has not been convicted of or 1883  
pleaded guilty to a felony, previously has not been through 1884  
intervention in lieu of conviction under this section or any 1885  
similar regimen, and is charged with a felony for which the court, 1886  
upon conviction, would impose sentence under division (B)(2)(b) of 1887  
section 2929.13 of the Revised Code or with a misdemeanor. 1888

(2)~~(b)~~ The offense is not a felony of the first, second, or 1889

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third degree, is not an offense of violence, is not a violation of  
division (A)(1) or (2) of section 2903.06 of the Revised Code, is  
not a violation of division (A)(1) of section 2903.08 of the  
Revised Code, is not a violation of division (A) of section  
4511.19 of the Revised Code or a municipal ordinance that is  
substantially similar to that division, and is not an offense for  
which a sentencing court is required to impose a mandatory prison  
term, a mandatory term of local incarceration, or a mandatory term  
of imprisonment in a jail.

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

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

(5)(~~e~~) The offender has been assessed by an appropriately  
licensed provider, certified facility, or licensed and  
credentialed professional, including, but not limited to, a  
program licensed by the department of alcohol and drug addiction  
services pursuant to section 3793.11 of the Revised Code, a  
program certified by that department pursuant to section 3793.06  
of the Revised Code, a public or private hospital, the United  
States department of veterans affairs, another appropriate agency  
of the government of the United States, or a licensed physician,  
psychiatrist, psychologist, independent social worker,  
professional counselor, or chemical dependency counselor for the

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purpose of determining the offender's eligibility for intervention 1922  
in lieu of conviction and recommending an appropriate intervention 1923  
plan. 1924

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

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

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

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

(C)(2) At the conclusion of a hearing held pursuant to 1941  
division (A) of this section, the court shall enter its 1942  
determination as to whether the offender is eligible for 1943  
intervention in lieu of conviction and as to whether to grant the 1944  
offender's request. If the court finds under division (B)(1) of 1945  
this section that the offender is eligible for ~~treatment~~ 1946  
intervention in lieu of conviction and grants the offender's 1947  
request, the court shall accept the offender's plea of guilty and 1948  
waiver of the defendant's right to a speedy trial, the preliminary 1949  
hearing, the time period within which the grand jury may consider 1950  
an indictment against the offender, and arraignment, unless the 1951  
hearing, indictment, or arraignment has already occurred. In 1952  
addition, the court then may stay all criminal proceedings and 1953

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

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

(E) If the court grants an offender's request for 1978  
intervention in lieu of conviction and the court finds that the 1979  
offender has successfully completed the intervention plan for the 1980  
offender, including the requirement that the offender abstain from 1981  
using drugs and alcohol for a period of at least one year from the 1982  
date on which the court granted the order of intervention in lieu 1983  
of conviction and all other terms and conditions ordered by the 1984  
court, the court shall dismiss the proceedings against the 1985



offender. Successful completion of the intervention plan and 1986  
period of abstinence under this section shall be without 1987  
adjudication of guilt and is not a criminal conviction for 1988  
purposes of any disqualification or disability imposed by law and 1989  
upon conviction of a crime, and the court may order the sealing of 1990  
records related to the offense in question in the manner provided 1991  
in sections 2953.31 to 2953.36 of the Revised Code. 1992

(F) If the court grants an offender's request for 1993  
intervention in lieu of conviction and the offender fails to 1994  
comply with any term or condition imposed as part of the 1995  
intervention plan for the offender, the supervising authority for 1996  
the offender promptly shall advise the court of this failure, and 1997  
the court shall hold a hearing to determine whether the offender 1998  
failed to comply with any term or condition imposed as part of the 1999  
plan. If the court determines that the offender has failed to 2000  
comply with any of those terms and conditions, it shall enter a 2001  
finding of guilty and shall impose an appropriate sanction under 2002  
Chapter 2929. of the Revised Code. 2003

(G) As used in this section: 2004

(1) "Community control sanction" has the same meaning as in 2005  
section 2929.01 of the Revised Code. 2006

(2) "Intervention in lieu of conviction" means any 2007  
court-supervised activity that complies with this section. 2008

(3) "Peace officer" has the same meaning as in section 2009  
2935.01 of the Revised Code. 2010

**Sec. 2967.16.** (A) Except as provided in division (D) of this 2011  
section, when a paroled prisoner has faithfully performed the 2012  
conditions and obligations of the paroled prisoner's parole and 2013  
has obeyed the rules and regulations adopted by the adult parole 2014  
authority that apply to the paroled prisoner, the authority upon 2015

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

(B)(1) When a prisoner who has been released under a period 2025  
of post-release control pursuant to section 2967.28 of the Revised 2026  
Code has faithfully performed the conditions and obligations of 2027  
the released prisoner's post-release control sanctions and has 2028  
obeyed the rules and regulations adopted by the adult parole 2029  
authority that apply to the released prisoner or has the period of 2030  
post-release control terminated by a court pursuant to section 2031  
2929.141 of the Revised Code, the authority, upon the 2032  
recommendation of the superintendent of parole supervision, may 2033  
enter upon its minutes a final release and, upon the entry of the 2034  
final release, shall issue to the released prisoner a certificate 2035  
of final release. In the case of a prisoner who has been released 2036  
under a period of post-release control pursuant to division (B) of 2037  
section 2967.28 of the Revised Code, the authority shall not grant 2038  
a final release earlier than one year after the released prisoner 2039  
is released from the institution under a period of post-release 2040  
control. The authority shall classify the termination of 2041  
post-release control as favorable or unfavorable depending on the 2042  
offender's conduct and compliance with the conditions of 2043  
supervision. In the case of a released prisoner whose sentence is 2044  
life imprisonment, the authority shall not grant a final release 2045  
earlier than five years after the released prisoner is released 2046  
from the institution under a period of post-release control. 2047

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

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

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

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

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

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

(E) The adult parole authority shall record the final release 2068  
of a parolee or prisoner in the official minutes of the authority. 2069  
2070

**Sec. 2967.28.** (A) As used in this section: 2071

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

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

(3) "Felony sex offense" means a violation of a section 2076

contained in Chapter 2907. of the Revised Code that is a felony. 2077

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

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

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

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

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

(D)(1) Before the prisoner is released from imprisonment, the 2105  
parole board shall impose upon a prisoner described in division 2106  
(B) of this section, may impose upon a prisoner described in 2107

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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  
the office of victims' services. After considering those  
materials, the board shall determine, for a prisoner described in  
division (B) of this section, division (B)(2)(b) of section  
5120.031, or division (B)(1) of section 5120.032 of the Revised  
Code, which post-release control sanction or combination of  
post-release control sanctions is reasonable under the  
circumstances or, for a prisoner described in division (C) of this  
section, whether a post-release control sanction is necessary and,  
if so, which post-release control sanction or combination of

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post-release control sanctions is reasonable under the  
circumstances. In the case of a prisoner convicted of a felony of  
the fourth or fifth degree other than a felony sex offense, the  
board shall presume that monitored time is the appropriate  
post-release control sanction unless the board determines that a  
more restrictive sanction is warranted. A post-release control  
sanction imposed under this division takes effect upon the  
prisoner's release from imprisonment.

(2) At any time after a prisoner is released from  
imprisonment and during the period of post-release control  
applicable to the releasee, the adult parole authority may review  
the releasee's behavior under the post-release control sanctions  
imposed upon the releasee under this section. The authority may  
determine, based upon the review and in accordance with the  
standards established under division (E) of this section, that a  
more restrictive or a less restrictive sanction is appropriate and  
may impose a different sanction. Unless the period of post-release  
control was imposed for an offense described in division (B)(1) of  
this section, the authority also may recommend that the parole  
board reduce the duration of the period of post-release control  
imposed by the court. If the authority recommends that the board  
reduce the duration of control for an offense described in  
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: 2173

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

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

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

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

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

(a) Classify violations according to the degree of 2202  
seriousness; 2203

(b) Define the circumstances under which formal action by the  
parole board is warranted;

(c) Govern the use of evidence at violation hearings;

(d) Ensure procedural due process to an alleged violator;

(e) Prescribe nonresidential community control sanctions for  
most misdemeanor and technical violations;

(f) Provide procedures for the return of a releasee to  
imprisonment for violations of post-release control.

(F)(1) If a post-release control sanction is imposed upon an  
offender under this section, the offender upon release from  
imprisonment shall be under the general jurisdiction of the adult  
parole authority and generally shall be supervised by the parole  
supervision section through its staff of parole and field officers  
as described in section 5149.04 of the Revised Code, as if the  
offender had been placed on parole. If the offender upon release  
from imprisonment violates the post-release control sanction or  
any conditions described in division (A) of section 2967.131 of  
the Revised Code that are imposed on the offender, the public or  
private person or entity that operates or administers the sanction  
or the program or activity that comprises the sanction shall  
report the violation directly to the adult parole authority or to  
the officer of the authority who supervises the offender. The  
authority's officers may treat the offender as if the offender  
were on parole and in violation of the parole, and otherwise shall  
comply with this section.

(2) If the adult parole authority determines that a releasee  
has violated a post-release control sanction or any conditions  
described in division (A) of section 2967.131 of the Revised Code  
imposed upon the releasee and that a more restrictive sanction is  
appropriate, the authority may impose a more restrictive sanction  
upon the releasee, in accordance with the standards established



under division (E) of this section, or may report the violation to  
the parole board for a hearing pursuant to division (F)(3) of this  
section. The authority may not, pursuant to this division,  
increase the duration of the releasee's post-release control or  
impose as a post-release control sanction a residential sanction  
that includes a prison term, but the authority may impose on the  
releasee any other residential sanction, nonresidential sanction,  
or financial sanction that the sentencing court was authorized to  
impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the  
Revised Code.

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

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

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

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

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

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

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

control imposed for the earlier felony as determined by the parole board. 2331  
2332

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

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

(2) The board shall grant a license to practice nursing as a 2360  
registered nurse or as a licensed practical nurse if ~~the~~ all of 2361

the following apply: 2362

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

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

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

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

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

(B) An application for license by endorsement to practice 2385  
nursing as a registered nurse or as a licensed practical nurse 2386  
shall be submitted to the board in the form prescribed by rules of 2387  
the board and shall be accompanied by the application fee required 2388  
by section 4723.08 of the Revised Code. The application shall 2389  
include evidence that the applicant holds a license in good 2390  
standing in another jurisdiction granted after passing an 2391  
examination approved by the board of that jurisdiction that is 2392

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

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

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

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

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

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

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disciplinary action under any of those sections has made 2424  
restitution or has been rehabilitated, or both. 2425

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

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

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

(B) The Subject to division (N) of this section, the board of 2454

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nursing, and by a vote of a quorum, may impose one or more of the  
following sanctions: deny, revoke, suspend, or place restrictions  
on any nursing license, certificate of authority, or dialysis  
technician certificate issued by the board; reprimand or otherwise  
discipline a holder of a nursing license, certificate of  
authority, or dialysis technician certificate; or impose a fine of  
not more than five hundred dollars per violation. The sanctions  
may be imposed for any of the following:

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

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

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

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

(5) Selling, giving away, or administering drugs or  
therapeutic devices for other than legal and legitimate  
therapeutic purposes; or conviction of, a plea of guilty to, a  
judicial finding of guilt of, a judicial finding of guilt  
resulting from a plea of no contest to, or a judicial finding of



eligibility for intervention in lieu of conviction for, violating 2487  
any municipal, state, county, or federal drug law; 2488

(6) Conviction of, a plea of guilty to, a judicial finding of 2489  
guilt of, a judicial finding of guilt resulting from a plea of no 2490  
contest to, or a judicial finding of eligibility for intervention 2491  
in lieu of conviction for, an act in another jurisdiction that 2492  
would constitute a felony or a crime of moral turpitude in Ohio; 2493  
2494

(7) Conviction of, a plea of guilty to, a judicial finding of 2495  
guilt of, a judicial finding of guilt resulting from a plea of no 2496  
contest to, or a judicial finding of eligibility for intervention 2497  
in lieu of conviction for, an act in the course of practice in 2498  
another jurisdiction that would constitute a misdemeanor in Ohio; 2499  
2500

(8) Self-administering or otherwise taking into the body any 2501  
dangerous drug, as defined in section 4729.01 of the Revised Code, 2502  
in any way not in accordance with a legal, valid ~~prescription~~ 2503  
prescription issued for that individual; 2504

(9) Habitual indulgence in the use of controlled substances, 2505  
other habit-forming drugs, or alcohol or other chemical substances 2506  
to an extent that impairs ability to practice; 2507

(10) Impairment of the ability to practice according to 2508  
acceptable and prevailing standards of safe nursing care because 2509  
of habitual or excessive use of drugs, alcohol, or other chemical 2510  
substances that impair the ability to practice; 2511

(11) Impairment of the ability to practice according to 2512  
acceptable and prevailing standards of safe nursing care because 2513  
of a physical or mental disability; 2514

(12) Assaulting or causing harm to a patient or depriving a 2515  
patient of the means to summon assistance; 2516

(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;	2517 2518 2519
(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may restore the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.	2520 2521 2522 2523 2524 2525
(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;	2526 2527 2528
(16) Violation of this chapter or any rules adopted under it;	2529 2530
(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	2531 2532
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	2533 2534 2535
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	2536 2537
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	2538 2539 2540
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	2541 2542 2543
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	2544 2545 2546

(23) Aiding and abetting a person in that person's practice 2547  
of nursing without a license or practice as a dialysis technician 2548  
without a certificate issued under this chapter; 2549

(24) In the case of a certified registered nurse anesthetist, 2550  
clinical nurse specialist, certified nurse-midwife, certified 2551  
nurse practitioner, or advanced practice nurse, except as provided 2552  
in division (M) of this section, either of the following: 2553  
2554

(a) Waiving the payment of all or any part of a deductible or 2555  
copayment that a patient, pursuant to a health insurance or health 2556  
care policy, contract, or plan that covers such nursing services, 2557  
would otherwise be required to pay if the waiver is used as an 2558  
enticement to a patient or group of patients to receive health 2559  
care services from that provider; 2560

(b) Advertising that the nurse will waive the payment of all 2561  
or any part of a deductible or copayment that a patient, pursuant 2562  
to a health insurance or health care policy, contract, or plan 2563  
that covers such nursing services, would otherwise be required to 2564  
pay. 2565

(25) Failure to comply with the terms and conditions of 2566  
participation in the chemical dependency monitoring program 2567  
established under section 4723.35 of the Revised Code; 2568

(26) Failure to comply with the terms and conditions required 2569  
under the practice intervention and improvement program 2570  
established under section 4723.282 of the Revised Code; 2571

(27) In the case of a certified registered nurse anesthetist, 2572  
clinical nurse specialist, certified nurse-midwife, or certified 2573  
nurse practitioner: 2574

(a) Engaging in activities that exceed those permitted for 2575  
the nurse's nursing specialty under section 4723.43 of the Revised 2576  
Code; 2577

(b) Failure to meet the quality assurance standards 2578  
established under section 4723.07 of the Revised Code. 2579

(28) In the case of a clinical nurse specialist, certified 2580  
nurse-midwife, or certified nurse practitioner, failure to 2581  
maintain a standard care arrangement in accordance with section 2582  
4723.431 of the Revised Code or to practice in accordance with the 2583  
standard care arrangement; 2584

(29) In the case of a clinical nurse specialist, certified 2585  
nurse-midwife, or certified nurse practitioner who holds a 2586  
certificate to prescribe issued under section 4723.48 of the 2587  
Revised Code, failure to prescribe drugs and therapeutic devices 2588  
in accordance with section 4723.481 of the Revised Code; 2589

(30) Prescribing any drug or device to perform or induce an 2590  
abortion, or otherwise performing or inducing an abortion; 2591

(31) Failure to establish and maintain professional 2592  
boundaries with a patient, as specified in rules adopted under 2593  
section 4723.07 of the Revised Code; 2594

(32) Regardless of whether the contact or verbal behavior is 2595  
consensual, engaging with a patient other than the spouse of the 2596  
registered nurse, licensed practical nurse, or dialysis technician 2597  
in any of the following: 2598

(a) Sexual contact, as defined in section 2907.01 of the 2599  
Revised Code; 2600

(b) Verbal behavior that is sexually demeaning to the patient 2601  
or may be reasonably interpreted by the patient as sexually 2602  
demeaning. 2603

(C) Disciplinary actions taken by the board under divisions 2604  
(A) and (B) of this section shall be taken pursuant to an 2605  
adjudication conducted under Chapter 119. of the Revised Code, 2606  
except that in lieu of a hearing, the board may enter into a 2607

consent agreement with an individual to resolve an allegation of a  
violation of this chapter or any rule adopted under it. A consent  
agreement, when ratified by a vote of a quorum, shall constitute  
the findings and order of the board with respect to the matter  
addressed in the agreement. If the board refuses to ratify a  
consent agreement, the admissions and findings contained in the  
agreement shall be of no effect.

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

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

(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 2640  
had been convicted of the act. 2641

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

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

The board shall not be required to seal, destroy, redact, or 2669  
otherwise modify its records to reflect the court's sealing of 2670  
conviction records. 2671

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

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

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

For purposes of this division, any registered nurse, licensed 2696  
practical nurse, or dialysis technician or applicant under this 2697  
chapter shall be deemed to have given consent to submit to a 2698  
mental or physical examination when directed to do so in writing 2699  
by the board, and to have waived all objections to the 2700  
admissibility of testimony or examination reports that constitute 2701  
a privileged communication. 2702

(H) The board shall investigate evidence that appears to show 2703

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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  
court or licensing or registration board or officer to which the  
person to whom the information relates is a party.

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

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

(4) Any board activity that involves continued monitoring of  
an individual as part of or following any disciplinary action  
taken under this section shall be conducted in a manner that



maintains the individual's confidentiality. Information received 2735  
or maintained by the board with respect to the board's monitoring 2736  
activities is confidential and not subject to discovery in any 2737  
civil action. 2738

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

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

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

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

(1) In compliance with the health benefit plan that expressly 2765

allows such a practice. Waiver of the deductibles or copayments  
shall be made only with the full knowledge and consent of the plan  
purchaser, payer, and third-party administrator. Documentation of  
the consent shall be made available to the board upon request.

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

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

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

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

(1) The person applies to the board in accordance with rules

adopted under section 4723.79 of the Revised Code and includes 2797  
with the application the fee established in those rules. 2798

(2) The person is eighteen years of age or older and 2799  
possesses a high school diploma or high school equivalence 2800  
diploma. 2801

(3) The person meets the requirements established by the 2802  
board's rules. 2803

(4) The person demonstrates competency to practice as a 2804  
dialysis technician, as specified under division (B) of this 2805  
section. 2806

(5) The person has submitted the results of a criminal 2807  
background check completed by the bureau of criminal 2808  
identification and investigation that includes a check of federal 2809  
bureau of investigation records. 2810

(6) The criminal records check submitted by the person 2811  
indicates that the person has not been convicted of, has not 2812  
pleaded guilty to, and has not had a judicial finding of guilt for 2813  
violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2814  
2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the 2815  
Revised Code or a substantially similar law of another state, the 2816  
United States, or another country. 2817

(B) For a person to demonstrate competence to practice as a 2818  
dialysis technician, one of the following must apply: 2819

(1) The person meets all of the following requirements: 2820

(a) The person has successfully completed a dialysis training 2821  
program approved by the board under section 4723.74 of the Revised 2822  
Code. 2823

(b) The person has been employed to perform dialysis care by 2824  
a dialysis provider for not less than twelve months prior to the 2825  
date of application. 2826

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

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

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

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

(3) The person submits evidence satisfactory to the board 2856  
that the person holds a current, valid license, certificate, or 2857  
other authorization to perform dialysis care issued by another 2858

state that has standards for dialysis technicians that the board  
considers substantially similar to those established under  
sections 4723.71 to 4723.79 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

correctional institution and release from imprisonment. 2953

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

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

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

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

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

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

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

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

(C)(1) If an offender is sentenced to a term of imprisonment 2977  
under the custody of the department, ~~if the sentencing court~~ 2978  
~~determined that the offender is eligible for placement in a~~ 2979  
~~program of shock incarceration under this section, and if the~~ 2980  
sentencing court either recommends the offender for placement in a 2981  
program of shock incarceration under this section or makes no 2982



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recommendation on placement of the offender, and if the department 2983  
determines that the offender is an eligible offender for placement 2984  
in a program of shock incarceration under this section, the 2985  
department may permit the eligible offender to serve the sentence 2986  
in a program of shock incarceration, in accordance with division 2987  
(K) of section 2929.14 of the Revised Code, with this section, and 2988  
with the rules adopted under this section. If the sentencing court 2989  
disapproves placement of the offender in a program of shock 2990  
incarceration, the department shall not place the offender in any 2991  
program of shock incarceration. 2992

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

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

If the sentencing court does not make a recommendation on the 3005  
placement of an ~~eligible~~ offender in a program of shock 3006  
incarceration and if the department determines that the offender 3007  
is an eligible offender for placement in a program of that nature, 3008  
the department shall screen the offender and determine if the 3009  
offender is suited for the program of shock incarceration. If the 3010  
offender is suited for the program of shock incarceration, at 3011  
least three weeks prior to permitting an eligible offender to 3012  
serve the sentence in a program of shock incarceration, the 3013  
department shall notify the sentencing court of the proposed 3014

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

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

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

(3) If an eligible offender's stated prison term expires at 3044  
any time during the eligible offender's participation in the shock 3045  
incarceration program, the adult parole authority shall terminate 3046

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the eligible offender's participation in the program and shall  
issue to the eligible offender a certificate of expiration of the  
stated prison term.

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

(E) Within a reasonable period of time after November 20,  
1990, the director shall appoint a committee to search for one or  
more suitable sites at which one or more programs of shock  
incarceration, in addition to the pilot program required by  
division (B)(1) of this section, may be established. The search  
committee shall consist of the director or the director's  
designee, as chairperson; employees of the department of  
rehabilitation and correction appointed by the director; and any  
other persons that the director, in the director's discretion,  
appoints. In searching for such sites, the search committee shall  
give preference to any site owned by the state or any other  
governmental entity and to any existing structure that reasonably  
could be renovated, enlarged, converted, or remodeled for purposes  
of establishing such a program. The search committee shall prepare  
a report concerning its activities 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

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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  
shall not terminate at the time of the filing of the report, but  
shall continue in operation in accordance with this section. The

report required by this division shall include all of the 3111  
following: 3112

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

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

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

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

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

(6) A listing of the number of eligible offenders who were 3139  
permitted to serve a sentence of shock incarceration and who did 3140  
not serve the entire sentence of shock incarceration, and, to the 3141

extent possible, a summary of the length of the terms of  
imprisonment served by such eligible offenders after they were  
removed from the pilot program;

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

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

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

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

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

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intensive program prison under this section or makes no 3173  
recommendation on placement of the prisoner, and if the department 3174  
determines that the prisoner is eligible for placement in an 3175  
intensive program prison under this section, the department may 3176  
place the prisoner in an intensive program prison established 3177  
pursuant to division (A) of this section. If the sentencing court 3178  
disapproves placement of the prisoner in an intensive program 3179  
prison, the department shall not place the prisoner in any 3180  
intensive program prison. 3181

If the sentencing court recommends a prisoner for placement 3182  
in an intensive program prison and if the department subsequently 3183  
places the prisoner in the recommended prison, the department 3184  
shall notify the court of the prisoner's placement in the 3185  
recommended intensive program prison and shall include with the 3186  
notice a brief description of the placement. 3187

If the sentencing court ~~approves~~ recommends placement of a 3188  
prisoner in an intensive program prison and the department for any 3189  
reason does not subsequently place the ~~offender prisoner~~ in the 3190  
recommended prison, the department shall send a notice to the 3191  
court indicating why the prisoner was not placed in the 3192  
recommended prison. 3193

If the sentencing court does not make a recommendation on the 3194  
placement of ~~an eligible~~ a prisoner in an intensive program prison 3195  
and if the department determines that the prisoner is eligible for 3196  
placement in a prison of that nature, the department shall screen 3197  
the prisoner and determine if the prisoner is suited for the 3198  
prison. If the prisoner is suited for the intensive program 3199  
prison, at least three weeks prior to placing the prisoner in the 3200  
prison, the department shall notify the sentencing court of the 3201  
proposed placement of the prisoner in the intensive program prison 3202  
and shall include with the notice a brief description of the 3203  
placement. The court shall have ten days from receipt of the 3204

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notice to disapprove the placement. If the sentencing court 3205  
disapproves the placement, the department shall not proceed with 3206  
it. If the sentencing court does not timely disapprove of the 3207  
placement, the department may proceed with plans for it. 3208

If the ~~sentencing court~~ department determines that a prisoner 3209  
is not eligible for placement in an intensive program prison ~~or if~~ 3210  
~~the sentencing court disapproves placement of an offender in a~~ 3211  
~~prison of that nature~~, the department ~~of rehabilitation and~~ 3212  
~~correction~~ shall not place the prisoner in any intensive program 3213  
prison. 3214

(b) The department may reduce the stated prison term of a 3215  
prisoner upon the prisoner's successful completion of a ninety-day 3216  
period in an intensive program prison. A prisoner whose term has 3217  
been so reduced shall be required to serve an intermediate, 3218  
transitional type of detention followed by a release under 3219  
post-release control sanctions or, in the alternative, shall be 3220  
placed under post-release control sanctions, as described in 3221  
division (B)(2)(b)(ii) of section 5120.031 of the Revised Code. In 3222  
either case, the placement under post-release control sanctions 3223  
shall be under terms set by the parole board in accordance with 3224  
section 2967.28 of the Revised Code and shall be subject to the 3225  
provisions of that section and section 2929.141 of the Revised 3226  
Code with respect to a violation of any post-release control 3227  
sanction. 3228

(2) A prisoner who is in any of the following categories is 3229  
not eligible to participate in an intensive program prison 3230  
established pursuant to division (A) of this section: 3231

(a) The prisoner is serving a prison term for aggravated 3232  
murder, murder, or a felony of the first or second degree or a 3233  
comparable offense under the law in effect prior to July 1, 1996, 3234  
or the prisoner previously has been imprisoned for aggravated 3235  
murder, murder, or a felony of the first or second degree or a 3236



comparable offense under the law in effect prior to July 1, 1996. 3237

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

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

(d) The prisoner is serving a mandatory prison term in prison 3249  
for a third or ~~fourth~~ fourth degree felony OMVI offense, as defined 3250  
in section 2929.01 of the Revised Code, that was imposed pursuant 3251  
to division (G)(2) of section 2929.13 of the Revised Code. 3252  
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(C) Upon the implementation of intensive program prisons 3254  
pursuant to division (A) of this section, the department at all 3255  
times shall maintain intensive program prisons sufficient in 3256  
number to reduce the prison terms of at least three hundred fifty 3257  
prisoners who are eligible for reduction of their stated prison 3258  
terms as a result of their completion of a regimen in an intensive 3259  
program prison under this section. 3260

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

(B) Within eighteen months after October 17, 1996, the 3264  
department of rehabilitation and correction shall develop and 3265  
implement intensive program prisons for male and female prisoners 3266

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

(C) Except as provided in division (D) of this section, the  
department may place a prisoner who is sentenced to a mandatory  
prison term for a third or fourth degree felony OMVI offense in an  
intensive program prison established pursuant to division (B) of  
this section if the sentencing judge, upon notification by the  
department of its intent to place the prisoner in an intensive  
program prison, does not notify the department that the judge  
disapproves the placement. If the stated prison term imposed on a  
prisoner who is so placed is longer than the mandatory prison term  
that is required to be imposed on the prisoner, the department may  
reduce the stated prison term upon the prisoner's successful  
completion of the prisoner's mandatory prison term in an intensive  
program prison. A prisoner whose term has been so reduced shall be  
required to serve an intermediate, transitional type of detention  
followed by a release under post-release control sanctions or, in  
the alternative, shall be placed under post-release control  
sanctions, as described in division (B)(2)(b)(ii) of section  
5120.031 of the Revised Code. In either case, the placement under  
post-release control sanctions shall be under terms set by the

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parole board in accordance with section 2967.28 of the Revised Code and shall be subject to the provisions of that section and section 2929.141 of the Revised Code with respect to a violation of any post-release control sanction. Upon the establishment of the initial intensive program prison pursuant to division (B) of this section that is privately operated and managed by a contractor pursuant to a contract entered into under section 9.06 of the Revised Code, the department shall comply with divisions (G)(2)(a) and (b) of section 2929.13 of the Revised Code in placing prisoners in intensive program prisons under this section.

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

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

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

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

**Sec. 5145.01.** Courts shall impose sentences to a state correctional institution for felonies pursuant to sections 2929.13 and 2929.14 of the Revised Code. All prison terms may be ended in the manner provided by law, but no prison term shall exceed the

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maximum term provided for the felony of which the prisoner was 3330  
convicted as extended pursuant to section 2929.141, 2967.11, or 3331  
2967.28 of the Revised Code. 3332

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

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

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

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

**Section 2.** That existing sections 181.25, 2919.25, 2921.34, 3357  
2925.23, 2925.36, 2929.01, 2929.12, 2929.13, 2929.14, 2929.19, 3358  
2929.20, 2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 4723.28, 3359  
4723.75, 5120.031, 5120.032, 5120.033, and 5145.01 of the Revised 3360

Code are hereby repealed. 3361

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

**Section 4.** Section 2919.25 of the Revised Code is presented 3369  
in this act as a composite of the section as amended by both H.B. 3370  
238 and Am. Sub. S.B. 1 of the 122nd General Assembly. Section 3371  
2921.34 of the Revised Code is presented in this act as a 3372  
composite of the section as amended by both Am. Sub. H.B. 180 and 3373  
Am. Sub. S.B. 285 of the 121st General Assembly. Section 2929.01 3374  
of the Revised Code is presented in this act as a composite of the 3375  
section as amended by Am. Sub. H.B. 349, Am. Sub. S.B. 179, and 3376  
Am. Sub. S.B. 222 of the 123rd General Assembly. Section 2929.13 3377  
of the Revised Code is presented in this act as a composite of the 3378  
section as amended by Am. H.B. 528, Am. Sub. S.B. 22, Am. Sub. 3379  
S.B. 107, Am. S.B. 142, and Am. Sub. S.B. 222 of the 123rd General 3380  
Assembly. Section 2929.19 of the Revised Code is presented in this 3381  
act as a composite of the section as amended by Am. Sub. H.B. 349, 3382  
Am. Sub. S.B. 22, and Am. Sub. S.B. 107 of the 123rd General 3383  
Assembly. Section 2951.041 of the Revised Code is presented in 3384  
this act as a composite of the section as amended by both Sub. 3385  
H.B. 202 and Am. Sub. S.B. 107 of the 123rd General Assembly. 3386  
Section 4723.09 of the Revised Code is presented in this act as a 3387  
composite of the section as amended by both Sub. H.B. 511 and Am. 3388  
Sub. S.B. 180 of the 123rd General Assembly. Section 5120.032 of 3389  
the Revised Code is presented in this act as a composite of the 3390  
section as amended by both Am. Sub. S.B. 22 and Am. Sub. S.B. 107 3391

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of the 123rd General Assembly. The General Assembly, applying the 3392  
principle stated in division (B) of section 1.52 of the Revised 3393  
Code that amendments are to be harmonized if reasonably capable of 3394  
simultaneous operation, finds that the composites are the 3395  
resulting versions of the sections in effect prior to the 3396  
effective date of the sections as presented in this act. 3397