

As Reported by the Senate Judiciary--Criminal Justice Committee

124th General Assembly

Regular Session

2001-2002

Sub. H. B. No. 327

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

A BILL

To amend sections 181.25, 2307.62, 2913.01, 2913.04, 1
2919.25, 2925.23, 2929.01, 2929.12, 2929.13, 2
2929.14, 2929.19, 2929.20, 2951.041, 2967.16, 3
2967.28, 3719.21, 4723.09, 4723.28, 4723.72, 4
4723.74, 4723.75, 4723.77, 5120.031, 5120.032, 5
5120.033, and 5145.01 and to enact section 2929.141 6
of the Revised Code to clarify certain provisions 7
of the Felony Sentencing Law, to correct the 8
penalty provisions for illegal processing of drug 9
documents, to clarify the eligibility criteria for 10
intervention in lieu of conviction, to require 11
applicants for nurse licensure and dialysis 12
technician certification to have a criminal records 13
check, to expand the offense of unauthorized use of 14
property to specifically include nonconsensual 15
access to a cable service or cable system, to 16
revise certain provisions of the law governing 17
nurses and dialysis technicians as to licensing or 18
certification, duties, and training, and to extend 19
until July 1, 2002, the date by which the State 20
Criminal Sentencing Commission must recommend 21
changes to the state's criminal forfeiture laws. 22

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

Section 1. That sections 181.25, 2307.62, 2913.01, 2913.04, 23
2919.25, 2925.23, 2929.01, 2929.12, 2929.13, 2929.14, 2929.19, 24
2929.20, 2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 4723.28, 25
4723.72, 4723.74, 4723.75, 4723.77, 5120.031, 5120.032, 5120.033, 26
and 5145.01 be amended and section 2929.141 of the Revised Code be 27
enacted to read as follows: 28

Sec. 181.25. (A) If the comprehensive criminal sentencing 29
structure that it recommends to the general assembly pursuant to 30
section 181.24 of the Revised Code or any aspects of that 31
sentencing structure are enacted into law, the state criminal 32
sentencing commission shall do all of the following: 33

(1) Assist the general assembly in the implementation of 34
those aspects of the sentencing structure that are enacted into 35
law; 36

(2) Monitor the operation of the aspects of the sentencing 37
structure that are enacted into law and report to the general 38
assembly no later than January 1, 1997, and biennially thereafter, 39
on all of the following matters: 40

(a) The impact of the sentencing structure in effect on and 41
after July 1, 1996, on political subdivisions and other relevant 42
aspects of local government in this state, including all of the 43
following information: 44

(i) The number and type of offenders who were being 45
imprisoned in a state correctional institution under the law in 46
effect prior to July 1, 1996, but who are being punished under a 47
community control sanction, as defined in section 2929.01 of the 48
Revised Code, under the law in effect on and after July 1, 1996; 49

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

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

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

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

Revised Code.

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

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

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

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

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

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

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

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

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

(B)(1) An owner or operator of a cable service, cable system, cable television system, or other similar closed circuit coaxial cable communications system who is aggrieved by conduct that is prohibited by division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code may elect to commence a civil action for damages in accordance with section 2307.60 or 2307.61 of the Revised Code or to commence a civil action under this section in the appropriate municipal court, county court, or

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

(a) Full compensatory damages, punitive or exemplary damages 156
if authorized by section 2315.21 of the Revised Code, and the 157
reasonable attorney's fees, court costs, and other reasonable 158
expenses incurred in maintaining the civil action under this 159
section. 160

(b) Damages equal to the actual loss suffered by the owner or 161
operator as a proximate result of the conduct that violated 162
division (B) of section 2913.04 or division (A) or (B) of section 163
2913.041 of the Revised Code and, in addition, damages equal to 164
the profits derived by the persons who violated ~~either one~~ or both 165
more of those divisions as a proximate result of the prohibited 166
conduct. 167

(c) ~~Liquidated~~ Regarding a violation of division (A) or (B) 168
of section 2913.041 of the Revised Code, liquidated damages in an 169
amount of not less than two hundred fifty dollars and not more 170
than ten thousand dollars, as determined by the trier of fact, for 171
each separate violation of division (A) or (B) of section 2913.041 172
of the Revised Code as described in division (D) of that section. 173
Division (B)(1)(c) of this section does not apply regarding a 174
violation of division (B) of section 2913.04 of the Revised Code. 175

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

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

(C) A person may join a civil action under this section with a civil action under Chapter 2737. of the Revised Code to recover any property of the owner or operator of a cable service, cable system, cable television system, or other similar closed circuit coaxial cable communications system that was the subject of the violation of division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code. A person may commence a civil action under this section regardless of whether any person who allegedly violated ~~either~~ one or ~~both~~ more of those divisions has pleaded guilty to or has been convicted of a violation of

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~~either one~~ or ~~both more~~ of those divisions or has been adjudicated 208
 a delinquent child for the commission of any act that constitutes 209
 a violation of ~~either one~~ or ~~both more~~ of those divisions. 210

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Sec. 2913.01. As used in this chapter, unless the context 212
 requires that a term be given a different meaning: 213

(A) "Deception" means knowingly deceiving another or causing 214
 another to be deceived by any false or misleading representation, 215
 by withholding information, by preventing another from acquiring 216
 information, or by any other conduct, act, or omission that 217
 creates, confirms, or perpetuates a false impression in another, 218
 including a false impression as to law, value, state of mind, or 219
 other objective or subjective fact. 220

(B) "Defraud" means to knowingly obtain, by deception, some 221
 benefit for oneself or another, or to knowingly cause, by 222
 deception, some detriment to another. 223

(C) "Deprive" means to do any of the following: 224

(1) Withhold property of another permanently, or for a period 225
 that appropriates a substantial portion of its value or use, or 226
 with purpose to restore it only upon payment of a reward or other 227
 consideration; 228

(2) Dispose of property so as to make it unlikely that the 229
 owner will recover it; 230

(3) Accept, use, or appropriate money, property, or services, 231
 with purpose not to give proper consideration in return for the 232
 money, property, or services, and without reasonable justification 233
 or excuse for not giving proper consideration. 234

(D) "Owner" means, unless the context requires a different 235
 meaning, any person, other than the actor, who is the owner of, 236
 who has possession or control of, or who has any license or 237

interest in property or services, even though the ownership, 238
possession, control, license, or interest is unlawful. 239

(E) "Services" include labor, personal services, professional 240
services, public utility services, common carrier services, and 241
food, drink, transportation, entertainment, and cable television 242
services and, for purposes of section 2913.04 of the Revised Code, 243
include cable services as defined in that section. 244

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(F) "Writing" means any computer software, document, letter, 246
memorandum, note, paper, plate, data, film, or other thing having 247
in or upon it any written, typewritten, or printed matter, and any 248
token, stamp, seal, credit card, badge, trademark, label, or other 249
symbol of value, right, privilege, license, or identification. 250

(G) "Forge" means to fabricate or create, in whole or in part 251
and by any means, any spurious writing, or to make, execute, 252
alter, complete, reproduce, or otherwise purport to authenticate 253
any writing, when the writing in fact is not authenticated by that 254
conduct. 255

(H) "Utter" means to issue, publish, transfer, use, put or 256
send into circulation, deliver, or display. 257

(I) "Coin machine" means any mechanical or electronic device 258
designed to do both of the following: 259

(1) Receive a coin, bill, or token made for that purpose; 260

(2) In return for the insertion or deposit of a coin, bill, 261
or token, automatically dispense property, provide a service, or 262
grant a license. 263

(J) "Slug" means an object that, by virtue of its size, 264
shape, composition, or other quality, is capable of being inserted 265
or deposited in a coin machine as an improper substitute for a 266
genuine coin, bill, or token made for that purpose. 267

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(K) "Theft offense" means any of the following:	268
(1) A violation of section 2911.01, 2911.02, 2911.11,	269
2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04,	270
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32,	271
2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45,	272
2913.47, former section 2913.47 or 2913.48, or section 2913.51,	273
2915.05, or 2921.41 of the Revised Code;	274
(2) A violation of an existing or former municipal ordinance	275
or law of this or any other state, or of the United States,	276
substantially equivalent to any section listed in division (K)(1)	277
of this section or a violation of section 2913.41, 2913.81, or	278
2915.06 of the Revised Code as it existed prior to July 1, 1996;	279
(3) An offense under an existing or former municipal	280
ordinance or law of this or any other state, or of the United	281
States, involving robbery, burglary, breaking and entering, theft,	282
embezzlement, wrongful conversion, forgery, counterfeiting,	283
deceit, or fraud;	284
(4) A conspiracy or attempt to commit, or complicity in	285
committing, any offense under division (K)(1), (2), or (3) of this	286
section.	287
(L) "Computer services" includes, but is not limited to, the	288
use of a computer system, computer network, computer program, data	289
that is prepared for computer use, or data that is contained	290
within a computer system or computer network.	291
(M) "Computer" means an electronic device that performs	292
logical, arithmetic, and memory functions by the manipulation of	293
electronic or magnetic impulses. "Computer" includes, but is not	294
limited to, all input, output, processing, storage, computer	295
program, or communication facilities that are connected, or	296
related, in a computer system or network to an electronic device	297
of that nature.	298

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(N) "Computer system" means a computer and related devices, 299
whether connected or unconnected, including, but not limited to, 300
data input, output, and storage devices, data communications 301
links, and computer programs and data that make the system capable 302
of performing specified special purpose data processing tasks. 303

(O) "Computer network" means a set of related and remotely 304
connected computers and communication facilities that includes 305
more than one computer system that has the capability to transmit 306
among the connected computers and communication facilities through 307
the use of computer facilities. 308

(P) "Computer program" means an ordered set of data 309
representing coded instructions or statements that, when executed 310
by a computer, cause the computer to process data. 311

(Q) "Computer software" means computer programs, procedures, 312
and other documentation associated with the operation of a 313
computer system. 314

(R) "Data" means a representation of information, knowledge, 315
facts, concepts, or instructions that are being or have been 316
prepared in a formalized manner and that are intended for use in a 317
computer, computer system, or computer network. For purposes of 318
section 2913.47 of the Revised Code, "data" has the additional 319
meaning set forth in division (A) of that section. 320

(S) "Cable television service" means any services provided by 321
or through the facilities of any cable television system or other 322
similar closed circuit coaxial cable communications system, or any 323
microwave or similar transmission service used in connection with 324
any cable television system or other similar closed circuit 325
coaxial cable communications system. 326

(T) "Gain access" means to approach, instruct, communicate 327
with, store data in, retrieve data from, or otherwise make use of 328
any resources of a computer, computer system, or computer network. 329

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or any cable service or cable system both as defined in section 330
2913.04 of the Revised Code. 331

(U) "Credit card" includes, but is not limited to, a card, 332
code, device, or other means of access to a customer's account for 333
the purpose of obtaining money, property, labor, or services on 334
credit, or for initiating an electronic fund transfer at a 335
point-of-sale terminal, an automated teller machine, or a cash 336
dispensing machine. 337

(V) "Electronic fund transfer" has the same meaning as in 92 338
Stat. 3728, 15 U.S.C.A. 1693a, as amended. 339

(W) "Rented property" means personal property in which the 340
right of possession and use of the property is for a short and 341
possibly indeterminate term in return for consideration; the 342
rentee generally controls the duration of possession of the 343
property, within any applicable minimum or maximum term; and the 344
amount of consideration generally is determined by the duration of 345
possession of the property. 346

(X) "Telecommunication" means the origination, emission, 347
dissemination, transmission, or reception of data, images, 348
signals, sounds, or other intelligence or equivalence of 349
intelligence of any nature over any communications system by any 350
method, including, but not limited to, a fiber optic, electronic, 351
magnetic, optical, digital, or analog method. 352

(Y) "Telecommunications device" means any instrument, 353
equipment, machine, or other device that facilitates 354
telecommunication, including, but not limited to, a computer, 355
computer network, computer chip, computer circuit, scanner, 356
telephone, cellular telephone, pager, personal communications 357
device, transponder, receiver, radio, modem, or device that 358
enables the use of a modem. 359

(Z) "Telecommunications service" means the providing, 360

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allowing, facilitating, or generating of any form of 361
telecommunication through the use of a telecommunications device 362
over a telecommunications system. 363

(AA) "Counterfeit telecommunications device" means a 364
telecommunications device that, alone or with another 365
telecommunications device, has been altered, constructed, 366
manufactured, or programmed to acquire, intercept, receive, or 367
otherwise facilitate the use of a telecommunications service or 368
information service without the authority or consent of the 369
provider of the telecommunications service or information service. 370
"Counterfeit telecommunications device" includes, but is not 371
limited to, a clone telephone, clone microchip, tumbler telephone, 372
or tumbler microchip; a wireless scanning device capable of 373
acquiring, intercepting, receiving, or otherwise facilitating the 374
use of telecommunications service or information service without 375
immediate detection; or a device, equipment, hardware, or software 376
designed for, or capable of, altering or changing the electronic 377
serial number in a wireless telephone. 378

(BB)(1) "Information service" means, subject to division 379
(BB)(2) of this section, the offering of a capability for 380
generating, acquiring, storing, transforming, processing, 381
retrieving, utilizing, or making available information via 382
telecommunications, including, but not limited to, electronic 383
publishing. 384

(2) "Information service" does not include any use of a 385
capability of a type described in division (BB)(1) of this section 386
for the management, control, or operation of a telecommunications 387
system or the management of a telecommunications service. 388

(CC) "Elderly person" means a person who is sixty-five years 389
of age or older. 390

(DD) "Disabled adult" means a person who is eighteen years of 391

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age or older and has some impairment of body or mind that makes 392
the person unfit to work at any substantially remunerative 393
employment that the person otherwise would be able to perform and 394
that will, with reasonable probability, continue for a period of 395
at least twelve months without any present indication of recovery 396
from the impairment, or who is eighteen years of age or older and 397
has been certified as permanently and totally disabled by an 398
agency of this state or the United States that has the function of 399
so classifying persons. 400

(EE) "Firearm" and "dangerous ordnance" have the same 401
meanings as in section 2923.11 of the Revised Code. 402

(FF) "Motor vehicle" has the same meaning as in section 403
4501.01 of the Revised Code. 404

(GG) "Dangerous drug" has the same meaning as in section 405
4729.01 of the Revised Code. 406

(HH) "Drug abuse offense" has the same meaning as in section 407
2925.01 of the Revised Code. 408

Sec. 2913.04. (A) No person shall knowingly use or operate 409
the property of another without the consent of the owner or person 410
authorized to give consent. 411

(B) No person shall knowingly gain access to, attempt to gain 412
access to, or cause access to be gained to any computer, computer 413
system, computer network, cable service, cable system, 414
telecommunications device, telecommunications service, or 415
information service without the consent of, or beyond the scope of 416
the express or implied consent of, the owner of the computer, 417
computer system, computer network, cable service, cable system, 418
telecommunications device, telecommunications service, or 419
information service or other person authorized to give consent by 420
the owner. 421

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

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

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

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

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

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

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

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

(4) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is whichever of the following is applicable:

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

(b) If the value of the property or services or loss to the

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victim is five hundred dollars or more and is less than five
thousand dollars, a felony of the fourth degree;

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

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

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

(F) As used in this section:

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

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

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

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

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

(b) Subscriber interaction, if any, that is required for the
selection or use of video programming or of information that a
cable operator makes available to all subscribers generally, both
as described in division (F)(2)(a) of this section;

(c) Any cable television service.

(3) "Cable system" means any facility, consisting of a set of

closed transmission paths and associated signal generation, 481
reception, and control equipment that is designed to provide cable 482
service that includes video programming and that is provided to 483
multiple subscribers within a community. "Cable system" does not 484
include any of the following: 485

(a) Any facility that serves only to retransmit the 486
television signals of one or more television broadcast stations; 487

(b) Any facility that serves subscribers without using any 488
public right-of-way; 489

(c) Any facility of a common carrier that, under 47 U.S.C.A. 490
522(7)(c), is excluded from the term "cable system" as defined in 491
47 U.S.C.A. 522(7); 492

(d) Any open video system that complies with 47 U.S.C.A. 573; 493
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(e) Any facility of any electric utility used solely for 495
operating its electric utility system. 496

Sec. 2919.25. (A) No person shall knowingly cause or attempt 497
to cause physical harm to a family or household member. 498

(B) No person shall recklessly cause serious physical harm to 499
a family or household member. 500

(C) No person, by threat of force, shall knowingly cause a 501
family or household member to believe that the offender will cause 502
imminent physical harm to the family or household member. 503

(D) Whoever violates this section is guilty of domestic 504
violence. Except as otherwise provided in this division, a 505
violation of division (C) of this section is a misdemeanor of the 506
fourth degree, and a violation of division (A) or (B) of this 507
section is a misdemeanor of the first degree. If the offender 508
previously has pleaded guilty to or been convicted of domestic 509

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violence, of a violation of a municipal ordinance that is 510
substantially similar to domestic violence, of a violation of 511
section 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, 2903.211, 512
2903.22, 2911.211, or 2919.22 of the Revised Code involving a 513
person who was a family or household member at the time of the 514
violation, or of a violation of a municipal ordinance, a law of 515
the United States or of any other state, or a municipal ordinance 516
of a municipal corporation located in any other state that is 517
substantially similar to one of those sections involving a person 518
who was a family or household member at the time of the violation, 519
a violation of division (A) or (B) of this section is a felony of 520
the fifth degree, and a violation of division (C) of this section 521
is a misdemeanor of the third degree." 522

(E) As used in this section and sections 2919.251 and 2919.26 523
of the Revised Code: 524

(1) "Family or household member" means any of the following: 525

(a) Any of the following who is residing or has resided with 526
the offender: 527

(i) A spouse, a person living as a spouse, or a former spouse 528
of the offender; 529

(ii) A parent or a child of the offender, or another person 530
related by consanguinity or affinity to the offender; 531

(iii) A parent or a child of a spouse, person living as a 532
spouse, or former spouse of the offender, or another person 533
related by consanguinity or affinity to a spouse, person living as 534
a spouse, or former spouse of the offender. 535

(b) The natural parent of any child of whom the offender is 536
the other natural parent or is the putative other natural parent. 537

(2) "Person living as a spouse" means a person who is living 538
or has lived with the offender in a common law marital 539
relationship, who otherwise is cohabiting with the offender, or 540

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who otherwise has cohabited with the offender within five years 541
prior to the date of the alleged commission of the act in 542
question. 543

Sec. 2925.23. (A) No person shall knowingly make a false 544
statement in any prescription, order, report, or record required 545
by Chapter 3719. or 4729. of the Revised Code. 546

(B) No person shall intentionally make, utter, or sell, or 547
knowingly possess any of the following that is a false or forged: 548

(1) Prescription; 549

(2) Uncompleted preprinted prescription blank used for 550
writing a prescription; 551

(3) Official written order; 552

(4) License for a terminal distributor of dangerous drugs as 553
required in section 4729.60 of the Revised Code; 554

(5) Registration certificate for a wholesale distributor of 555
dangerous drugs as required in section 4729.60 of the Revised 556
Code. 557

(C) No person, by theft as defined in section 2913.02 of the 558
Revised Code, shall acquire any of the following: 559

(1) A prescription; 560

(2) An uncompleted preprinted prescription blank used for 561
writing a prescription; 562

(3) An official written order; 563

(4) A blank official written order; 564

(5) A license or blank license for a terminal distributor of 565
dangerous drugs as required in section 4729.60 of the Revised 566
Code; 567

(6) A registration certificate or blank registration 568

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certificate for a wholesale distributor of dangerous drugs as 569
required in section 4729.60 of the Revised Code. 570

(D) No person shall knowingly make or affix any false or 571
forged label to a package or receptacle containing any dangerous 572
drugs. 573

(E) Divisions (A) and (D) of this section do not apply to 574
licensed health professionals authorized to prescribe drugs, 575
pharmacists, owners of pharmacies, and other persons whose conduct 576
is in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 577
4731., and 4741. of the Revised Code. 578

(F) Whoever violates this section is guilty of illegal 579
processing of drug documents. If the offender violates division 580
(B)(2), (4), or (5) or division (C)(2), (4), (5), or (6) of this 581
section, illegal processing of drug documents is a felony of the 582
fifth degree. If the offender violates division (A), division 583
(B)(1) or (3), division (C)(1) or (3), or division (D) of this 584
section, the penalty for illegal processing of drug documents 585
shall be determined as follows: 586

(1) If the drug involved is a compound, mixture, preparation, 587
or substance included in schedule I or II, with the exception of 588
marihuana, illegal processing of drug documents is a felony of the 589
fourth degree, and division (C) of section 2929.13 of the Revised 590
Code applies in determining whether to impose a prison term on the 591
offender. 592

(2) If the drug involved is a dangerous drug or a compound, 593
mixture, preparation, or substance included in schedule III, IV, 594
or V or is marihuana, illegal processing of drug documents is a 595
felony of the fifth degree, and division (C) of section 2929.13 of 596
the Revised Code applies in determining whether to impose a prison 597
term on the offender. 598

(G) In addition to any prison term authorized or required by 599

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. 2929.01. As used in this chapter:

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

(a) It provides programs through which the offender may seek

or maintain employment or may receive education, training,
treatment, or habilitation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

funeral expense incurred as a result of the commission of the 692
felony. 693

(N) "Education or training" includes study at, or in 694
conjunction with a program offered by, a university, college, or 695
technical college or vocational study and also includes the 696
completion of primary school, secondary school, and literacy 697
curricula or their equivalent. 698

(O) "Electronically monitored house arrest" has the same 699
meaning as in section 2929.23 of the Revised Code. 700

(P) "Eligible offender" has the same meaning as in section 701
2929.23 of the Revised Code except as otherwise specified in 702
section 2929.20 of the Revised Code. 703

(Q) "Firearm" has the same meaning as in section 2923.11 of 704
the Revised Code. 705

(R) "Halfway house" means a facility licensed by the division 706
of parole and community services of the department of 707
rehabilitation and correction pursuant to section 2967.14 of the 708
Revised Code as a suitable facility for the care and treatment of 709
adult offenders. 710

(S) "House arrest" means a period of confinement of an 711
eligible offender that is in the eligible offender's home or in 712
other premises specified by the sentencing court or by the parole 713
board pursuant to section 2967.28 of the Revised Code, that may be 714
electronically monitored house arrest, and during which all of the 715
following apply: 716

(1) The eligible offender is required to remain in the 717
eligible offender's home or other specified premises for the 718
specified period of confinement, except for periods of time during 719
which the eligible offender is at the eligible offender's place of 720
employment or at other premises as authorized by the sentencing 721
court or by the parole board. 722

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(2) The eligible offender is required to report periodically	723
to a person designated by the court or parole board.	724
(3) The eligible offender is subject to any other	725
restrictions and requirements that may be imposed by the	726
sentencing court or by the parole board.	727
(T) "Intensive probation supervision" means a requirement	728
that an offender maintain frequent contact with a person appointed	729
by the court, or by the parole board pursuant to section 2967.28	730
of the Revised Code, to supervise the offender while the offender	731
is seeking or maintaining necessary employment and participating	732
in training, education, and treatment programs as required in the	733
court's or parole board's order. "Intensive probation supervision"	734
includes intensive parole supervision and intensive post-release	735
control supervision.	736
(U) "Jail" means a jail, workhouse, minimum security jail, or	737
other residential facility used for the confinement of alleged or	738
convicted offenders that is operated by a political subdivision or	739
a combination of political subdivisions of this state.	740
(V) "Delinquent child" has the same meaning as in section	741
2152.02 of the Revised Code.	742
(W) "License violation report" means a report that is made by	743
a sentencing court, or by the parole board pursuant to section	744
2967.28 of the Revised Code, to the regulatory or licensing board	745
or agency that issued an offender a professional license or a	746
license or permit to do business in this state and that specifies	747
that the offender has been convicted of or pleaded guilty to an	748
offense that may violate the conditions under which the offender's	749
professional license or license or permit to do business in this	750
state was granted or an offense for which the offender's	751
professional license or license or permit to do business in this	752
state may be revoked or suspended.	753

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

(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. 786
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(Z) "Monitored time" means a period of time during which an offender continues to be under the control of the sentencing court or parole board, subject to no conditions other than leading a law-abiding life. 789
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(AA) "Offender" means a person who, in this state, is convicted of or pleads guilty to a felony or a misdemeanor. 793
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(BB) "Prison" means a residential facility used for the confinement of convicted felony offenders that is under the control of the department of rehabilitation and correction but does not include a violation sanction center operated under authority of section 2967.141 of the Revised Code. 795
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(CC) "Prison term" includes any of the following sanctions for an offender: 800
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(1) A stated prison term; 802

(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; 803
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(3) A term in prison extended by bad time imposed pursuant to section 2967.11 of the Revised Code or imposed for a violation of post-release control pursuant to section 2967.28 of the Revised Code. 806
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(DD) "Repeat violent offender" means a person about whom both of the following apply: 810
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(1) The person has been convicted of or has pleaded guilty to, and is being sentenced for committing, for complicity in committing, or for an attempt to commit, aggravated murder, murder, involuntary manslaughter, a felony of the first degree 812
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other than one set forth in Chapter 2925. of the Revised Code, a
felony of the first degree set forth in Chapter 2925. of the
Revised Code that involved an attempt to cause serious physical
harm to a person or that resulted in serious physical harm to a
person, or a felony of the second degree that involved an attempt
to cause serious physical harm to a person or that resulted in
serious physical harm to a person.

(2) Either of the following applies:

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

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

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

(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.

(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.	847
(FF) "Sentence" means the sanction or combination of	848
sanctions imposed by the sentencing court on an offender who is	849
convicted of or pleads guilty to a felony.	850
(GG) "Stated prison term" means the prison term, mandatory	851
prison term, or combination of all prison terms and mandatory	852
prison terms imposed by the sentencing court pursuant to section	853
2929.14 or 2971.03 of the Revised Code. "Stated prison term"	854
includes any credit received by the offender for time spent in	855
jail awaiting trial, sentencing, or transfer to prison for the	856
offense and any time spent under house arrest or electronically	857
monitored house arrest imposed after earning credits pursuant to	858
section 2967.193 of the Revised Code.	859
(HH) "Victim-offender mediation" means a reconciliation or	860
mediation program that involves an offender and the victim of the	861
offense committed by the offender and that includes a meeting in	862
which the offender and the victim may discuss the offense, discuss	863
restitution, and consider other sanctions for the offense.	864
(II) "Fourth degree felony OMVI offense" means a violation of	865
division (A) of section 4511.19 of the Revised Code that, under	866
section 4511.99 of the Revised Code, is a felony of the fourth	867
degree.	868
(JJ) "Mandatory term of local incarceration" means the term	869
of sixty or one hundred twenty days in a jail, a community-based	870
correctional facility, a halfway house, or an alternative	871
residential facility that a sentencing court may impose upon a	872
person who is convicted of or pleads guilty to a fourth degree	873
felony OMVI offense pursuant to division (G)(1) of section 2929.13	874
of the Revised Code and division (A)(4) or (8) of section 4511.99	875
of the Revised Code.	876
(KK) "Designated homicide, assault, or kidnapping offense,"	877

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"sexual motivation specification," "sexually violent offense," 878
 "sexually violent predator," and "sexually violent predator 879
 specification" have the same meanings as in section 2971.01 of the 880
 Revised Code. 881

(LL) "Habitual sex offender," "sexually oriented offense," 882
 and "sexual predator" have the same meanings as in section 2950.01 883
 of the Revised Code. 884

(MM) An offense is "committed in the vicinity of a child" if 885
 the offender commits the offense within thirty feet of or within 886
 the same residential unit as a child who is under eighteen years 887
 of age, regardless of whether the offender knows the age of the 888
 child or whether the offender knows the offense is being committed 889
 within thirty feet of or within the same residential unit as the 890
 child and regardless of whether the child actually views the 891
 commission of the offense. 892

(NN) "Family or household member" has the same meaning as in 893
 section 2919.25 of the Revised Code. 894

(OO) "Motor vehicle" and "manufactured home" have the same 895
 meanings as in section 4501.01 of the Revised Code. 896

(PP) "Detention" and "detention facility" have the same 897
 meanings as in section 2921.01 of the Revised Code. 898

(QQ) "Third degree felony OMVI offense" means a violation of 899
 division (A) of section 4511.19 of the Revised Code that, under 900
 section 4511.99 of the Revised Code, is a felony of the third 901
 degree. 902

(RR) "Random drug testing" has the same meaning as in section 903
 5120.63 of the Revised Code. 904

(SS) "Felony sex offense" has the same meaning as in section 905
 2957.28 of the Revised Code. 906

~~(RR)~~(TT) "Body armor" has the same meaning as in section 907

2941.1411 of the Revised Code. 908

Sec. 2929.12. (A) Unless otherwise required by section 909
2929.13 or 2929.14 of the Revised Code, a court that imposes a 910
sentence under this chapter upon an offender for a felony has 911
discretion to determine the most effective way to comply with the 912
purposes and principles of sentencing set forth in section 2929.11 913
of the Revised Code. In exercising that discretion, the court 914
shall consider the factors set forth in divisions (B) and (C) of 915
this section relating to the seriousness of the conduct and the 916
factors provided in divisions (D) and (E) of this section relating 917
to the likelihood of the offender's recidivism and, in addition, 918
may consider any other factors that are relevant to achieving 919
those purposes and principles of sentencing. 920

(B) The sentencing court shall consider all of the following 921
that apply regarding the offender, the offense, or the victim, and 922
any other relevant factors, as indicating that the offender's 923
conduct is more serious than conduct normally constituting the 924
offense: 925

(1) The physical or mental injury suffered by the victim of 926
the offense due to the conduct of the offender was exacerbated 927
because of the physical or mental condition or age of the victim. 928

(2) The victim of the offense suffered serious physical, 929
psychological, or economic harm as a result of the offense. 930

(3) The offender held a public office or position of trust in 931
the community, and the offense related to that office or position. 932
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(4) The offender's occupation, elected office, or profession 934
obliged the offender to prevent the offense or bring others 935
committing it to justice. 936

(5) The offender's professional reputation or occupation, 937

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elected office, or profession was used to facilitate the offense	938
or is likely to influence the future conduct of others.	939
(6) The offender's relationship with the victim facilitated	940
the offense.	941
(7) The offender committed the offense for hire or as a part	942
of an organized criminal activity.	943
(8) In committing the offense, the offender was motivated by	944
prejudice based on race, ethnic background, gender, sexual	945
orientation, or religion.	946
(9) If the offense is a violation of section 2919.25 or a	947
violation of section 2903.11, 2903.12, or 2903.13 of the Revised	948
Code involving a person who was a family or household member at	949
the time of the violation, the offender committed the offense in	950
the vicinity of one or more children who are not victims of the	951
offense, and the offender or the victim of the offense is a	952
parent, guardian, custodian, or person in loco parentis of one or	953
more of those children.	954
(C) The sentencing court shall consider all of the following	955
that apply regarding the offender, the offense, or the victim, and	956
any other relevant factors, as indicating that the offender's	957
conduct is less serious than conduct normally constituting the	958
offense:	959
(1) The victim induced or facilitated the offense.	960
(2) In committing the offense, the offender acted under	961
strong provocation.	962
(3) In committing the offense, the offender did not cause or	963
expect to cause physical harm to any person or property.	964
(4) There are substantial grounds to mitigate the offender's	965
conduct, although the grounds are not enough to constitute a	966
defense.	967

(D) The sentencing court shall consider all of the following 968
that apply regarding the offender, and any other relevant factors, 969
as factors indicating that the offender is likely to commit future 970
crimes: 971

(1) At the time of committing the offense, the offender was 972
under release from confinement before trial or sentencing, under a 973
sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 974
of the Revised Code, or under post-release control pursuant to 975
section 2967.28 or any other provision of the Revised Code for an 976
earlier offense or had been unfavorably terminated from 977
post-release control for a prior offense pursuant to division (B) 978
of section 2967.16 or section 2929.141 of the Revised Code. 979

(2) The offender previously was adjudicated a delinquent 980
child pursuant to Chapter 2151. of the Revised Code prior to ~~the~~ 981
~~effective date of this amendment~~ January 1, 2002, or pursuant to 982
Chapter 2152. of the Revised Code, or the offender has a history 983
of criminal convictions. 984

(3) The offender has not been rehabilitated to a satisfactory 985
degree after previously being adjudicated a delinquent child 986
pursuant to Chapter 2151. of the Revised Code prior to ~~the~~ 987
~~effective date of this amendment~~ January 1, 2002, or pursuant to 988
Chapter 2152. of the Revised Code, or the offender has not 989
~~responded~~ responded favorably to sanctions previously imposed for 990
criminal convictions. 991

(4) The offender has demonstrated a pattern of drug or 992
alcohol abuse that is related to the offense, and the offender 993
refuses to acknowledge that the offender has demonstrated that 994
pattern, or the offender refuses treatment for the drug or alcohol 995
abuse. 996

(5) The offender shows no genuine remorse for the offense. 997

(E) The sentencing court shall consider all of the following 998

that apply regarding the offender, and any other relevant factors,
as factors indicating that the offender is not likely to commit
future crimes:

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

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

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

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

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

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

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

combination of sanctions under section 2929.16 or 2929.17 of the Revised Code. 1029
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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: 1031
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(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; 1039
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(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. 1044
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(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: 1048
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1051

(a) In committing the offense, the offender caused physical harm to a person. 1052
1053

(b) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon. 1054
1055
1056

(c) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person, and the offender previously was convicted of an offense that caused 1057
1058
1059

physical harm to a person. 1060

(d) The offender held a public office or position of trust 1061
and the offense related to that office or position; the offender's 1062
position obliged the offender to prevent the offense or to bring 1063
those committing it to justice; or the offender's professional 1064
reputation or position facilitated the offense or was likely to 1065
influence the future conduct of others. 1066

(e) The offender committed the offense for hire or as part of 1067
an organized criminal activity. 1068

(f) The offense is a sex offense that is a fourth or fifth 1069
degree felony violation of section 2907.03, 2907.04, 2907.05, 1070
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 1071
Revised Code. 1072

(g) The offender at the time of the offense was serving, or 1073
the offender previously had served, a prison term. 1074

(h) The offender committed the offense while under a 1075
community control sanction, while on probation, or while released 1076
from custody on a bond or personal recognizance. 1077

(i) The offender committed the offense while in possession of 1078
a firearm. 1079

(2)(a) If the court makes a finding described in division 1080
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 1081
section and if the court, after considering the factors set forth 1082
in section 2929.12 of the Revised Code, finds that a prison term 1083
is consistent with the purposes and principles of sentencing set 1084
forth in section 2929.11 of the Revised Code and finds that the 1085
offender is not amenable to an available community control 1086
sanction, the court shall impose a prison term upon the offender. 1087

(b) Except as provided in division (E), (F), or (G) of this 1088
section, if the court does not make a finding described in 1089

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division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 1090
this section and if the court, after considering the factors set 1091
forth in section 2929.12 of the Revised Code, finds that a 1092
community control sanction or combination of community control 1093
sanctions is consistent with the purposes and principles of 1094
sentencing set forth in section 2929.11 of the Revised Code, the 1095
court shall impose a community control sanction or combination of 1096
community control sanctions upon the offender. 1097

(C) Except as provided in division (E), (F), or (G) of this 1098
section, in determining whether to impose a prison term as a 1099
sanction for a felony of the third degree or a felony drug offense 1100
that is a violation of a provision of Chapter 2925. of the Revised 1101
Code and that is specified as being subject to this division for 1102
purposes of sentencing, the sentencing court shall comply with the 1103
purposes and principles of sentencing under section 2929.11 of the 1104
Revised Code and with section 2929.12 of the Revised Code. 1105

(D) Except as provided in division (E) or (F) of this 1106
section, for a felony of the first or second degree and for a 1107
felony drug offense that is a violation of any provision of 1108
Chapter 2925., 3719., or 4729. of the Revised Code for which a 1109
presumption in favor of a prison term is specified as being 1110
applicable, it is presumed that a prison term is necessary in 1111
order to comply with the purposes and principles of sentencing 1112
under section 2929.11 of the Revised Code. Notwithstanding the 1113
presumption established under this division, the sentencing court 1114
may impose a community control sanction or a combination of 1115
community control sanctions instead of a prison term on an 1116
offender for a felony of the first or second degree or for a 1117
felony drug offense that is a violation of any provision of 1118
Chapter 2925., 3719., or 4729. of the Revised Code for which a 1119
presumption in favor of a prison term is specified as being 1120
applicable if it makes both of the following findings: 1121

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(1) A community control sanction or a combination of 1122
community control sanctions would adequately punish the offender 1123
and protect the public from future crime, because the applicable 1124
factors under section 2929.12 of the Revised Code indicating a 1125
lesser likelihood of recidivism outweigh the applicable factors 1126
under that section indicating a greater likelihood of recidivism. 1127

(2) A community control sanction or a combination of 1128
community control sanctions would not demean the seriousness of 1129
the offense, because one or more factors under section 2929.12 of 1130
the Revised Code that indicate that the offender's conduct was 1131
less serious than conduct normally constituting the offense are 1132
applicable, and they outweigh the applicable factors under that 1133
section that indicate that the offender's conduct was more serious 1134
than conduct normally constituting the offense. 1135

(E)(1) Except as provided in division (F) of this section, 1136
for any drug offense that is a violation of any provision of 1137
Chapter 2925. of the Revised Code and that is a felony of the 1138
third, fourth, or fifth degree, the applicability of a presumption 1139
under division (D) of this section in favor of a prison term or of 1140
division (B) or (C) of this section in determining whether to 1141
impose a prison term for the offense shall be determined as 1142
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 1143
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 1144
Revised Code, whichever is applicable regarding the violation. 1145

(2) If an offender who was convicted of or pleaded guilty to 1146
a felony violates the conditions of a community control sanction 1147
imposed for the offense solely by reason of producing positive 1148
results on a drug test, the court, as punishment for the violation 1149
of the sanction, shall not order that the offender be imprisoned 1150
unless the court determines on the record either of the following: 1151

(a) The offender had been ordered as a sanction for the 1152
felony to participate in a drug treatment program, in a drug 1153

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education program, or in narcotics anonymous or a similar program, 1154
and the offender continued to use illegal drugs after a reasonable 1155
period of participation in the program. 1156

(b) The imprisonment of the offender for the violation is 1157
consistent with the purposes and principles of sentencing set 1158
forth in section 2929.11 of the Revised Code. 1159

(F) Notwithstanding divisions (A) to (E) of this section, the 1160
court shall impose a prison term or terms under sections 2929.02 1161
to 2929.06, section 2929.14, or section 2971.03 of the Revised 1162
Code and except as specifically provided in section 2929.20 or 1163
2967.191 of the Revised Code or when parole is authorized for the 1164
offense under section 2967.13 of the Revised Code shall not reduce 1165
the terms pursuant to section 2929.20, section 2967.193, or any 1166
other provision of Chapter 2967. or Chapter 5120. of the Revised 1167
Code for any of the following offenses: 1168

(1) Aggravated murder when death is not imposed or murder; 1170

(2) Any rape, regardless of whether force was involved and 1171
regardless of the age of the victim, or an attempt to commit rape 1172
by force when the victim is under thirteen years of age; 1173

(3) Gross sexual imposition or sexual battery, if the victim 1174
is under thirteen years of age, if the offender previously was 1175
convicted of or pleaded guilty to rape, the former offense of 1176
felonious sexual penetration, gross sexual imposition, or sexual 1177
battery, and if the victim of the previous offense was under 1178
thirteen years of age; 1179

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 1180
2903.11, 2903.12, or 2903.13 of the Revised Code if the section 1181
requires the imposition of a prison term; 1182

(5) A first, second, or third degree felony drug offense for 1183
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 1184

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- 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 1185
4729.99 of the Revised Code, whichever is applicable regarding the 1186
violation, requires the imposition of a mandatory prison term; 1187
- (6) Any offense that is a first or second degree felony and 1188
that is not set forth in division (F)(1), (2), (3), or (4) of this 1189
section, if the offender previously was convicted of or pleaded 1190
guilty to aggravated murder, murder, any first or second degree 1191
felony, or an offense under an existing or former law of this 1192
state, another state, or the United States that is or was 1193
substantially equivalent to one of those offenses; 1194
- (7) Any offense that is a third degree felony and that is 1195
listed in division (DD)(1) of section 2929.01 of the Revised Code 1196
if the offender previously was convicted of or pleaded guilty to 1197
any offense that is listed in division (DD)(2)(a)(i) or (ii) of 1198
section 2929.01 of the Revised Code; 1199
- (8) Any offense, other than a violation of section 2923.12 of 1200
the Revised Code, that is a felony, if the offender had a firearm 1201
on or about the offender's person or under the offender's control 1202
while committing the felony, with respect to a portion of the 1203
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 1204
of the Revised Code for having the firearm; 1205
- (9) Any offense of violence that is a felony, if the offender 1206
wore or carried body armor while committing the felony offense of 1207
violence, with respect to the portion of the sentence imposed 1208
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 1209
Code for wearing or carrying the body armor; 1210
- (10) Corrupt activity in violation of section 2923.32 of the 1211
Revised Code when the most serious offense in the pattern of 1212
corrupt activity that is the basis of the offense is a felony of 1213
the first degree; 1214
- (11) Any sexually violent offense for which the offender also 1215

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is convicted of or pleads guilty to a sexually violent predator
specification that was included in the indictment, count in the
indictment, or information charging the sexually violent offense;

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

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

(1) If the offender is being sentenced for a fourth degree
felony OMVI offense, the court may impose upon the offender a
mandatory term of local incarceration of sixty days as specified
in division (A)(4) of section 4511.99 of the Revised Code or a
mandatory term of local incarceration of one hundred twenty days
as specified in division (A)(8) of that section. The court shall
not reduce the term pursuant to section 2929.20, 2967.193, or any
other provision of the Revised Code. The court that imposes a
mandatory term of local incarceration under this division shall
specify whether the term is to be served in a jail, a
community-based correctional facility, a halfway house, or an
alternative residential facility, and the offender shall serve the
term in the type of facility specified by the court. A mandatory
term of local incarceration imposed under division (G)(1) of this
section is not subject to extension under section 2967.11 of the
Revised Code, to a period of post-release control under section
2967.28 of the Revised Code, or to any other Revised Code
provision that pertains to a prison term.

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(2) If the offender is being sentenced for a third degree 1248
felony OMVI offense, or if the offender is being sentenced for a 1249
fourth degree felony OMVI offense and the court does not impose a 1250
mandatory term of local incarceration under division (G)(1) of 1251
this section, the court shall impose upon the offender a mandatory 1252
prison term of sixty days as specified in division (A)(4) of 1253
section 4511.99 of the Revised Code or a mandatory prison term of 1254
one hundred twenty days as specified in division (A)(8) of that 1255
section. The court shall not reduce the term pursuant to section 1256
2929.20, 2967.193, or any other provision of the Revised Code. In 1257
no case shall an offender who once has been sentenced to a 1258
mandatory term of local incarceration pursuant to division (G)(1) 1259
of this section for a fourth degree felony OMVI offense be 1260
sentenced to another mandatory term of local incarceration under 1261
that division for any violation of division (A) of section 4511.19 1262
of the Revised Code. The court shall not sentence the offender to 1263
a community control sanction under section 2929.16 or 2929.17 of 1264
the Revised Code. The department of rehabilitation and correction 1265
may place an offender sentenced to a mandatory prison term under 1266
this division in an intensive program prison established pursuant 1267
to section 5120.033 of the Revised Code if the department gave the 1268
sentencing judge prior notice of its intent to place the offender 1269
in an intensive program prison established under that section and 1270
if the judge did not notify the department that the judge 1271
disapproved the placement. Upon the establishment of the initial 1272
intensive program prison pursuant to section 5120.033 of the 1273
Revised Code that is privately operated and managed by a 1274
contractor pursuant to a contract entered into under section 9.06 1275
of the Revised Code, both of the following apply: 1276

(a) The department of rehabilitation and correction shall 1277
make a reasonable effort to ensure that a sufficient number of 1278
offenders sentenced to a mandatory prison term under this division 1279

are placed in the privately operated and managed prison so that 1280
the privately operated and managed prison has full occupancy. 1281

(b) Unless the privately operated and managed prison has full 1282
occupancy, the department of rehabilitation and correction shall 1283
not place any offender sentenced to a mandatory prison term under 1284
this division in any intensive program prison established pursuant 1285
to section 5120.033 of the Revised Code other than the privately 1286
operated and managed prison. 1287

(H) If an offender is being sentenced for a sexually oriented 1288
offense committed on or after January 1, 1997, the judge shall 1289
require the offender to submit to a DNA specimen collection 1290
procedure pursuant to section 2901.07 of the Revised Code if 1291
either of the following applies: 1292

(1) The offense was a sexually violent offense, and the 1293
offender also was convicted of or pleaded guilty to a sexually 1294
violent predator specification that was included in the 1295
indictment, count in the indictment, or information charging the 1296
sexually violent offense. 1297

(2) The judge imposing sentence for the sexually oriented 1298
offense determines pursuant to division (B) of section 2950.09 of 1299
the Revised Code that the offender is a sexual predator. 1300

(I) If an offender is being sentenced for a sexually oriented 1301
offense committed on or after January 1, 1997, the judge shall 1302
include in the sentence a summary of the offender's duty to 1303
register pursuant to section 2950.04 of the Revised Code, the 1304
offender's duty to provide notice of a change in residence address 1305
and register the new residence address pursuant to section 2950.05 1306
of the Revised Code, the offender's duty to periodically verify 1307
the offender's current residence address pursuant to section 1308
2950.06 of the Revised Code, and the duration of the duties. The 1309
judge shall inform the offender, at the time of sentencing, of 1310

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those duties and of their duration and, if required under division 1311
(A)(2) of section 2950.03 of the Revised Code, shall perform the 1312
duties specified in that section. 1313

(J)(1) Except as provided in division (J)(2) of this section, 1314
when considering sentencing factors under this section in relation 1315
to an offender who is convicted of or pleads guilty to an attempt 1316
to commit an offense in violation of section 2923.02 of the 1317
Revised Code, the sentencing court shall consider the factors 1318
applicable to the felony category of the violation of section 1319
2923.02 of the Revised Code instead of the factors applicable to 1320
the felony category of the offense attempted. 1321

(2) When considering sentencing factors under this section in 1322
relation to an offender who is convicted of or pleads guilty to an 1323
attempt to commit a drug abuse offense for which the penalty is 1324
determined by the amount or number of unit doses of the controlled 1325
substance involved in the drug abuse offense, the sentencing court 1326
shall consider the factors applicable to the felony category that 1327
the drug abuse offense attempted would be if that drug abuse 1328
offense had been committed and had involved an amount or number of 1329
unit doses of the controlled substance that is within the next 1330
lower range of controlled substance amounts than was involved in 1331
the attempt. 1332

(K) As used in this section, "drug abuse offense" has the 1333
same meaning as in section 2925.01 of the Revised Code. 1334

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 1335
(D)(2), (D)(3), (D)(4), or (G) of this section and except in 1336
relation to an offense for which a sentence of death or life 1337
imprisonment is to be imposed, if the court imposing a sentence 1338
upon an offender for a felony elects or is required to impose a 1339
prison term on the offender pursuant to this chapter and is not 1340

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prohibited by division (G)(1) of section 2929.13 of the Revised Code from imposing a prison term on the offender, the court shall impose a definite prison term that shall be one of the following:

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

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

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

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

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

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

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Chapter 2925. of the Revised Code, the court imposing a sentence 1371
upon an offender for a felony may impose the longest prison term 1372
authorized for the offense pursuant to division (A) of this 1373
section only upon offenders who committed the worst forms of the 1374
offense, upon offenders who pose the greatest likelihood of 1375
committing future crimes, upon certain major drug offenders under 1376
division (D)(3) of this section, and upon certain repeat violent 1377
offenders in accordance with division (D)(2) of this section. 1378

(D)(1)(a) Except as provided in division (D)(1)(e) of this 1379
section, if an offender who is convicted of or pleads guilty to a 1380
felony also is convicted of or pleads guilty to a specification of 1381
the type described in section 2941.141, 2941.144, or 2941.145 of 1382
the Revised Code, the court shall impose on the offender one of 1383
the following prison terms: 1384

(i) A prison term of six years if the specification is of the 1385
type described in section 2941.144 of the Revised Code that 1386
charges the offender with having a firearm that is an automatic 1387
firearm or that was equipped with a firearm muffler or silencer on 1388
or about the offender's person or under the offender's control 1389
while committing the felony; 1390

(ii) A prison term of three years if the specification is of 1391
the type described in section 2941.145 of the Revised Code that 1392
charges the offender with having a firearm on or about the 1393
offender's person or under the offender's control while committing 1394
the offense and displaying the firearm, brandishing the firearm, 1395
indicating that the offender possessed the firearm, or using it to 1396
facilitate the offense; 1397

(iii) A prison term of one year if the specification is of 1398
the type described in section 2941.141 of the Revised Code that 1399
charges the offender with having a firearm on or about the 1400
offender's person or under the offender's control while committing 1401
the felony. 1402

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(b) If a court imposes a prison term on an offender under division (D)(1)(a) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(1)(a) of this section for felonies committed as part of the same act or transaction.

(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.

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

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

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

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

(2)(a) If an offender who is convicted of or pleads guilty to

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

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

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

(ii) The terms so imposed are demeaning to the seriousness of
the offense, because one or more of the factors under section
2929.12 of the Revised Code indicating that the offender's conduct

is more serious than conduct normally constituting the offense are 1499
present, and they outweigh the applicable factors under that 1500
section indicating that the offender's conduct is less serious 1501
than conduct normally constituting the offense. 1502

(3)(a) Except when an offender commits a violation of section 1503
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 1504
the violation is life imprisonment or commits a violation of 1505
section 2903.02 of the Revised Code, if the offender commits a 1506
violation of section 2925.03 or 2925.11 of the Revised Code and 1507
that section classifies the offender as a major drug offender and 1508
requires the imposition of a ten-year prison term on the offender, 1509
if the offender commits a felony violation of section 2925.02, 1510
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 1511
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 1512
division (C) of section 4729.51, or division (J) of section 1513
4729.54 of the Revised Code that includes the sale, offer to sell, 1514
or possession of a schedule I or II controlled substance, with the 1515
exception of marihuana, and the court imposing sentence upon the 1516
offender finds that the offender is guilty of a specification of 1517
the type described in section 2941.1410 of the Revised Code 1518
charging that the offender is a major drug offender, or if the 1519
court imposing sentence upon an offender for a felony finds that 1520
the offender is guilty of corrupt activity with the most serious 1521
offense in the pattern of corrupt activity being a felony of the 1522
first degree or is guilty of an attempted forcible violation of 1523
section 2907.02 of the Revised Code with the victim being under 1524
thirteen years of age and that attempted violation is the felony 1525
for which sentence is being imposed, the court shall impose upon 1526
the offender for the felony violation a ten-year prison term that 1527
cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 1528
5120. of the Revised Code. 1529

(b) The court imposing a prison term on an offender under 1530

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

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

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a
mandatory prison term is imposed upon an offender pursuant to
division (D)(1)(a) of this section for having a firearm on or
about the offender's person or under the offender's control while
committing a felony, if a mandatory prison term is imposed upon an
offender pursuant to division (D)(1)(c) of this section for
committing a felony specified in that division by discharging a

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firearm from a motor vehicle, or if both types of mandatory prison 1563
terms are imposed, the offender shall serve any mandatory prison 1564
term imposed under either division consecutively to any other 1565
mandatory prison term imposed under either division or under 1566
division (D)(1)(d) of this section, consecutively to and prior to 1567
any prison term imposed for the underlying felony pursuant to 1568
division (A), (D)(2), or (D)(3) of this section or any other 1569
section of the Revised Code, and consecutively to any other prison 1570
term or mandatory prison term previously or subsequently imposed 1571
upon the offender. 1572

(b) If a mandatory prison term is imposed upon an offender 1573
pursuant to division (D)(1)(d) of this section for wearing or 1574
carrying body armor while committing an offense of violence that 1575
is a felony, the offender shall serve the mandatory term so 1576
imposed consecutively to any other mandatory prison term imposed 1577
under that division or under division (D)(1)(a) or (c) of this 1578
section, consecutively to and prior to any prison term imposed for 1579
the underlying felony under division (A), (D)(2), or (D)(3) of 1580
this section or any other section of the Revised Code, and 1581
consecutively to any other prison term or mandatory prison term 1582
previously or subsequently imposed upon the offender. 1583

(2) If an offender who is an inmate in a jail, prison, or 1584
other residential detention facility violates section 2917.02, 1585
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 1586
who is under detention at a detention facility commits a felony 1587
violation of section 2923.131 of the Revised Code, or if an 1588
offender who is an inmate in a jail, prison, or other residential 1589
detention facility or is under detention at a detention facility 1590
commits another felony while the offender is an escapee in 1591
violation of section 2921.34 of the Revised Code, any prison term 1592
imposed upon the offender for one of those violations shall be 1593
served by the offender consecutively to the prison term or term of 1594

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imprisonment the offender was serving when the offender committed 1595
that offense and to any other prison term previously or 1596
subsequently imposed upon the offender. 1597

(3) If a prison term is imposed for a violation of division 1598
(B) of section 2911.01 of the Revised Code or if a prison term is 1599
imposed for a felony violation of division (B) of section 2921.331 1600
of the Revised Code, the offender shall serve that prison term 1601
consecutively to any other prison term or mandatory prison term 1602
previously or subsequently imposed upon the offender. 1603

(4) If multiple prison terms are imposed on an offender for 1604
convictions of multiple offenses, the court may require the 1605
offender to serve the prison terms consecutively if the court 1606
finds that the consecutive service is necessary to protect the 1607
public from future crime or to punish the offender and that 1608
consecutive sentences are not disproportionate to the seriousness 1609
of the offender's conduct and to the danger the offender poses to 1610
the public, and if the court also finds any of the following: 1611

(a) The offender committed one or more of the multiple 1612
offenses while the offender was awaiting trial or sentencing, was 1613
under a sanction imposed pursuant to section 2929.16, 2929.17, or 1614
2929.18 of the Revised Code, or was under post-release control for 1615
a prior offense. 1616

(b) ~~The~~ At least two of the multiple offenses were committed 1617
as part of one or more courses of conduct, and the harm caused by 1618
two or more of the multiple offenses so committed was so great or 1619
unusual that no single prison term for any of the offenses 1620
committed as part of ~~a single course~~ any of the courses of conduct 1621
adequately reflects the seriousness of the offender's conduct. 1622

(c) The offender's history of criminal conduct demonstrates 1623
that consecutive sentences are necessary to protect the public 1624
from future crime by the offender. 1625

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(5) When consecutive prison terms are imposed pursuant to 1626
division (E)(1), (2), (3), or (4) of this section, the term to be 1627
served is the aggregate of all of the terms so imposed. 1628

(F) If a court imposes a prison term of a type described in 1629
division (B) of section 2967.28 of the Revised Code, it shall 1630
include in the sentence a requirement that the offender be subject 1631
to a period of post-release control after the offender's release 1632
from imprisonment, in accordance with that division. If a court 1633
imposes a prison term of a type described in division (C) of that 1634
section, it shall include in the sentence a requirement that the 1635
offender be subject to a period of post-release control after the 1636
offender's release from imprisonment, in accordance with that 1637
division, if the parole board determines that a period of 1638
post-release control is necessary. 1639

(G) If a person is convicted of or pleads guilty to a 1640
sexually violent offense and also is convicted of or pleads guilty 1641
to a sexually violent predator specification that was included in 1642
the indictment, count in the indictment, or information charging 1643
that offense, the court shall impose sentence upon the offender in 1644
accordance with section 2971.03 of the Revised Code, and Chapter 1645
2971. of the Revised Code applies regarding the prison term or 1646
term of life imprisonment without parole imposed upon the offender 1647
and the service of that term of imprisonment. 1648

(H) If a person who has been convicted of or pleaded guilty 1649
to a felony is sentenced to a prison term or term of imprisonment 1650
under this section, sections 2929.02 to 2929.06 of the Revised 1651
Code, section 2971.03 of the Revised Code, or any other provision 1652
of law, section 5120.163 of the Revised Code applies regarding the 1653
person while the person is confined in a state correctional 1654
institution. 1655

(I) If an offender who is convicted of or pleads guilty to a 1656
felony that is an offense of violence also is convicted of or 1657

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

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

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

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

If the court does not make a recommendation under this division with respect to an eligible offender and if the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 or 5120.032 of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

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Sec. 2929.141. (A) As used in this section, "person on release" means a "releasee" or "parolee," both as defined in section 2967.01 of the Revised Code. 1721
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(B) A person on release who by committing a felony violates 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 person may be prosecuted for the new felony. Upon the person's conviction of or plea of guilty to the new felony, the court shall impose sentence for the new felony, the court may terminate the term of post-release control if the person is a releasee and the court may do either or both of the following for a person who is either a releasee or parolee regardless of whether the sentencing court or another court of this state imposed the original prison term for which the person is on parole or is serving a term of post-release control: 1724
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(1) In addition to any prison term for the new felony, impose a prison term for the violation. If the person is a releasee, the maximum prison term for the violation shall be the greater of twelve months or the period of post-release control for the earlier felony minus any time the releasee has spent under post-release control for the earlier felony. In all cases, any prison 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. In all cases, 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. 1737
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(2) Impose a sanction under sections 2929.15 to 2929.18 of 1752
the Revised Code for the violation that shall be served 1753
concurrently or consecutively, as specified by the court, with any 1754
community control sanctions for the new felony. 1755

Sec. 2929.19. (A)(1) The court shall hold a sentencing 1756
hearing before imposing a sentence under this chapter upon an 1757
offender who was convicted of or pleaded guilty to a felony and 1758
before resentencing an offender who was convicted of or pleaded 1759
guilty to a felony and whose case was remanded pursuant to section 1760
2953.07 or 2953.08 of the Revised Code. At the hearing, the 1761
offender, the prosecuting attorney, the victim or the victim's 1762
representative in accordance with section 2930.14 of the Revised 1763
Code, and, with the approval of the court, any other person may 1764
present information relevant to the imposition of sentence in the 1765
case. The court shall inform the offender of the verdict of the 1766
jury or finding of the court and ask the offender whether the 1767
offender has anything to say as to why sentence should not be 1768
imposed upon the offender. 1769

(2) Except as otherwise provided in this division, before 1770
imposing sentence on an offender who is being sentenced for a 1771
sexually oriented offense that was committed on or after January 1772
1, 1997, and that is not a sexually violent offense, and before 1773
imposing sentence on an offender who is being sentenced for a 1774
sexually violent offense committed on or after January 1, 1997, 1775
and who was not charged with a sexually violent predator 1776
specification in the indictment, count in the indictment, or 1777
information charging the sexually violent offense, the court shall 1778
conduct a hearing in accordance with division (B) of section 1779
2950.09 of the Revised Code to determine whether the offender is a 1780
sexual predator. The court shall not conduct a hearing under that 1781
division if the offender is being sentenced for a sexually violent 1782
offense and a sexually violent predator specification was included 1783

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in the indictment, count in the indictment, or information 1784
charging the sexually violent offense. Before imposing sentence on 1785
an offender who is being sentenced for a sexually oriented 1786
offense, the court also shall comply with division (E) of section 1787
2950.09 of the Revised Code. 1788

(B)(1) At the sentencing hearing, the court, before imposing 1789
sentence, shall consider the record, any information presented at 1790
the hearing by any person pursuant to division (A) of this 1791
section, and, if one was prepared, the presentence investigation 1792
report made pursuant to section 2951.03 of the Revised Code or 1793
Criminal Rule 32.2, and any victim impact statement made pursuant 1794
to section 2947.051 of the Revised Code. 1795

(2) The court shall impose a sentence and shall make a 1796
finding that gives its reasons for selecting the sentence imposed 1797
in any of the following circumstances: 1798

(a) Unless the offense is a sexually violent offense for 1799
which the court is required to impose sentence pursuant to 1800
division (G) of section 2929.14 of the Revised Code, if it imposes 1801
a prison term for a felony of the fourth or fifth degree or for a 1802
felony drug offense that is a violation of a provision of Chapter 1803
2925. of the Revised Code and that is specified as being subject 1804
to division (B) of section 2929.13 of the Revised Code for 1805
purposes of sentencing, its reasons for imposing the prison term, 1806
based upon the overriding purposes and principles of felony 1807
sentencing set forth in section 2929.11 of the Revised Code, and 1808
any factors listed in divisions (B)(1)(a) to (i) of section 1809
2929.13 of the Revised Code that it found to apply relative to the 1810
offender. 1811

(b) If it does not impose a prison term for a felony of the 1812
first or second degree or for a felony drug offense that is a 1813
violation of a provision of Chapter 2925. of the Revised Code and 1814
for which a presumption in favor of a prison term is specified as 1815

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being applicable, its reasons for not imposing the prison term and
for overriding the presumption, based upon the overriding purposes
and principles of felony sentencing set forth in section 2929.11
of the Revised Code, and the basis of the findings it made under
divisions (D)(1) and (2) of section 2929.13 of the Revised Code.

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

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

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

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

(a) Impose a stated prison term;

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

(c) Notify the offender that the offender will be supervised
under section 2967.28 of the Revised Code after the offender
leaves prison if the offender is being sentenced for a felony of
the first degree or second degree, for a felony sex offense, or
for a felony of the third degree in the commission of which the

offender caused or threatened to cause physical harm to a person; 1847

(d) Notify the offender that the offender may be supervised 1848
under section 2967.28 of the Revised Code after the offender 1849
leaves prison if the offender is being sentenced for a felony of 1850
the third, fourth, or fifth degree that is not subject to division 1851
(B)(3)(c) of this section; 1852

(e) Notify the offender that, if a period of supervision is 1853
imposed following the offender's release from prison, as described 1854
in division (B)(3)(c) or (d) of this section, and if the offender 1855
violates that supervision or a condition of post-release control 1856
imposed under division (B) of section 2967.131 of the Revised 1857
Code, the parole board may impose a prison term, as part of the 1858
sentence, of up to one-half of the stated prison term originally 1859
imposed upon the offender; 1860

(f) Require that the offender not ingest or be injected with 1861
a drug of abuse and submit to random drug testing as provided in 1862
section 341.26, 753.33, or 5120.63 of the Revised Code, whichever 1863
is applicable to the offender who is serving a prison term, and 1864
require that the results of the drug test administered under any 1865
of those sections indicate that the offender did not ingest or was 1866
not injected with a drug of abuse. 1867

(4) If the offender is being sentenced for a sexually violent 1868
offense that the offender committed on or after January 1, 1997, 1869
and the offender also is convicted of or pleads guilty to a 1870
sexually violent predator specification that was included in the 1871
indictment, count in the indictment, or information charging the 1872
sexually violent offense or if the offender is being sentenced for 1873
a sexually oriented offense that the offender committed on or 1874
after January 1, 1997, and the court imposing the sentence has 1875
determined pursuant to division (B) of section 2950.09 of the 1876
Revised Code that the offender is a sexual predator, the court 1877
shall include in the offender's sentence a statement that the 1878

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offender has been adjudicated as being a sexual predator and shall
comply with the requirements of section 2950.03 of the Revised
Code. Additionally, in the circumstances described in division (G)
of section 2929.14 of the Revised Code, the court shall impose
sentence on the offender as described in that division.

(5) If the sentencing court determines at the sentencing
hearing that a community control sanction should be imposed and
the court is not prohibited from imposing a community control
sanction, the court shall impose a community control sanction. The
court shall notify the offender that, if the conditions of the
sanction are violated, if the offender commits a violation of any
law, or if the offender leaves this state without the permission
of the court or the offender's probation officer, the court may
impose a longer time under the same sanction, may impose a more
restrictive sanction, or may impose a prison term on the offender
and shall indicate the specific prison term that may be imposed as
a sanction for the violation, as selected by the court from the
range of prison terms for the offense pursuant to section 2929.14
of the Revised Code.

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

(C)(1) If the offender is being sentenced for a fourth degree
felony OMVI offense under division (G)(1) of section 2929.13 of
the Revised Code, the court shall impose the mandatory term of
local incarceration in accordance with that division, shall impose
a mandatory fine in accordance with division (B)(3) of section
2929.18 of the Revised Code, and, in addition, may impose
additional sanctions as specified in sections 2929.15, 2929.16,
2929.17, and 2929.18 of the Revised Code. The court shall not
impose a prison term on the offender.

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

(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

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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
within the following applicable period of time:

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

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

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

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

(3) If the stated prison term is five years, the eligible

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offender may file the motion after the eligible offender has
served four years of the stated prison term.

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

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

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

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

motion within sixty days after the motion is filed. 2005

(D) If a court schedules a hearing under division (C) of this 2006
section, the court shall notify the eligible offender of the 2007
hearing. The eligible offender promptly shall give a copy of the 2008
notice of the hearing to the head of the state correctional 2009
institution in which the eligible offender is confined. If the 2010
court schedules a hearing for judicial release, the court promptly 2011
shall give notice of the hearing to the prosecuting attorney of 2012
the county in which the eligible offender was indicted. Upon 2013
receipt of the notice from the court, the prosecuting attorney 2014
shall notify the victim of the offense for which the stated prison 2015
term was imposed or the victim's representative, pursuant to 2016
section 2930.16 of the Revised Code, of the hearing. 2017

(E) Prior to the date of the hearing on a motion for judicial 2018
release under this section, the head of the state correctional 2019
institution in which the eligible offender in question is confined 2020
shall send to the court a report on the eligible offender's 2021
conduct in the institution and in any institution from which the 2022
eligible offender may have been transferred. The report shall 2023
cover the eligible offender's participation in school, vocational 2024
training, work, treatment, and other rehabilitative activities and 2025
any disciplinary action taken against the eligible offender. The 2026
report shall be made part of the record of the hearing. 2027

(F) If the court grants a hearing on a motion for judicial 2028
release under this section, the eligible offender shall attend the 2029
hearing if ordered to do so by the court. Upon receipt of a copy 2030
of the journal entry containing the order, the head of the state 2031
correctional institution in which the eligible offender is 2032
incarcerated shall deliver the eligible offender to the sheriff of 2033
the county in which the hearing is to be held. The sheriff shall 2034
convey the eligible offender to the hearing and return the 2035
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offender to the institution after the hearing. 2037

(G) At the hearing on a motion for judicial release under 2038
this section, the court shall afford the eligible offender and the 2039
eligible offender's attorney an opportunity to present written 2040
information relevant to the motion and shall afford the eligible 2041
offender, if present, and the eligible offender's attorney an 2042
opportunity to present oral information relevant to the motion. 2043
The court shall afford a similar opportunity to the prosecuting 2044
attorney, the victim or the victim's representative, as defined in 2045
section 2930.01 of the Revised Code, and any other person the 2046
court determines is likely to present additional relevant 2047
information. The court shall consider any statement of a victim 2048
made pursuant to section 2930.14 or 2930.17 of the Revised Code, 2049
any victim impact statement prepared pursuant to section 2947.051 2050
of the Revised Code, and any report made under division (E) of 2051
this section. After ruling on the motion, the court shall notify 2052
the victim of the ruling in accordance with sections 2930.03 and 2053
2930.16 of the Revised Code. 2054

(H)(1) A court shall not grant a judicial release under this 2055
section to an eligible offender who is imprisoned for a felony of 2056
the first or second degree, or to an eligible offender who 2057
committed an offense contained in Chapter 2925. or 3719. of the 2058
Revised Code and for whom there was a presumption under section 2059
2929.13 of the Revised Code in favor of a prison term, unless the 2060
court, with reference to factors under section 2929.12 of the 2061
Revised Code, finds both of the following: 2062

(a) That a sanction other than a prison term would adequately 2063
punish the offender and protect the public from future criminal 2064
violations by the eligible offender because the applicable factors 2065
indicating a lesser likelihood of recidivism outweigh the 2066
applicable factors indicating a greater likelihood of recidivism; 2067

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

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

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

Prior to being released pursuant to a judicial release

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granted under this section, the eligible offender shall serve any
extension of sentence that was imposed under section 2967.11 of
the Revised Code.

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

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

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

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

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upon conviction, would impose sentence under division (B)(2)(b) of 2132
section 2929.13 of the Revised Code or with a misdemeanor. 2133

(2)(b) The offense is not a felony of the first, second, or 2134
third degree, is not an offense of violence, is not a violation of 2135
division (A)(1) or (2) of section 2903.06 of the Revised Code, is 2136
not a violation of division (A)(1) of section 2903.08 of the 2137
Revised Code, is not a violation of division (A) of section 2138
4511.19 of the Revised Code or a municipal ordinance that is 2139
substantially similar to that division, and is not an offense for 2140
which a sentencing court is required to impose a mandatory prison 2141
term, a mandatory term of local incarceration, or a mandatory term 2142
of imprisonment in a jail. 2143

(3)(c) The offender is not charged with a violation of 2144
section 2925.02, 2925.03, 2925.04, or 2925.06, or of the Revised 2145
Code and is not charged with a violation of section 2925.11 of the 2146
Revised Code that is a felony of the first, second, or third 2147
degree. 2148

(4)(d) The offender is not charged with a violation of 2149
section 2925.11 of the Revised Code that is a felony of the fourth 2150
degree, or the offender is charged with a violation of that 2151
section that is a felony of the fourth degree, and the prosecutor 2152
in the case has recommended that the offender be classified as 2153
being eligible for intervention in lieu of conviction under this 2154
section. 2155

(5)(e) The offender has been assessed by an appropriately 2156
licensed provider, certified facility, or licensed and 2157
credentialed professional, including, but not limited to, a 2158
program licensed by the department of alcohol and drug addiction 2159
services pursuant to section 3793.11 of the Revised Code, a 2160
program certified by that department pursuant to section 3793.06 2161
of the Revised Code, a public or private hospital, the United 2162
States department of veterans affairs, another appropriate agency 2163

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of the government of the United States, or a licensed physician, 2164
psychiatrist, psychologist, independent social worker, 2165
professional counselor, or chemical dependency counselor for the 2166
purpose of determining the offender's eligibility for intervention 2167
in lieu of conviction and recommending an appropriate intervention 2168
plan. 2169

(6)~~(f)~~ The offender's drug or alcohol usage was a factor 2170
leading to the criminal offense with which the offender is 2171
charged, intervention in lieu of conviction would not demean the 2172
seriousness of the offense, and intervention would substantially 2173
reduce the likelihood of any future criminal activity. 2174

(7) The alleged victim of the offense was not sixty-five 2175
years of age or older, permanently and totally disabled, under 2176
thirteen years of age, or a peace officer engaged in the officer's 2177
official duties at the time of the alleged offense. 2178

(8) If the offender is charged with a violation of section 2179
2925.24 of the Revised Code, the alleged violation did not result 2180
in physical harm to any person, and the offender previously has 2181
not been treated for drug abuse. 2182

(9) The offender is willing to comply with all terms and 2183
conditions imposed by the court pursuant to division (D) of this 2184
section. 2185

(C)~~(2)~~ At the conclusion of a hearing held pursuant to 2186
division (A) of this section, the court shall enter its 2187
determination as to whether the offender is eligible for 2188
intervention in lieu of conviction and as to whether to grant the 2189
offender's request. If the court finds under division (B)~~(1)~~ of 2190
this section that the offender is eligible for ~~treatment~~ 2191
intervention in lieu of conviction and grants the offender's 2192
request, the court shall accept the offender's plea of guilty and 2193
waiver of the defendant's right to a speedy trial, the preliminary 2194
hearing, the time period within which the grand jury may consider 2195

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

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

(E) If the court grants an offender's request for intervention in lieu of conviction and the court finds that the offender has successfully completed the intervention plan for the offender, including the requirement that the offender abstain from using drugs and alcohol for a period of at least one year from the

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date on which the court granted the order of intervention in lieu 2228
of conviction and all other terms and conditions ordered by the 2229
court, the court shall dismiss the proceedings against the 2230
offender. Successful completion of the intervention plan and 2231
period of abstinence under this section shall be without 2232
adjudication of guilt and is not a criminal conviction for 2233
purposes of any disqualification or disability imposed by law and 2234
upon conviction of a crime, and the court may order the sealing of 2235
records related to the offense in question in the manner provided 2236
in sections 2953.31 to 2953.36 of the Revised Code. 2237

(F) If the court grants an offender's request for 2238
intervention in lieu of conviction and the offender fails to 2239
comply with any term or condition imposed as part of the 2240
intervention plan for the offender, the supervising authority for 2241
the offender promptly shall advise the court of this failure, and 2242
the court shall hold a hearing to determine whether the offender 2243
failed to comply with any term or condition imposed as part of the 2244
plan. If the court determines that the offender has failed to 2245
comply with any of those terms and conditions, it shall enter a 2246
finding of guilty and shall impose an appropriate sanction under 2247
Chapter 2929. of the Revised Code. 2248

(G) As used in this section: 2249

(1) "Community control sanction" has the same meaning as in 2250
section 2929.01 of the Revised Code. 2251

(2) "Intervention in lieu of conviction" means any 2252
court-supervised activity that complies with this section. 2253

(3) "Peace officer" has the same meaning as in section 2254
2935.01 of the Revised Code. 2255

Sec. 2967.16. (A) Except as provided in division (D) of this 2256
section, when a paroled prisoner has faithfully performed the 2257

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conditions and obligations of the paroled prisoner's parole and 2258
has obeyed the rules and regulations adopted by the adult parole 2259
authority that apply to the paroled prisoner, the authority upon 2260
the recommendation of the superintendent of parole supervision may 2261
enter upon its minutes a final release and thereupon shall issue 2262
to the paroled prisoner a certificate of final release, but the 2263
authority shall not grant a final release earlier than one year 2264
after the paroled prisoner is released from the institution on 2265
parole, and, in the case of a paroled prisoner whose minimum 2266
sentence is life imprisonment, the authority shall not grant a 2267
final release earlier than five years after the paroled prisoner 2268
is released from the institution on parole. 2269

(B)(1) When a prisoner who has been released under a period 2270
of post-release control pursuant to section 2967.28 of the Revised 2271
Code has faithfully performed the conditions and obligations of 2272
the released prisoner's post-release control sanctions and has 2273
obeyed the rules and regulations adopted by the adult parole 2274
authority that apply to the released prisoner or has the period of 2275
post-release control terminated by a court pursuant to section 2276
2929.141 of the Revised Code, the authority, upon the 2277
recommendation of the superintendent of parole supervision, may 2278
enter upon its minutes a final release and, upon the entry of the 2279
final release, shall issue to the released prisoner a certificate 2280
of final release. In the case of a prisoner who has been released 2281
under a period of post-release control pursuant to division (B) of 2282
section 2967.28 of the Revised Code, the authority shall not grant 2283
a final release earlier than one year after the released prisoner 2284
is released from the institution under a period of post-release 2285
control. The authority shall classify the termination of 2286
post-release control as favorable or unfavorable depending on the 2287
offender's conduct and compliance with the conditions of 2288
supervision. In the case of a released prisoner whose sentence is 2289
life imprisonment, the authority shall not grant a final release 2290

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earlier than five years after the released prisoner is released 2291
from the institution under a period of post-release control. 2292

(2) The department of rehabilitation and correction, no later 2293
than six months after the effective date of this section shall 2294
adopt a rule in accordance with Chapter 119. of the Revised Code 2295
that establishes the criteria for the classification of a 2296
post-release control termination as "favorable" or "unfavorable." 2297

(C) The following prisoners or person shall be restored to 2298
the rights and privileges forfeited by a conviction: 2299

(1) A prisoner who has served the entire prison term that 2300
comprises or is part of the prisoner's sentence and has not been 2301
placed under any post-release control sanctions; 2302

(2) A prisoner who has been granted a final release by the 2303
adult parole authority pursuant to division (A) or (B) of this 2304
section; 2305

(3) A person who has completed the period of a community 2306
control sanction or combination of community control sanctions, as 2307
defined in section 2929.01 of the Revised Code, that was imposed 2308
by the sentencing court. 2309

(D) Division (A) of this section does not apply to a prisoner 2310
in the shock incarceration program established pursuant to section 2311
5120.031 of the Revised Code. 2312

(E) The adult parole authority shall record the final release 2313
of a parolee or prisoner in the official minutes of the authority. 2314
2315

Sec. 2967.28. (A) As used in this section: 2316

(1) "Monitored time" means the monitored time sanction 2317
specified in section 2929.17 of the Revised Code. 2318

(2) "Deadly weapon" and "dangerous ordnance" have the same 2319

meanings as in section 2923.11 of the Revised Code. 2320

(3) "Felony sex offense" means a violation of a section 2321
contained in Chapter 2907. of the Revised Code that is a felony. 2322

(B) Each sentence to a prison term for a felony of the first 2323
degree, for a felony of the second degree, for a felony sex 2324
offense, or for a felony of the third degree that is not a felony 2325
sex offense and in the commission of which the offender caused or 2326
threatened to cause physical harm to a person shall include a 2327
requirement that the offender be subject to a period of 2328
post-release control imposed by the parole board after the 2329
offender's release from imprisonment. Unless reduced by the parole 2330
board pursuant to division (D) of this section when authorized 2331
under that division, a period of post-release control required by 2332
this division for an offender shall be of one of the following 2333
periods: 2334

(1) For a felony of the first degree or for a felony sex 2335
offense, five years; 2336

(2) For a felony of the second degree that is not a felony 2337
sex offense, three years; 2338

(3) For a felony of the third degree that is not a felony sex 2339
offense and in the commission of which the offender caused or 2340
threatened physical harm to a person, three years. 2341

(C) Any sentence to a prison term for a felony of the third, 2342
fourth, or fifth degree that is not subject to division (B)(1) or 2343
(3) of this section shall include a requirement that the offender 2344
be subject to a period of post-release control of up to three 2345
years after the offender's release from imprisonment, if the 2346
parole board, in accordance with division (D) of this section, 2347
determines that a period of post-release control is necessary for 2348
that offender. 2349

(D)(1) Before the prisoner is released from imprisonment, the 2350

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parole board shall impose upon a prisoner described in division 2351
(B) of this section, may impose upon a prisoner described in 2352
division (C) of this section, and shall impose upon a prisoner 2353
described in division (B)(2)(b) of section 5120.031 or in division 2354
(B)(1) of section 5120.032 of the Revised Code, one or more 2355
post-release control sanctions to apply during the prisoner's 2356
period of post-release control. Whenever the board imposes one or 2357
more post-release control sanctions upon a prisoner, the board, in 2358
addition to imposing the sanctions, also shall include as a 2359
condition of the post-release control that the individual or felon 2360
not leave the state without permission of the court or the 2361
individual's or felon's parole or probation officer and that the 2362
individual or felon abide by the law. The board may impose any 2363
other conditions of release under a post-release control sanction 2364
that the board considers appropriate, and the conditions of 2365
release may include any community residential sanction, community 2366
nonresidential sanction, or financial sanction that the sentencing 2367
court was authorized to impose pursuant to sections 2929.16, 2368
2929.17, and 2929.18 of the Revised Code. Prior to the release of 2369
a prisoner for whom it will impose one or more post-release 2370
control sanctions under this division, the parole board shall 2371
review the prisoner's criminal history, all juvenile court 2372
adjudications finding the prisoner, while a juvenile, to be a 2373
delinquent child, and the record of the prisoner's conduct while 2374
imprisoned. The parole board shall consider any recommendation 2375
regarding post-release control sanctions for the prisoner made by 2376
the office of victims' services. After considering those 2377
materials, the board shall determine, for a prisoner described in 2378
division (B) of this section, division (B)(2)(b) of section 2379
5120.031, or division (B)(1) of section 5120.032 of the Revised 2380
Code, which post-release control sanction or combination of 2381
post-release control sanctions is reasonable under the 2382
circumstances or, for a prisoner described in division (C) of this 2383

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section, whether a post-release control sanction is necessary and, 2384
if so, which post-release control sanction or combination of 2385
post-release control sanctions is reasonable under the 2386
circumstances. In the case of a prisoner convicted of a felony of 2387
the fourth or fifth degree other than a felony sex offense, the 2388
board shall presume that monitored time is the appropriate 2389
post-release control sanction unless the board determines that a 2390
more restrictive sanction is warranted. A post-release control 2391
sanction imposed under this division takes effect upon the 2392
prisoner's release from imprisonment. 2393

(2) At any time after a prisoner is released from 2394
imprisonment and during the period of post-release control 2395
applicable to the releasee, the adult parole authority may review 2396
the releasee's behavior under the post-release control sanctions 2397
imposed upon the releasee under this section. The authority may 2398
determine, based upon the review and in accordance with the 2399
standards established under division (E) of this section, that a 2400
more restrictive or a less restrictive sanction is appropriate and 2401
may impose a different sanction. Unless the period of post-release 2402
control was imposed for an offense described in division (B)(1) of 2403
this section, the authority also may recommend that the parole 2404
board reduce the duration of the period of post-release control 2405
imposed by the court. If the authority recommends that the board 2406
reduce the duration of control for an offense described in 2407
division (B)(2), (B)(3), or (C) of this section, the board shall 2408
review the releasee's behavior and may reduce the duration of the 2409
period of control imposed by the court. In no case shall the board 2410
reduce the duration of the period of control imposed by the court 2411
for an offense described in division (B)(1) of this section, and 2412
in no case shall the board permit the releasee to leave the state 2413
without permission of the court or the releasee's parole or 2414
probation officer. 2415

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

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

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

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

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

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

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(a) Classify violations according to the degree of seriousness;	2447 2448
(b) Define the circumstances under which formal action by the parole board is warranted;	2449 2450
(c) Govern the use of evidence at violation hearings;	2451
(d) Ensure procedural due process to an alleged violator;	2452
(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;	2453 2454
(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.	2455 2456
(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.	2457 2458 2459 2460 2461 2462 2463 2464 2465 2466 2467 2468 2469 2470 2471 2472 2473
(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	2474 2475 2476 2477

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

(3) The parole board may hold a hearing on any alleged 2490
violation by a releasee of a post-release control sanction or any 2491
conditions described in division (A) of section 2967.131 of the 2492
Revised Code that are imposed upon the releasee. If after the 2493
hearing the board finds that the releasee violated the sanction or 2494
condition, the board may increase the duration of the releasee's 2495
post-release control up to the maximum duration authorized by 2496
division (B) or (C) of this section or impose a more restrictive 2497
post-release control sanction. When appropriate, the board may 2498
impose as a post-release control sanction a residential sanction 2499
that includes a prison term. The board shall consider a prison 2500
term as a post-release control sanction imposed for a violation of 2501
post-release control when the violation involves a deadly weapon 2502
or dangerous ordnance, physical harm or attempted serious physical 2503
harm to a person, or sexual misconduct, or when the releasee 2504
committed repeated violations of post-release control sanctions. 2505
The period of a prison term that is imposed as a post-release 2506
control sanction under this division shall not exceed nine months, 2507
and the maximum cumulative prison term for all violations under 2508
this division shall not exceed one-half of the stated prison term 2509

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

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

~~(4) A parolee or releasee who has violated any condition of
parole, any post-release control sanction, or any conditions
described in division (A) of section 2967.131 of the Revised Code
that are imposed upon the releasee by committing a felony may be
prosecuted for the new felony, and, upon conviction, the court
shall impose sentence for the new felony. In addition to the
sentence imposed for the new felony, the court may impose a prison
term for the violation, and the term imposed for the violation
shall be reduced by any prison term that is administratively
imposed by the parole board or adult parole authority as a
post-release control sanction. If the person is a releasee, the
maximum prison term for the violation shall be either the maximum
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~~

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~~period of post-release control imposed for the earlier felony.~~ 2542

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(5) Any period of post-release control shall commence upon an 2544
offender's actual release from prison. If an offender is serving 2545
an indefinite prison term or a life sentence in addition to a 2546
stated prison term, the offender shall serve the period of 2547
post-release control in the following manner: 2548

(a) If a period of post-release control is imposed upon the 2549
offender and if the offender also is subject to a period of parole 2550
under a life sentence or an indefinite sentence, and if the period 2551
of post-release control ends prior to the period of parole, the 2552
offender shall be supervised on parole. The offender shall receive 2553
credit for post-release control supervision during the period of 2554
parole. The offender is not eligible for final release under 2555
section 2967.16 of the Revised Code until the post-release control 2556
period otherwise would have ended. 2557

(b) If a period of post-release control is imposed upon the 2558
offender and if the offender also is subject to a period of parole 2559
under an indefinite sentence, and if the period of parole ends 2560
prior to the period of post-release control, the offender shall be 2561
supervised on post-release control. The requirements of parole 2562
supervision shall be satisfied during the post-release control 2563
period. 2564

(c) If an offender is subject to more than one period of 2565
post-release control, the period of post-release control for all 2566
of the sentences shall be the period of post-release control that 2567
expires last, as determined by the parole board. Periods of 2568
post-release control shall be served concurrently and shall not be 2569
imposed consecutively to each other. 2570

(d) The period of post-release control for a releasee who 2571
commits a felony while under post-release control for an earlier 2572
felony shall be the longer of the period of post-release control 2573

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specified for the new felony under division (B) or (C) of this 2574
 section or the time remaining under the period of post-release 2575
 control imposed for the earlier felony as determined by the parole 2576
 board. 2577

Sec. 3719.21. Except as provided in division (C) of section 2578
 2923.42, division (B)(5) of section 2923.44, divisions (D)(1), 2579
 (F), and (H) of section 2925.03, division (D)(1) of section 2580
 2925.02, 2925.04, or 2925.05, division (E)(1) of section 2925.11, 2581
 division (F) of section 2925.13 ~~or~~, division (F) of section 2582
 2925.36, division (D) of section 2925.22, division (H) of section 2583
 2925.23, division (M) of section 2925.37, division (B)(5) of 2584
 section 2925.42, division (B) of section 2929.18, division (D) of 2585
 section 3719.99, division (B)(1) of section 4729.65, and division 2586
 (E)(3) of section 4729.99 of the Revised Code, the clerk of the 2587
 court shall pay all fines or forfeited bail assessed and collected 2588
 under prosecutions or prosecutions commenced for violations of 2589
 this chapter, section 2923.42 of the Revised Code, or Chapter 2590
 2925. of the Revised Code, within thirty days, to the executive 2591
 director of the state board of pharmacy, and the executive 2592
 director shall deposit the fines into the state treasury to the 2593
 credit of the occupational licensing and regulatory fund. 2594

Sec. 4723.09. (A)(1) An application for licensure by 2595
 examination to practice as a registered nurse or as a licensed 2596
 practical nurse shall be submitted to the board of nursing in the 2597
 form prescribed by rules of the board. The application shall 2598
 include evidence that the applicant has completed requirements of 2599
 a nursing education program approved by the board or approved by 2600
 another jurisdiction's board that regulates nurse licensure. The 2601
 application also shall include any other information required by 2602
 rules of the board. The application shall be accompanied by the 2603
 application fee required by section 4723.08 of the Revised Code. 2604

(2) The board shall grant a license to practice nursing as a registered nurse or as a licensed practical nurse if ~~the~~ all of the following apply: 2605
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(a) For all applicants, the applicant passes the examination accepted by the board under section 4723.10 of the Revised Code and the. 2608
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(b) For an applicant who entered a prelicensure nursing education program on or after June 1, 2003, the criminal records check of the applicant that is completed by the bureau of criminal identification and investigation and includes a check of federal bureau of investigation records and that the bureau submits to the board 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. 2611
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(c) For all applicants, the board determines that the applicant has not committed any act that is grounds for disciplinary action under section 3123.47 or 4723.28 of the Revised Code, or determines that an applicant who has committed such acts any act that is grounds for disciplinary action under either section has made restitution or has been rehabilitated, or both. The 2622
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(3) The board is not required to afford an adjudication to an individual to whom it has refused to grant a license because of that individual's failure to pass the examination. 2629
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(B) An application for license by endorsement to practice nursing as a registered nurse or as a licensed practical nurse shall be submitted to the board in the form prescribed by rules of the board and shall be accompanied by the application fee required 2632
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by section 4723.08 of the Revised Code. The application shall
include evidence that the applicant holds a license in good
standing in another jurisdiction granted after passing an
examination approved by the board of that jurisdiction that is
equivalent to the examination requirements under this chapter for
a license to practice nursing as a registered nurse or licensed
practical nurse, and shall include other information required by
rules of the board of nursing. The board shall grant a license by
endorsement if the applicant is licensed or certified by another
jurisdiction and the board determines, pursuant to rules
established under section 4723.07 of the Revised Code, that all of
the following apply:

(1) ~~The~~ For all applicants, 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~~ For all applicants, 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) For all applicants, the criminal records check of the
applicant that is completed by the bureau of criminal
identification and investigation and includes a check of federal
bureau of investigation records and that the bureau submits to the
board 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.

~~The~~ (4) For all applicants, the applicant has not committed
any act that is grounds for disciplinary action under section

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3123.47, 4723.28, or 4723.281 of the Revised Code, or the board 2668
determines that an applicant who has committed ~~such acts~~ any act 2669
that is grounds for disciplinary action under any of those 2670
sections has made restitution or has been rehabilitated, or both. 2671

The board may grant a nonrenewable temporary permit to 2672
practice nursing as a registered nurse or as a licensed practical 2673
nurse to an applicant for license by endorsement if the board is 2674
satisfied by the evidence that the applicant holds a current, 2675
active license in good standing in another jurisdiction. ~~The~~ 2676
Subject to earlier automatic termination as described in this 2677
paragraph, the temporary permit shall expire at the earlier of one 2678
hundred ~~twenty~~ eighty days after issuance or upon the issuance of 2679
a license by endorsement. The temporary permit shall terminate 2680
automatically if the criminal records check completed by the 2681
bureau of criminal identification and investigation as described 2682
in this section regarding the applicant indicates that the 2683
applicant previously has been convicted of, pleaded guilty to, or 2684
had a judicial finding of guilt for a violation of section 2685
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2686
2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 2687
substantially similar law of another state, the United States, or 2688
another country. An applicant whose temporary permit is 2689
automatically terminated is permanently prohibited from obtaining 2690
a license to practice nursing in this state as a registered nurse 2691
or as a licensed practical nurse. 2692

(C) An applicant under this section shall submit a request to 2693
the bureau of criminal identification and investigation for a 2694
criminal records check of the applicant. The request shall be on 2695
the form prescribed pursuant to division (C)(1) of section 109.572 2696
of the Revised Code, accompanied by a standard impression sheet to 2697
obtain fingerprints prescribed pursuant to division (C)(2) of that 2698
section, and accompanied by the fee prescribed pursuant to 2699

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division (C)(3) of that section. Upon receipt of the completed form, the completed impression sheet, and the fee, the bureau shall conduct a criminal records check of the applicant. Upon completion of the criminal records check, the bureau shall send the results of the check to the board. An applicant 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 applicant.

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

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

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

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Sec. 4723.28. (A) The board of nursing, by a vote of a quorum, may revoke or may refuse to grant a nursing license, certificate of authority, or dialysis technician certificate to a person found by the board to have committed fraud in passing an examination required to obtain the license, certificate of authority, or dialysis technician certificate or to have committed fraud, misrepresentation, or deception in applying for or securing

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any nursing license, certificate of authority, or dialysis technician certificate issued by the board. 2731
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(B) The Subject to division (N) of this section, the board of 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: 2733
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(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; 2742
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(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; 2746
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(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; 2751
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(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; 2756
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(5) Selling, giving away, or administering drugs or 2761

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therapeutic devices for other than legal and legitimate	2762
therapeutic purposes; or conviction of, a plea of guilty to, a	2763
judicial finding of guilt of, a judicial finding of guilt	2764
resulting from a plea of no contest to, or a judicial finding of	2765
eligibility for intervention in lieu of conviction for, violating	2766
any municipal, state, county, or federal drug law;	2767
(6) Conviction of, a plea of guilty to, a judicial finding of	2768
guilt of, a judicial finding of guilt resulting from a plea of no	2769
contest to, or a judicial finding of eligibility for intervention	2770
in lieu of conviction for, an act in another jurisdiction that	2771
would constitute a felony or a crime of moral turpitude in Ohio;	2772
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(7) Conviction of, a plea of guilty to, a judicial finding of	2774
guilt of, a judicial finding of guilt resulting from a plea of no	2775
contest to, or a judicial finding of eligibility for intervention	2776
in lieu of conviction for, an act in the course of practice in	2777
another jurisdiction that would constitute a misdemeanor in Ohio;	2778
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(8) Self-administering or otherwise taking into the body any	2780
dangerous drug, as defined in section 4729.01 of the Revised Code,	2781
in any way not in accordance with a legal, valid prescription	2782
<u>prescription</u> issued for that individual;	2783
(9) Habitual indulgence in the use of controlled substances,	2784
other habit-forming drugs, or alcohol or other chemical substances	2785
to an extent that impairs ability to practice;	2786
(10) Impairment of the ability to practice according to	2787
acceptable and prevailing standards of safe nursing care because	2788
of habitual or excessive use of drugs, alcohol, or other chemical	2789
substances that impair the ability to practice;	2790
(11) Impairment of the ability to practice according to	2791
acceptable and prevailing standards of safe nursing care because	2792

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of a physical or mental disability;	2793
(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;	2794 2795
(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;	2796 2797 2798
(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.	2799 2800 2801 2802 2803 2804
(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;	2805 2806 2807
(16) Violation of this chapter or any rules adopted under it;	2808 2809
(17) Violation of any restrictions placed on a nursing license or dialysis technician certificate by the board;	2810 2811
(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;	2812 2813 2814
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	2815 2816
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	2817 2818 2819
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	2820 2821 2822

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(22) In the case of a dialysis technician, engaging in	2823
activities that exceed those permitted under section 4723.72 of	2824
the Revised Code;	2825
(23) Aiding and abetting a person in that person's practice	2826
of nursing without a license or practice as a dialysis technician	2827
without a certificate issued under this chapter;	2828
(24) In the case of a certified registered nurse anesthetist,	2829
clinical nurse specialist, certified nurse-midwife, certified	2830
nurse practitioner, or advanced practice nurse, except as provided	2831
in division (M) of this section, either of the following:	2832
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(a) Waiving the payment of all or any part of a deductible or	2834
copayment that a patient, pursuant to a health insurance or health	2835
care policy, contract, or plan that covers such nursing services,	2836
would otherwise be required to pay if the waiver is used as an	2837
enticement to a patient or group of patients to receive health	2838
care services from that provider;	2839
(b) Advertising that the nurse will waive the payment of all	2840
or any part of a deductible or copayment that a patient, pursuant	2841
to a health insurance or health care policy, contract, or plan	2842
that covers such nursing services, would otherwise be required to	2843
pay.	2844
(25) Failure to comply with the terms and conditions of	2845
participation in the chemical dependency monitoring program	2846
established under section 4723.35 of the Revised Code;	2847
(26) Failure to comply with the terms and conditions required	2848
under the practice intervention and improvement program	2849
established under section 4723.282 of the Revised Code;	2850
(27) In the case of a certified registered nurse anesthetist,	2851
clinical nurse specialist, certified nurse-midwife, or certified	2852
nurse practitioner:	2853

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(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;	2854 2855 2856
(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.	2857 2858
(28) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;	2859 2860 2861 2862 2863
(29) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;	2864 2865 2866 2867 2868
(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	2869 2870
(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	2871 2872 2873
(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:	2874 2875 2876 2877
(a) Sexual contact, as defined in section 2907.01 of the Revised Code;	2878 2879
(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.	2880 2881 2882
(C) Disciplinary actions taken by the board under divisions	2883

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(A) and (B) of this section shall be taken pursuant to an
adjudication conducted under Chapter 119. of the Revised Code,
except that in lieu of a hearing, the board may enter into a
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

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

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

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

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

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

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

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

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

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admissibility of testimony or examination reports that constitute 2980
a privileged communication. 2981

(H) The board shall investigate evidence that appears to show 2982
that any person has violated any provision of this chapter or any 2983
rule of the board. Any person may report to the board any 2984
information the person may have that appears to show a violation 2985
of any provision of this chapter or rule of the board. In the 2986
absence of bad faith, any person who reports such information or 2987
who testifies before the board in any adjudication conducted under 2988
Chapter 119. of the Revised Code shall not be liable for civil 2989
damages as a result of the report or testimony. 2990

(I) All of the following apply under this chapter with 2991
respect to the confidentiality of information: 2992

(1) Information received by the board pursuant to an 2993
investigation is confidential and not subject to discovery in any 2994
civil action, except that the board may disclose information to 2995
law enforcement officers and government entities investigating a 2996
registered nurse, licensed practical nurse, or dialysis technician 2997
or a person who may have engaged in the unauthorized practice of 2998
nursing. No law enforcement officer or government entity with 2999
knowledge of any information disclosed by the board pursuant to 3000
this division shall divulge the information to any other person or 3001
government entity except for the purpose of an adjudication by a 3002
court or licensing or registration board or officer to which the 3003
person to whom the information relates is a party. 3004

(2) If an investigation requires a review of patient records, 3005
the investigation and proceeding shall be conducted in such a 3006
manner as to protect patient confidentiality. 3007

(3) All adjudications and investigations of the board shall 3008
be considered civil actions for the purposes of section 2305.251 3009
of the Revised Code. 3010

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(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 or maintained by the board with respect to the board's monitoring activities is confidential and not subject to discovery in any civil action.

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

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

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

(M) Sanctions shall not be imposed under division (B)(24) of this section against any licensee who waives deductibles and

copayments as follows:

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

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

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

The board shall refuse to grant a license to practice nursing as a registered nurse or as a licensed practical nurse under section 4723.09 of the Revised Code to a person who entered a prelicensure nursing education program on or after June 1, 2003, and applied under division (A) of section 4723.09 of the Revised Code for the license or a person who applied under division (B) of that section for the license, if the criminal records check performed in accordance with division (C) of that section indicates that the person has pleaded guilty to, been convicted of, or has had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03,

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2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 3075
substantially similar law of another state, the United States, or 3076
another country. 3077

(2) Any person who enters a dialysis training program on or 3078
after June 1, 2003, and who subsequently applies for a certificate 3079
to practice as a dialysis technician shall submit a request to the 3080
bureau of criminal identification and investigation for the bureau 3081
to conduct a criminal records check of the applicant and to send 3082
the results to the board, in accordance with section 4723.75 of 3083
the Revised Code. 3084

The board shall refuse to issue a certificate to practice as 3085
a dialysis technician under section 4723.75 of the Revised Code to 3086
a person who entered a dialysis training program on or after June 3087
1, 2003, and whose criminal records check performed in accordance 3088
with division (C) of that section indicates that the person has 3089
pleaded guilty to, been convicted of, or has had a judicial 3090
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 3091
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 3092
2911.11 of the Revised Code or a substantially similar law of 3093
another state, the United States, or another country. 3094

Sec. 4723.72. (A) A dialysis technician may engage in 3095
dialysis care by doing the following: 3096

(1) Performing and monitoring dialysis procedures, including 3097
initiating, monitoring, and discontinuing dialysis; 3098

(2) Drawing blood; 3099

(3) Administering any of the medications specified in 3100
division (C) of this section when the administration is essential 3101
to the dialysis process; 3102

(4) Responding to complications that arise during dialysis. 3103

(B) A dialysis technician may provide the dialysis care 3104

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specified in division (A) of this section only if the care has
been delegated to the technician by a physician or registered
nurse and the technician is under the supervision of a physician
or registered nurse. Supervision requires that the dialysis
technician be in the immediate presence of a physician or
registered nurse, or, in the case of dialysis care provided in a
patient's home, that the dialysis technician be supervised in
accordance with the rules adopted under section 4723.79 of the
Revised Code for supervision of dialysis technicians who provide
dialysis care in a patient's home. Division (E)(5) of section
4723.73 of the Revised Code does not allow a dialysis technician
who provides dialysis care in a patient's home to provide dialysis
care that is not authorized under this section.

(C) A dialysis technician may administer medication only as
ordered by a licensed health professional authorized to prescribe
drugs as defined in section 4729.01 of the Revised Code and in
accordance with the standards established in rules adopted under
section 4723.79 of the Revised Code. A dialysis technician may
administer only the following medications:

(1) Intradermal lidocaine or other single therapeutically
equivalent local anesthetic for the purpose of initiating dialysis
treatment;

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

(3) Intravenous normal saline;

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

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

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

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

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

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~~ For all persons, the person applies to the board in accordance with rules adopted under section 4723.79 of the Revised Code and includes with the application the fee established in those rules.

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

~~(3) The~~ (2) For all persons, the person meets the

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requirements established by the board's rules.	3165
(4) The (3) For all persons, the person demonstrates	3166
competency to practice as a dialysis technician, as specified	3167
under division (B) of this section.	3168
<u>(4) For persons who entered a dialysis training program on or</u>	3169
<u>after June 1, 2003, the criminal records check of the person that</u>	3170
<u>is completed by the bureau of criminal identification and</u>	3171
<u>investigation and includes a check of federal bureau of</u>	3172
<u>investigation records and that the bureau submits to the board</u>	3173
<u>indicates that the person has not been convicted of, has not</u>	3174
<u>pleaded guilty to, and has not had a judicial finding of guilt for</u>	3175
<u>violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01,</u>	3176
<u>2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the</u>	3177
<u>Revised Code or a substantially similar law of another state, the</u>	3178
<u>United States, or another country.</u>	3179
(B) For a person to demonstrate competence to practice as a	3180
dialysis technician, one of the following must apply:	3181
(1) The person meets all of the following requirements:	3182
(a) The person has successfully completed a dialysis training	3183
program approved by the board under section 4723.74 of the Revised	3184
Code.	3185
(b) The person has been employed to perform dialysis care by	3186
a dialysis provider for not less than twelve months prior to the	3187
date of application.	3188
(c) The person passes a certification examination	3189
demonstrating competence to perform dialysis care. The person must	3190
pass the examination not later than eighteen months after entering	3191
a dialysis training program approved by the board under section	3192
4723.74 of the Revised Code. A person who does not pass the	3193
examination within eighteen months after entering a dialysis	3194
training program must repeat and successfully complete the	3195

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training program, or successfully complete another dialysis 3196
training program approved by the board, and pass the examination 3197
not less than six months after entering the new or repeated 3198
program. A person who does not pass the examination within six 3199
months after entering the new or repeated program must wait at 3200
least one year before entering or reentering any dialysis training 3201
program approved by the board, after which the person must 3202
successfully complete a dialysis training program approved by the 3203
board and pass the examination not later than six months after 3204
entering the program. 3205

(2) The person meets both of the following requirements: 3206

(a) The person holds, on ~~the effective date of this section~~ 3207
December 24, 2000, a current, valid certificate from a qualifying 3208
testing organization specified by the board under division (B) of 3209
section 4723.751 of the Revised Code or provides evidence 3210
satisfactory to the board of having passed the examination of a 3211
qualifying testing organization not longer than five years prior 3212
to ~~the effective date of this section~~ December 24, 2000. 3213

(b) The dialysis provider who employs the person provides the 3214
board with the information specified in rules adopted under 3215
section 4723.79 of the Revised Code attesting to the person's 3216
competence to perform dialysis care. 3217

(3) The person submits evidence satisfactory to the board 3218
that the person holds a current, valid license, certificate, or 3219
other authorization to perform dialysis care issued by another 3220
state that has standards for dialysis technicians that the board 3221
considers substantially similar to those established under 3222
sections 4723.71 to 4723.79 of the Revised Code. 3223

(C) A person who applies under this section to be certified 3224
to practice as a dialysis technician shall submit a request to the 3225
bureau of criminal identification and investigation for a criminal 3226

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

The results of any criminal records check conducted pursuant 3241
to a request made under this section, and any report containing 3242
those results, are not public records for purposes of section 3243
149.43 of the Revised Code and shall not be made available to any 3244
person or for any purpose other than the following: 3245

(1) The results may be made available to any person for use 3246
in determining under this section and division (N) of section 3247
4723.28 of the Revised Code whether the individual who is the 3248
subject of the check should be issued a certificate to practice as 3249
a dialysis technician. 3250

(2) The results may be made available to the individual who 3251
is the subject of the check or that individual's representative. 3252

Sec. 4723.77. A certificate issued under section 4723.75 of 3253
the Revised Code expires biennially and shall be renewed according 3254
to a schedule established by the board of nursing in rules adopted 3255
under section 4723.79 of the Revised Code. An application for 3256
renewal of a certificate shall be accompanied by the renewal fee 3257

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established in rules adopted by the board under section 4723.79 of 3258
the Revised Code. A certificate may be renewed only if, during the 3259
period for which the certificate was issued, the certificate 3260
holder satisfied the continuing education requirements established 3261
by the board's rules. Of the hours of continuing education 3262
completed during the period for which the certificate was issued, 3263
at least one hour of the education must be directly related to the 3264
statutes and rules pertaining to the practice of nursing in this 3265
state or the practice as a dialysis technician in this state. 3266

Sec. 5120.031. (A) As used in this section: 3267

(1) "Certificate of high school equivalence" means a 3268
statement that is issued by the state board of education or an 3269
equivalent agency of another state and that indicates that its 3270
holder has achieved the equivalent of a high school education as 3271
measured by scores obtained on the tests of general educational 3272
development published by the American council on education. 3273

(2) "Certificate of adult basic education" means a statement 3274
that is issued by the department of rehabilitation and correction 3275
through the Ohio central school system approved by the state board 3276
of education and that indicates that its holder has achieved a 6.0 3277
grade level, or higher, as measured by scores of nationally 3278
standardized or recognized tests. 3279

(3) "Deadly weapon" and "firearm" have the same meanings as 3280
in section 2923.11 of the Revised Code. 3281

(4) "Eligible offender" means a person, other than one who is 3282
ineligible to participate in an intensive program prison under the 3283
criteria specified in section 5120.032 of the Revised Code, who 3284
has been convicted of or pleaded guilty to, and has been sentenced 3285
for, a felony. 3286

(5) "Shock incarceration" means the program of incarceration 3287
that is established pursuant to the rules of the department of 3288

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rehabilitation and correction adopted under this section. 3289

(B)(1) The director of rehabilitation and correction, by 3290
rules adopted under Chapter 119. of the Revised Code, shall 3291
establish a pilot program of shock incarceration that may be used 3292
for ~~eligible~~ offenders who are sentenced to serve a term of 3293
imprisonment under the custody of the department of rehabilitation 3294
and correction, whom the department determines to be eligible 3295
offenders, and whom the department, subject to the approval of the 3296
sentencing judge, may permit to serve their sentence as a sentence 3297
of shock incarceration in accordance with this section. 3298

(2) The rules for the pilot program shall require that the 3299
program be established at an appropriate state correctional 3300
institution designated by the director and that the program 3301
consist of both of the following for each eligible offender whom 3302
the department, with the approval of the sentencing judge, permits 3303
to serve the eligible offender's sentence as a sentence of shock 3304
incarceration: 3305

(a) A period of imprisonment at that institution of ninety 3306
days that shall consist of a military style combination of 3307
discipline, physical training, and hard labor and substance abuse 3308
education, employment skills training, social skills training, and 3309
psychological treatment. During the ninety-day period, the 3310
department may permit an eligible offender to participate in a 3311
self-help program. Additionally, during the ninety-day period, an 3312
eligible offender who holds a high school diploma or a certificate 3313
of high school equivalence may be permitted to tutor other 3314
eligible offenders in the shock incarceration program. If an 3315
eligible offender does not hold a high school diploma or 3316
certificate of high school equivalence, the eligible offender may 3317
elect to participate in an education program that is designed to 3318
award a certificate of adult basic education or an education 3319
program that is designed to award a certificate of high school 3320

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equivalence to those eligible offenders who successfully complete 3321
the education program, whether the completion occurs during or 3322
subsequent to the ninety-day period. To the extent possible, the 3323
department shall use as teachers in the education program persons 3324
who have been issued a license pursuant to sections 3319.22 to 3325
3319.31 of the Revised Code, who have volunteered their services 3326
to the education program, and who satisfy any other criteria 3327
specified in the rules for the pilot project. 3328

(b) Immediately following the ninety-day period of 3329
imprisonment, and notwithstanding any other provision governing 3330
the early release of a prisoner from imprisonment or the transfer 3331
of a prisoner to transitional control, one of the following, as 3332
determined by the director: 3333

(i) An intermediate, transitional type of detention for the 3334
period of time determined by the director and, immediately 3335
following the intermediate, transitional type of detention, a 3336
release under a post-release control sanction imposed in 3337
accordance with section 2967.28 of the Revised Code. The period of 3338
intermediate, transitional type of detention imposed by the 3339
director under this division may be in a halfway house, in a 3340
community-based correctional facility and program or district 3341
community-based correctional facility and program established 3342
under sections 2301.51 to 2301.56 of the Revised Code, or in any 3343
other facility approved by the director that provides for 3344
detention to serve as a transition between imprisonment in a state 3345
correctional institution and release from imprisonment. 3346

(ii) A release under a post-release control sanction imposed 3347
in accordance with section 2967.28 of the Revised Code. 3348

(3) The rules for the pilot program also shall include, but 3349
are not limited to, all of the following: 3350

(a) Rules identifying the locations within the state 3351

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correctional institution designated by the director that will be	3352
used for eligible offenders serving a sentence of shock	3353
incarceration;	3354
(b) Rules establishing specific schedules of discipline,	3355
physical training, and hard labor for eligible offenders serving a	3356
sentence of shock incarceration, based upon the offender's	3357
physical condition and needs;	3358
(c) Rules establishing standards and criteria for the	3359
department to use in determining which eligible offenders the	3360
department will permit to serve their sentence of imprisonment as	3361
a sentence of shock incarceration;	3362
(d) Rules establishing guidelines for the selection of	3363
post-release control sanctions for eligible offenders;	3364
(e) Rules establishing procedures for notifying sentencing	3365
courts of the performance of eligible offenders serving their	3366
sentences of imprisonment as a sentence of shock incarceration;	3367
(f) Any other rules that are necessary for the proper conduct	3368
of the pilot program.	3369
(C)(1) If an offender is sentenced to a term of imprisonment	3370
under the custody of the department, if the sentencing court	3371
determined that the offender is eligible for placement in a	3372
program of shock incarceration under this section, and if the	3373
sentencing court either recommends the offender for placement in a	3374
program of shock incarceration <u>under this section</u> or makes no	3375
recommendation on placement of the offender, <u>and if the department</u>	3376
<u>determines that the offender is an eligible offender for placement</u>	3377
<u>in a program of shock incarceration under this section,</u> the	3378
department may permit the eligible offender to serve the sentence	3379
in a program of shock incarceration, in accordance with division	3380
(K) of section 2929.14 of the Revised Code, with this section, and	3381
with the rules adopted under this section. <u>If the sentencing court</u>	3382

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disapproves placement of the offender in a program of shock 3383
incarceration, the department shall not place the offender in any 3384
program of shock incarceration. 3385

If the sentencing court recommends the offender for placement 3386
in a program of shock incarceration and if the department 3387
subsequently places the offender in the recommended program, the 3388
department shall notify the court of the offender's placement in 3389
the recommended program and shall include with the notice a brief 3390
description of the placement. 3391

If the sentencing court ~~approves~~ recommends placement of the 3392
offender in a program of shock incarceration and the department 3393
for any reason does not subsequently place the offender in the 3394
recommended program, the department shall send a notice to the 3395
court indicating why the offender was not placed in the 3396
recommended program. 3397

If the sentencing court does not make a recommendation on the 3398
placement of an ~~eligible~~ offender in a program of shock 3399
incarceration and if the department determines that the offender 3400
is an eligible offender for placement in a program of that nature, 3401
the department shall screen the offender and determine if the 3402
offender is suited for the program of shock incarceration. If the 3403
offender is suited for the program of shock incarceration, at 3404
least three weeks prior to permitting an eligible offender to 3405
serve the sentence in a program of shock incarceration, the 3406
department shall notify the sentencing court of the proposed 3407
placement of the offender in the program and shall include with 3408
the notice a brief description of the placement. The court shall 3409
have ten days from receipt of the notice to disapprove the 3410
placement. If the sentencing court disapproves of the placement, 3411
the department shall not permit the eligible offender to serve the 3412
sentence in a program of shock incarceration. If the judge does 3413
not timely disapprove of placement of the offender in the program 3414

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of shock incarceration, the department may proceed with plans for 3415
placement of the offender. 3416

If the ~~sentencing court determined~~ department determines that 3417
the offender is not eligible for placement in a program of shock 3418
incarceration ~~or if the sentencing court disapproves placement of~~ 3419
~~the offender in a program of that nature,~~ the department of 3420
~~rehabilitation and correction~~ shall not place the offender in any 3421
program of shock incarceration. 3422

(2) If the department permits an eligible offender to serve 3423
the eligible offender's sentence of imprisonment as a sentence of 3424
shock incarceration and the eligible offender does not 3425
satisfactorily complete the entire period of imprisonment 3426
described in division (B)(2)(a) of this section, the offender 3427
shall be removed from the pilot program for shock incarceration 3428
and shall be required to serve the remainder of the offender's 3429
sentence of imprisonment imposed by the sentencing court as a 3430
regular term of imprisonment. If the eligible offender commences a 3431
period of post-release control described in division (B)(2)(b) of 3432
this section and violates the conditions of that post-release 3433
control, the eligible offender shall be subject to the provisions 3434
of sections 2929.141, 2967.15, and 2967.28 of the Revised Code 3435
regarding violation of post-release control sanctions. 3436

(3) If an eligible offender's stated prison term expires at 3437
any time during the eligible offender's participation in the shock 3438
incarceration program, the adult parole authority shall terminate 3439
the eligible offender's participation in the program and shall 3440
issue to the eligible offender a certificate of expiration of the 3441
stated prison term. 3442

(D) The director shall keep sentencing courts informed of the 3443
performance of eligible offenders serving their sentences of 3444
imprisonment as a sentence of shock incarceration, including, but 3445
not limited to, notice of eligible offenders who fail to 3446

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satisfactorily complete their entire sentence of shock 3447
incarceration or who satisfactorily complete their entire sentence 3448
of shock incarceration. 3449

(E) Within a reasonable period of time after November 20, 3450
1990, the director shall appoint a committee to search for one or 3451
more suitable sites at which one or more programs of shock 3452
incarceration, in addition to the pilot program required by 3453
division (B)(1) of this section, may be established. The search 3454
committee shall consist of the director or the director's 3455
designee, as chairperson; employees of the department of 3456
rehabilitation and correction appointed by the director; and any 3457
other persons that the director, in the director's discretion, 3458
appoints. In searching for such sites, the search committee shall 3459
give preference to any site owned by the state or any other 3460
governmental entity and to any existing structure that reasonably 3461
could be renovated, enlarged, converted, or remodeled for purposes 3462
of establishing such a program. The search committee shall prepare 3463
a report concerning its activities and, on the earlier of the day 3464
that is twelve months after the first day on which an eligible 3465
offender began serving a sentence of shock incarceration under the 3466
pilot program or January 1, 1992, shall file the report with the 3467
president and the minority leader of the senate, the speaker and 3468
the minority leader of the house of representatives, the members 3469
of the senate who were members of the senate judiciary committee 3470
in the 118th general assembly or their successors, and the members 3471
of the house of representatives who were members of the select 3472
committee to hear drug legislation that was established in the 3473
118th general assembly or their successors. Upon the filing of the 3474
report, the search committee shall terminate. The report required 3475
by this division shall contain all of the following: 3476

(1) A summary of the process used by the search committee in 3477
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performing its duties under this division; 3479

(2) A summary of all of the sites reviewed by the search 3480
committee in performing its duties under this division, and the 3481
benefits and disadvantages it found relative to the establishment 3482
of a program of shock incarceration at each such site; 3483

(3) The findings and recommendations of the search committee 3484
as to the suitable site or sites, if any, at which a program of 3485
shock incarceration, in addition to the pilot program required by 3486
division (B)(1) of this section, may be established. 3487

(F) The director periodically shall review the pilot program 3488
for shock incarceration required to be established by division 3489
(B)(1) of this section. The director shall prepare a report 3490
relative to the pilot program and, on the earlier of the day that 3491
is twelve months after the first day on which an eligible offender 3492
began serving a sentence of shock incarceration under the pilot 3493
program or January 1, 1992, shall file the report with the 3494
president and the minority leader of the senate, the speaker and 3495
the minority leader of the house of representatives, the members 3496
of the senate who were members of the senate judiciary committee 3497
in the 118th general assembly or their successors, and the members 3498
of the house of representatives who were members of the select 3499
committee to hear drug legislation that was established in the 3500
118th general assembly or their successors. The pilot program 3501
shall not terminate at the time of the filing of the report, but 3502
shall continue in operation in accordance with this section. The 3503
report required by this division shall include all of the 3504
following: 3505

(1) A summary of the pilot program as initially established, 3506
a summary of all changes in the pilot program made during the 3507
period covered by the report and the reasons for the changes, and 3508
a summary of the pilot program as it exists on the date of 3509
preparation of the report; 3510

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- (2) A summary of the effectiveness of the pilot program, in the opinion of the director and employees of the department involved in its operation; 3511
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- (3) An analysis of the total cost of the pilot program, of its cost per inmate who was permitted to serve a sentence of shock incarceration and who served the entire sentence of shock incarceration, and of its cost per inmate who was permitted to serve a sentence of shock incarceration; 3514
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- (4) A summary of the standards and criteria used by the department in determining which eligible offenders were permitted to serve their sentence of imprisonment as a sentence of shock incarceration; 3519
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- (5) A summary of the characteristics of the eligible offenders who were permitted to serve their sentence of imprisonment as a sentence of shock incarceration, which summary shall include, but not be limited to, a listing of every offense of which any such eligible offender was convicted or to which any such eligible offender pleaded guilty and in relation to which the eligible offender served a sentence of shock incarceration, and the total number of such eligible offenders who were convicted of or pleaded guilty to each such offense; 3523
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- (6) A listing of the number of eligible offenders who were permitted to serve a sentence of shock incarceration and who did not serve the entire sentence of shock incarceration, and, to the 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; 3532
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- (7) A summary of the effect of the pilot program on overcrowding at state correctional institutions; 3538
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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 3540
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sentence of shock incarceration and who served the entire sentence 3542
of shock incarceration; 3543

(9) Recommendations as to legislative changes to the pilot 3544
program that would assist in its operation or that could further 3545
alleviate overcrowding at state correctional institutions, and 3546
recommendations as to whether the pilot program should be 3547
expanded. 3548

Sec. 5120.032. (A) No later than January 1, 1998, the 3549
department of rehabilitation and correction shall develop and 3550
implement intensive program prisons for male and female prisoners 3551
other than prisoners described in division (B)(2) of this section. 3552
The intensive program prisons shall include institutions at which 3553
imprisonment of the type described in division (B)(2)(a) of 3554
section 5120.031 of the Revised Code is provided and prisons that 3555
focus on educational achievement, vocational training, alcohol and 3556
other drug abuse treatment, community service and conservation 3557
work, and other intensive regimens or combinations of intensive 3558
regimens. 3559

(B)(1)(a) Except as provided in division (B)(2) of this 3560
section, if an offender is sentenced to a term of imprisonment 3561
under the custody of the department, if the sentencing court 3562
~~determines that a prisoner is eligible for placement in an~~ 3563
~~intensive program prison under this section and the sentencing~~ 3564
~~court either recommends the offender prisoner~~ prisoner for placement in the 3565
intensive program prison under this section or makes no 3566
recommendation on placement of the prisoner, and if the department 3567
determines that the prisoner is eligible for placement in an 3568
intensive program prison under this section, the department may 3569
place the prisoner in an intensive program prison established 3570
pursuant to division (A) of this section. If the sentencing court 3571
disapproves placement of the prisoner in an intensive program 3572

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prison, the department shall not place the prisoner in any 3573
intensive program prison. 3574

If the sentencing court recommends a prisoner for placement 3575
in an intensive program prison and if the department subsequently 3576
places the prisoner in the recommended prison, the department 3577
shall notify the court of the prisoner's placement in the 3578
recommended intensive program prison and shall include with the 3579
notice a brief description of the placement. 3580

If the sentencing court ~~approves~~ recommends placement of a 3581
prisoner in an intensive program prison and the department for any 3582
reason does not subsequently place the ~~offender~~ prisoner in the 3583
recommended prison, the department shall send a notice to the 3584
court indicating why the prisoner was not placed in the 3585
recommended prison. 3586

If the sentencing court does not make a recommendation on the 3587
placement of ~~an eligible~~ a prisoner in an intensive program prison 3588
and if the department determines that the prisoner is eligible for 3589
placement in a prison of that nature, the department shall screen 3590
the prisoner and determine if the prisoner is suited for the 3591
prison. If the prisoner is suited for the intensive program 3592
prison, at least three weeks prior to placing the prisoner in the 3593
prison, the department shall notify the sentencing court of the 3594
proposed placement of the prisoner in the intensive program prison 3595
and shall include with the notice a brief description of the 3596
placement. The court shall have ten days from receipt of the 3597
notice to disapprove the placement. If the sentencing court 3598
disapproves the placement, the department shall not proceed with 3599
it. If the sentencing court does not timely disapprove of the 3600
placement, the department may proceed with plans for it. 3601

If the ~~sentencing court~~ department determines that a prisoner 3602
is not eligible for placement in an intensive program prison ~~or if~~ 3603
~~the sentencing court disapproves placement of an offender in a~~ 3604

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~~prison of that nature, the department of rehabilitation and~~ 3605
~~correction~~ shall not place the prisoner in any intensive program 3606
prison. 3607

(b) The department may reduce the stated prison term of a 3608
prisoner upon the prisoner's successful completion of a ninety-day 3609
period in an intensive program prison. A prisoner whose term has 3610
been so reduced shall be required to serve an intermediate, 3611
transitional type of detention followed by a release under 3612
post-release control sanctions or, in the alternative, shall be 3613
placed under post-release control sanctions, as described in 3614
division (B)(2)(b)(ii) of section 5120.031 of the Revised Code. In 3615
either case, the placement under post-release control sanctions 3616
shall be under terms set by the parole board in accordance with 3617
section 2967.28 of the Revised Code and shall be subject to the 3618
provisions of that section and section 2929.141 of the Revised 3619
Code with respect to a violation of any post-release control 3620
sanction. 3621

(2) A prisoner who is in any of the following categories is 3622
not eligible to participate in an intensive program prison 3623
established pursuant to division (A) of this section: 3624

(a) The prisoner is serving a prison term for aggravated 3625
murder, murder, or a felony of the first or second degree or a 3626
comparable offense under the law in effect prior to July 1, 1996, 3627
or the prisoner previously has been imprisoned for aggravated 3628
murder, murder, or a felony of the first or second degree or a 3629
comparable offense under the law in effect prior to July 1, 1996. 3630

(b) The prisoner is serving a mandatory prison term, as 3631
defined in section 2929.01 of the Revised Code. 3632

(c) The prisoner is serving a prison term for a felony of the 3633
third, fourth, or fifth degree that either is a sex offense, an 3634
offense betraying public trust, or an offense in which the 3635
prisoner caused or attempted to cause actual physical harm to a 3636

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person, the prisoner is serving a prison term for a comparable
offense under the law in effect prior to July 1, 1996, or the
prisoner previously has been imprisoned for an offense of that
type or a comparable ~~offence~~ offense under the law in effect prior
to July 1, 1996.

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

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

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

(B) Within eighteen months after October 17, 1996, the
department of rehabilitation and correction shall develop and
implement intensive program prisons for male and female prisoners
who are sentenced pursuant to division (G)(2) of section 2929.13
of the Revised Code to a mandatory prison term for a third or
fourth degree felony OMVI offense. The department shall contract
pursuant to section 9.06 of the Revised Code for the private
operation and management of the initial intensive program prison
established under this section and may contract pursuant to that
section for the private operation and management of any other
intensive program prison established under this section. The

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intensive program prisons established under this section shall 3668
include prisons that focus on educational achievement, vocational 3669
training, alcohol and other drug abuse treatment, community 3670
service and conservation work, and other intensive regimens or 3671
combinations of intensive regimens. 3672

(C) Except as provided in division (D) of this section, the 3673
department may place a prisoner who is sentenced to a mandatory 3674
prison term for a third or fourth degree felony OMVI offense in an 3675
intensive program prison established pursuant to division (B) of 3676
this section if the sentencing judge, upon notification by the 3677
department of its intent to place the prisoner in an intensive 3678
program prison, does not notify the department that the judge 3679
disapproves the placement. If the stated prison term imposed on a 3680
prisoner who is so placed is longer than the mandatory prison term 3681
that is required to be imposed on the prisoner, the department may 3682
reduce the stated prison term upon the prisoner's successful 3683
completion of the prisoner's mandatory prison term in an intensive 3684
program prison. A prisoner whose term has been so reduced shall be 3685
required to serve an intermediate, transitional type of detention 3686
followed by a release under post-release control sanctions or, in 3687
the alternative, shall be placed under post-release control 3688
sanctions, as described in division (B)(2)(b)(ii) of section 3689
5120.031 of the Revised Code. In either case, the placement under 3690
post-release control sanctions shall be under terms set by the 3691
parole board in accordance with section 2967.28 of the Revised 3692
Code and shall be subject to the provisions of that section and 3693
section 2929.141 of the Revised Code with respect to a violation 3694
of any post-release control sanction. Upon the establishment of 3695
the initial intensive program prison pursuant to division (B) of 3696
this section that is privately operated and managed by a 3697
contractor pursuant to a contract entered into under section 9.06 3698
of the Revised Code, the department shall comply with divisions 3699

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(G)(2)(a) and (b) of section 2929.13 of the Revised Code in 3700
placing prisoners in intensive program prisons under this section. 3701
3702

(D) A prisoner who is sentenced to a mandatory prison term 3703
for a third or fourth degree felony OMVI offense is not eligible 3704
to participate in an intensive program prison established under 3705
division (B) of this section if any of the following applies 3706
regarding the prisoner: 3707

(1) In addition to the mandatory prison term for the third or 3708
fourth degree felony OMVI offense, the prisoner also is serving a 3709
prison term of a type described in division (B)(2)(a), (b), or (c) 3710
of section 5120.032 of the Revised Code. 3711

(2) The prisoner previously has been imprisoned for an 3712
offense of a type described in division (B)(2)(a) or (c) of 3713
section 5120.032 of the Revised Code or a comparable offense under 3714
the law in effect prior to July 1, 1996. 3715

(E) Intensive program prisons established under division (B) 3716
of this section are not subject to section 5120.032 of the Revised 3717
Code. 3718

Sec. 5145.01. Courts shall impose sentences to a state 3719
correctional institution for felonies pursuant to sections 2929.13 3720
and 2929.14 of the Revised Code. All prison terms may be ended in 3721
the manner provided by law, but no prison term shall exceed the 3722
maximum term provided for the felony of which the prisoner was 3723
convicted as extended pursuant to section 2929.141, 2967.11, or 3724
2967.28 of the Revised Code. 3725

If a prisoner is sentenced for two or more separate felonies, 3726
the prisoner's term of imprisonment shall run as a concurrent 3727
sentence, except if the consecutive sentence provisions of 3728
sections 2929.14 and 2929.41 of the Revised Code apply. If 3729
sentenced consecutively, for the purposes of sections 5145.01 to 3730

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5145.27 of the Revised Code, the prisoner shall be held to be 3731
serving one continuous term of imprisonment. 3732

If a court imposes a sentence to a state correctional 3733
institution for a felony of the fourth or fifth degree, the 3734
department of rehabilitation and correction, notwithstanding the 3735
court's designation of a state correctional institution as the 3736
place of service of the sentence, may designate that the person 3737
sentenced is to be housed in a county, multicounty, municipal, 3738
municipal-county, or multicounty-municipal jail or workhouse if 3739
authorized pursuant to section 5120.161 of the Revised Code. 3740

If, through oversight or otherwise, a person is sentenced to 3741
a state correctional institution under a definite term for an 3742
offense for which a definite term of imprisonment is not provided 3743
by statute, the sentence shall not thereby become void, but the 3744
person shall be subject to the liabilities of such sections and 3745
receive the benefits thereof, as if the person had been sentenced 3746
in the manner required by this section. 3747

As used in this section, "prison term" has the same meaning 3748
as in section 2929.01 of the Revised Code. 3749

Section 2. That existing sections 181.25, 2307.62, 2913.01, 3750
2913.04, 2919.25, 2925.23, 2929.01, 2929.12, 2929.13, 2929.14, 3751
2929.19, 2929.20, 2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 3752
4723.28, 4723.72, 4723.74, 4723.75, 4723.77, 5120.031, 5120.032, 3753
5120.033, and 5145.01 of the Revised Code are hereby repealed. 3754

Section 3. Section 2919.25 of the Revised Code is presented 3755
in this act as a composite of the section as amended by both H.B. 3756
238 and Am. Sub. S.B. 1 of the 122nd General Assembly. Section 3757
2929.01 of the Revised Code is presented in this act as a 3758
composite of the section as amended by Am. Sub. H.B. 349, Am. Sub. 3759
S.B. 179, and Am. Sub. S.B. 222 of the 123rd General Assembly. 3760

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Section 2929.13 of the Revised Code is presented in this act as a 3761
composite of the section as amended by Am. H.B. 528, Am. Sub. S.B. 3762
22, Am. Sub. S.B. 107, Am. S.B. 142, and Am. Sub. S.B. 222 of the 3763
123rd General Assembly. Section 2929.19 of the Revised Code is 3764
presented in this act as a composite of the section as amended by 3765
Am. Sub. H.B. 349, Am. Sub. S.B. 22, and Am. Sub. S.B. 107 of the 3766
123rd General Assembly. Section 2951.041 of the Revised Code is 3767
presented in this act as a composite of the section as amended by 3768
both Sub. H.B. 202 and Am. Sub. S.B. 107 of the 123rd General 3769
Assembly. Section 4723.09 of the Revised Code is presented in this 3770
act as a composite of the section as amended by both Sub. H.B. 511 3771
and Am. Sub. S.B. 180 of the 123rd General Assembly. Section 3772
5120.032 of the Revised Code is presented in this act as a 3773
composite of the section as amended by both Am. Sub. S.B. 22 and 3774
Am. Sub. S.B. 107 of the 123rd General Assembly. The General 3775
Assembly, applying the principle stated in division (B) of section 3776
1.52 of the Revised Code that amendments are to be harmonized if 3777
reasonably capable of simultaneous operation, finds that the 3778
composites are the resulting versions of the sections in effect 3779
prior to the effective date of the sections as presented in this 3780
act. 3781