

As Passed by the Senate

124th General Assembly

Regular Session

2001-2002

Sub. S. B. No. 163

**SENATORS Austria, Coughlin, Randy Gardner, Armbruster, Oelslager,
Jacobson, Amstutz, Carnes, Harris, Herington, Mumper, Spada, White,
Robert Gardner, Goodman, Hagan**

A B I L L

To amend sections 2151.28, 2151.35, 2152.19, and 1
2705.05 and to enact sections 2909.09 and 5579.11 2
of the Revised Code to prohibit knowingly dropping 3
or throwing any object at, onto, or in the path of 4
any vehicle on a highway or any vessel on a 5
waterway and to create the Highway, Bridge, and 6
Overpass Vandal Fence Task Force. 7

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

Section 1. That sections 2151.28, 2151.35, 2152.19, and 8
2705.05 be amended and sections 2909.09 and 5579.11 of the Revised 9
Code be enacted to read as follows: 10

Sec. 2151.28. (A) No later than seventy-two hours after the 11
complaint is filed, the court shall fix a time for an adjudicatory 12
hearing. The court shall conduct the adjudicatory hearing within 13
one of the following periods of time: 14

(1) Subject to division (D) of section 2152.13 of the Revised 15
Code, if the complaint alleged that the child violated section 16
2151.87 of the Revised Code or is a delinquent or unruly child or 17
a juvenile traffic offender, the adjudicatory hearing shall be 18

held and may be continued in accordance with the Juvenile Rules.

19
20

(2) If the complaint alleged that the child is an abused, neglected, or dependent child, the adjudicatory hearing shall be held no later than thirty days after the complaint is filed, except that, for good cause shown, the court may continue the adjudicatory hearing for either of the following periods of time:

21
22
23
24
25

(a) For ten days beyond the thirty-day deadline to allow any party to obtain counsel;

26
27

(b) For a reasonable period of time beyond the thirty-day deadline to obtain service on all parties or any necessary evaluation, except that the adjudicatory hearing shall not be held later than sixty days after the date on which the complaint was filed.

28
29
30
31
32

(B) At an adjudicatory hearing held pursuant to division (A)(2) of this section, the court, in addition to determining whether the child is an abused, neglected, or dependent child, shall determine whether the child should remain or be placed in shelter care until the dispositional hearing. When the court makes the shelter care determination, all of the following apply:

33
34
35
36
37
38

(1) The court shall determine whether there are any relatives of the child who are willing to be temporary custodians of the child. If any relative is willing to be a temporary custodian, the child otherwise would remain or be placed in shelter care, and the appointment is appropriate, the court shall appoint the relative as temporary custodian of the child, unless the court appoints another relative as custodian. If it determines that the appointment of a relative as custodian would not be appropriate, it shall issue a written opinion setting forth the reasons for its determination and give a copy of the opinion to all parties and the guardian ad litem of the child.

39
40
41
42
43
44
45
46
47
48
49

The court's consideration of a relative for appointment as a temporary custodian does not make that relative a party to the proceedings.

(2) The court shall comply with section 2151.419 of the Revised Code.

(3) The court shall schedule the date for the dispositional hearing to be held pursuant to section 2151.35 of the Revised Code. The parents of the child have a right to be represented by counsel; however, in no case shall the dispositional hearing be held later than ninety days after the date on which the complaint was filed.

(C)(1) The court shall direct the issuance of a summons directed to the child except as provided by this section, the parents, guardian, custodian, or other person with whom the child may be, and any other persons that appear to the court to be proper or necessary parties to the proceedings, requiring them to appear before the court at the time fixed to answer the allegations of the complaint. The summons shall contain the name and telephone number of the court employee designated by the court pursuant to section 2151.314 of the Revised Code to arrange for the prompt appointment of counsel for indigent persons. A child alleged to be an abused, neglected, or dependent child shall not be summoned unless the court so directs. A summons issued for a child who is under fourteen years of age and who is alleged to be a delinquent child, unruly child, or a juvenile traffic offender shall be served on the parent, guardian, or custodian of the child in the child's behalf.

If the person who has physical custody of the child, or with whom the child resides, is other than the parent or guardian, then the parents and guardian also shall be summoned. A copy of the complaint shall accompany the summons.

(2) In lieu of appearing before the court at the time fixed 81
in the summons and prior to the date fixed for appearance in the 82
summons, a child who is alleged to have violated section 2151.87 83
of the Revised Code and that child's parent, guardian, or 84
custodian may sign a waiver of appearance before the clerk of the 85
juvenile court and pay a fine of one hundred dollars. If the child 86
and that child's parent, guardian, or custodian do not waive the 87
court appearance, the court shall proceed with the adjudicatory 88
hearing as provided in this section. 89

(D) If the complaint contains a prayer for permanent custody, 90
temporary custody, whether as the preferred or an alternative 91
disposition, or a planned permanent living arrangement in a case 92
involving an alleged abused, neglected, or dependent child, the 93
summons served on the parents shall contain as is appropriate an 94
explanation that the granting of permanent custody permanently 95
divests the parents of their parental rights and privileges, an 96
explanation that an adjudication that the child is an abused, 97
neglected, or dependent child may result in an order of temporary 98
custody that will cause the removal of the child from their legal 99
custody until the court terminates the order of temporary custody 100
or permanently divests the parents of their parental rights, or an 101
explanation that the issuance of an order for a planned permanent 102
living arrangement will cause the removal of the child from the 103
legal custody of the parents if any of the conditions listed in 104
divisions (A)(5)(a) to (c) of section 2151.353 of the Revised Code 105
are found to exist. 106

(E)(1) Except as otherwise provided in ~~division~~ divisions 107
(E)(2) and (3) of this section, the court may endorse upon the 108
summons an order directing the parents, guardian, or other person 109
with whom the child may be to appear personally at the hearing and 110
directing the person having the physical custody or control of the 111
child to bring the child to the hearing. 112

(2) In cases in which the complaint alleges that a child is 113
an unruly or delinquent child for being an habitual or chronic 114
truant and that the parent, guardian, or other person having care 115
of the child has failed to cause the child's attendance at school, 116
the court shall endorse upon the summons an order directing the 117
parent, guardian, or other person having care of the child to 118
appear personally at the hearing and directing the person having 119
the physical custody or control of the child to bring the child to 120
the hearing. 121

(3) In cases in which the complaint alleges that a child has 122
committed a violation of section 2909.09 of the Revised Code or a 123
substantially similar municipal ordinance, that the child 124
previously has been adjudicated a delinquent child for having 125
committed a violation of section 2909.09 of the Revised Code or a 126
substantially similar municipal ordinance, and that the parent, 127
guardian, or other person having care of the child failed to 128
prevent the latest violation, the court shall endorse upon the 129
summons an order directing the parent, guardian, or other person 130
having care of the child to appear personally at the hearing and 131
directing the person having the physical custody or control of the 132
child to bring the child to the hearing. 133

(F)(1) The summons shall contain a statement advising that 134
any party is entitled to counsel in the proceedings and that the 135
court will appoint counsel or designate a county public defender 136
or joint county public defender to provide legal representation if 137
the party is indigent. 138

(2) In cases in which the complaint alleges a child to be an 139
abused, neglected, or dependent child and no hearing has been 140
conducted pursuant to division (A) of section 2151.314 of the 141
Revised Code with respect to the child or a parent, guardian, or 142
custodian of the child does not attend the hearing, the summons 143
also shall contain a statement advising that a case plan may be 144

prepared for the child, the general requirements usually contained 145
in case plans, and the possible consequences of failure to comply 146
with a journalized case plan. 147

(G) If it appears from an affidavit filed or from sworn 148
testimony before the court that the conduct, condition, or 149
surroundings of the child are endangering the child's health or 150
welfare or those of others, that the child may abscond or be 151
removed from the jurisdiction of the court, or that the child will 152
not be brought to the court, notwithstanding the service of the 153
summons, the court may endorse upon the summons an order that a 154
law enforcement officer serve the summons and take the child into 155
immediate custody and bring the child forthwith to the court. 156

(H) A party, other than the child, may waive service of 157
summons by written stipulation. 158

(I) Before any temporary commitment is made permanent, the 159
court shall fix a time for hearing in accordance with section 160
2151.414 of the Revised Code and shall cause notice by summons to 161
be served upon the parent or guardian of the child and the 162
guardian ad litem of the child, or published, as provided in 163
section 2151.29 of the Revised Code. The summons shall contain an 164
explanation that the granting of permanent custody permanently 165
divests the parents of their parental rights and privileges. 166

(J) Any person whose presence is considered necessary and who 167
is not summoned may be subpoenaed to appear and testify at the 168
hearing. Anyone summoned or subpoenaed to appear who fails to do 169
so may be punished, as in other cases in the court of common 170
pleas, for contempt of court. Persons subpoenaed shall be paid the 171
same witness fees as are allowed in the court of common pleas. 172

(K) The failure of the court to hold an adjudicatory hearing 173
within any time period set forth in division (A)(2) of this 174
section does not affect the ability of the court to issue any 175

order under this chapter and does not provide any basis for 176
attacking the jurisdiction of the court or the validity of any 177
order of the court. 178

(L) If the court, at an adjudicatory hearing held pursuant to 179
division (A) of this section upon a complaint alleging that a 180
child is an abused, neglected, dependent, delinquent, or unruly 181
child or a juvenile traffic offender, determines that the child is 182
a dependent child, the court shall incorporate that determination 183
into written findings of fact and conclusions of law and enter 184
those findings of fact and conclusions of law in the record of the 185
case. The court shall include in those findings of fact and 186
conclusions of law specific findings as to the existence of any 187
danger to the child and any underlying family problems that are 188
the basis for the court's determination that the child is a 189
dependent child. 190

Sec. 2151.35. (A)(1) Except as otherwise provided by division 191
(A)(3) of this section or in section 2152.13 of the Revised Code, 192
the juvenile court may conduct its hearings in an informal manner 193
and may adjourn its hearings from time to time. The court may 194
exclude the general public from its hearings in a particular case 195
if the court holds a separate hearing to determine whether that 196
exclusion is appropriate. If the court decides that exclusion of 197
the general public is appropriate, the court still may admit to a 198
particular hearing or all of the hearings relating to a particular 199
case those persons who have a direct interest in the case and 200
those who demonstrate that their need for access outweighs the 201
interest in keeping the hearing closed. 202

Except cases involving children who are alleged to be unruly 203
or delinquent children for being habitual or chronic truants and 204
cases involving children who are alleged to be delinquent children 205
for having committed a violation of section 2909.09 of the Revised 206

Code or a substantially similar municipal ordinance and who 207
previously have been adjudicated delinquent for having committed 208
such a violation and except as otherwise provided in section 209
2152.13 of the Revised Code, all cases involving children shall be 210
heard separately and apart from the trial of cases against adults. 211
The court may excuse the attendance of the child at the hearing in 212
cases involving abused, neglected, or dependent children. The 213
court shall hear and determine all cases of children without a 214
jury, except cases involving serious youthful offenders under 215
section 2152.13 of the Revised Code. 216

If a complaint alleges a child to be a delinquent child, 217
unruly child, or juvenile traffic offender, the court shall 218
require the parent, guardian, or custodian of the child to attend 219
all proceedings of the court regarding the child. If a parent, 220
guardian, or custodian fails to so attend, the court may find the 221
parent, guardian, or custodian in contempt. 222

If the court finds from clear and convincing evidence that 223
the child violated section 2151.87 of the Revised Code, the court 224
shall proceed in accordance with divisions (F) and (G) of that 225
section. 226

If the court at the adjudicatory hearing finds from clear and 227
convincing evidence that the child is an abused, neglected, or 228
dependent child, the court shall proceed, in accordance with 229
division (B) of this section, to hold a dispositional hearing and 230
hear the evidence as to the proper disposition to be made under 231
section 2151.353 of the Revised Code. If the court at the 232
adjudicatory hearing finds beyond a reasonable doubt that the 233
child is a delinquent or unruly child or a juvenile traffic 234
offender, the court shall proceed immediately, or at a postponed 235
hearing, to hear the evidence as to the proper disposition to be 236
made under section 2151.354 or Chapter 2152. of the Revised Code. 237
If the court at the adjudicatory hearing finds beyond a reasonable 238

doubt that the child is an unruly child for being an habitual
truant, or that the child is an unruly child for being an habitual
truant and that the parent, guardian, or other person having care
of the child has failed to cause the child's attendance at school
in violation of section 3321.38 of the Revised Code, the court
shall proceed to hold a hearing to hear the evidence as to the
proper disposition to be made in regard to the child under
division (C)(1) of section 2151.354 of the Revised Code and the
proper action to take in regard to the parent, guardian, or other
person having care of the child under division (C)(2) of section
2151.354 of the Revised Code. If the court at the adjudicatory
hearing finds beyond a reasonable doubt that the child is a
delinquent child for being a chronic truant or for being an
habitual truant who previously has been adjudicated an unruly
child for being an habitual truant, or that the child is a
delinquent child for either of those reasons and the parent,
guardian, or other person having care of the child has failed to
cause the child's attendance at school in violation of section
3321.38 of the Revised Code, the court shall proceed to hold a
hearing to hear the evidence as to the proper disposition to be
made in regard to the child under division (A)(6)(a) of section
2152.19 of the Revised Code and the proper action to take in
regard to the parent, guardian, or other person having care of the
child under division (A)(6)(b) of section 2152.19 of the Revised
Code.

239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263

If the court at the adjudicatory hearing finds beyond a
reasonable doubt that the child is a delinquent child for having
committed a violation of section 2909.09 of the Revised Code or a
substantially similar municipal ordinance, the court shall make an
order of disposition in regard to the child in accordance with
division (E)(2) of section 2152.19 of the Revised Code and shall
issue an order to the parent, guardian, or other person having

264
265
266
267
268
269
270

care of the child as described in that division. In addition, if 271
the court also finds by a preponderance of the evidence that the 272
child previously was adjudicated a delinquent child for committing 273
a violation of that section or a substantially similar municipal 274
ordinance and that the parent, guardian, or other person having 275
care of the child failed to prevent the latest violation, the 276
court also may find the parent, guardian, or other person having 277
care of the child in contempt of the court order issued regarding 278
the prior violation under division (E)(2)(b) of section 2152.19 of 279
the Revised Code and may fine the parent, guardian, or other 280
person having care of the child the amount specified in division 281
(E)(2)(c) of that section. 282

If the court does not find the child to have violated section 283
2151.87 of the Revised Code or to be an abused, neglected, 284
dependent, delinquent, or unruly child or a juvenile traffic 285
offender, it shall order that the case be dismissed and that the 286
child be discharged from any detention or restriction theretofore 287
ordered. 288

(2) A record of all testimony and other oral proceedings in 289
juvenile court shall be made in all proceedings that are held 290
pursuant to section 2151.414 of the Revised Code or in which an 291
order of disposition may be made pursuant to division (A)(4) of 292
section 2151.353 of the Revised Code, and shall be made upon 293
request in any other proceedings. The record shall be made as 294
provided in section 2301.20 of the Revised Code. 295

(3) The authority of a juvenile court to exclude the general 296
public from its hearings that is provided by division (A)(1) of 297
this section does not limit or affect any right of a victim of a 298
crime or delinquent act, or of a victim's representative, under 299
Chapter 2930. of the Revised Code. 300

(B)(1) If the court at an adjudicatory hearing determines 301
that a child is an abused, neglected, or dependent child, the 302

court shall not issue a dispositional order until after the court holds a separate dispositional hearing. The court may hold the dispositional hearing for an adjudicated abused, neglected, or dependent child immediately after the adjudicatory hearing if all parties were served prior to the adjudicatory hearing with all documents required for the dispositional hearing. The dispositional hearing may not be held more than thirty days after the adjudicatory hearing is held. The court, upon the request of any party or the guardian ad litem of the child, may continue a dispositional hearing for a reasonable time not to exceed the time limits set forth in this division to enable a party to obtain or consult counsel. The dispositional hearing shall not be held more than ninety days after the date on which the complaint in the case was filed.

303
304
305
306
307
308
309
310
311
312
313
314
315
316

If the dispositional hearing is not held within the period of time required by this division, the court, on its own motion or the motion of any party or the guardian ad litem of the child, shall dismiss the complaint without prejudice.

317
318
319
320

(2) The dispositional hearing shall be conducted in accordance with all of the following:

321
322

(a) The judge or referee who presided at the adjudicatory hearing shall preside, if possible, at the dispositional hearing;

323
324

(b) The court may admit any evidence that is material and relevant, including, but not limited to, hearsay, opinion, and documentary evidence;

325
326
327

(c) Medical examiners and each investigator who prepared a social history shall not be cross-examined, except upon consent of the parties, for good cause shown, or as the court in its discretion may direct. Any party may offer evidence supplementing, explaining, or disputing any information contained in the social history or other reports that may be used by the court in

328
329
330
331
332
333

determining disposition. 334

(3) After the conclusion of the dispositional hearing, the 335
court shall enter an appropriate judgment within seven days and 336
shall schedule the date for the hearing to be held pursuant to 337
section 2151.415 of the Revised Code. The court may make any order 338
of disposition that is set forth in section 2151.353 of the 339
Revised Code. A copy of the judgment shall be given to each party 340
and to the child's guardian ad litem. If the judgment is 341
conditional, the order shall state the conditions of the judgment. 342
If the child is not returned to the child's own home, the court 343
shall determine which school district shall bear the cost of the 344
child's education and shall comply with section 2151.36 of the 345
Revised Code. 346

(4) As part of its dispositional order, the court may issue 347
any order described in division (B) of section 2151.33 of the 348
Revised Code. 349

(C) The court shall give all parties to the action and the 350
child's guardian ad litem notice of the adjudicatory and 351
dispositional hearings in accordance with the Juvenile Rules. 352

(D) If the court issues an order pursuant to division (A)(4) 353
of section 2151.353 of the Revised Code committing a child to the 354
permanent custody of a public children services agency or a 355
private child placing agency, the parents of the child whose 356
parental rights were terminated cease to be parties to the action 357
upon the issuance of the order. This division is not intended to 358
eliminate or restrict any right of the parents to appeal the 359
permanent custody order issued pursuant to division (A)(4) of 360
section 2151.353 of the Revised Code. 361

(E) Each juvenile court shall schedule its hearings in 362
accordance with the time requirements of this chapter. 363

(F) In cases regarding abused, neglected, or dependent 364

children, the court may admit any statement of a child that the court determines to be excluded by the hearsay rule if the proponent of the statement informs the adverse party of the proponent's intention to offer the statement and of the particulars of the statement, including the name of the declarant, sufficiently in advance of the hearing to provide the party with a fair opportunity to prepare to challenge, respond to, or defend against the statement, and the court determines all of the following:

(1) The statement has circumstantial guarantees of trustworthiness;

(2) The statement is offered as evidence of a material fact;

(3) The statement is more probative on the point for which it is offered than any other evidence that the proponent can procure through reasonable efforts;

(4) The general purposes of the evidence rules and the interests of justice will best be served by the admission of the statement into evidence.

(G) If a child is alleged to be an abused child, the court may order that the testimony of the child be taken by deposition. On motion of the prosecuting attorney, guardian ad litem, or any party, or in its own discretion, the court may order that the deposition be videotaped. Any deposition taken under this division shall be taken with a judge or referee present.

If a deposition taken under this division is intended to be offered as evidence at the hearing, it shall be filed with the court. Part or all of the deposition is admissible in evidence if counsel for all parties had an opportunity and similar motive at the time of the taking of the deposition to develop the testimony by direct, cross, or redirect examination and the judge determines that there is reasonable cause to believe that if the child were

to testify in person at the hearing, the child would experience 396
emotional trauma as a result of participating at the hearing. 397

Sec. 2152.19. (A) If a child is adjudicated a delinquent 398
child, the court may make any of the following orders of 399
disposition, in addition to any other disposition authorized or 400
required by this chapter: 401

(1) Any order that is authorized by section 2151.353 of the 402
Revised Code for the care and protection of an abused, neglected, 403
or dependent child. 404

(2) Commit the child to the temporary custody of any school, 405
camp, institution, or other facility operated for the care of 406
delinquent children by the county, by a district organized under 407
section 2152.41 or 2151.65 of the Revised Code, or by a private 408
agency or organization, within or without the state, that is 409
authorized and qualified to provide the care, treatment, or 410
placement required; 411

(3) Place the child on community control under any sanctions, 412
services, and conditions that the court prescribes. As a condition 413
of community control in every case and in addition to any other 414
condition that it imposes upon the child, the court shall require 415
the child to abide by the law during the period of community 416
control. As referred to in this division, community control 417
includes, but is not limited to, the following sanctions and 418
conditions: 419

(a) A period of basic probation supervision in which the 420
child is required to maintain contact with a person appointed to 421
supervise the child in accordance with sanctions imposed by the 422
court; 423

(b) A period of intensive probation supervision in which the 424
child is required to maintain frequent contact with a person 425

appointed by the court to supervise the child while the child is 426
seeking or maintaining employment and participating in training, 427
education, and treatment programs as the order of disposition; 428

(c) A period of day reporting in which the child is required 429
each day to report to and leave a center or another approved 430
reporting location at specified times in order to participate in 431
work, education or training, treatment, and other approved 432
programs at the center or outside the center; 433

(d) A period of community service of up to five hundred hours 434
for an act that would be a felony or a misdemeanor of the first 435
degree if committed by an adult, up to two hundred hours for an 436
act that would be a misdemeanor of the second, third, or fourth 437
degree if committed by an adult, or up to thirty hours for an act 438
that would be a minor misdemeanor if committed by an adult; 439

(e) A requirement that the child obtain a high school 440
diploma, a certificate of high school equivalence, vocational 441
training, or employment; 442

(f) A period of drug and alcohol use monitoring; 443

(g) A requirement of alcohol or drug assessment or 444
counseling, or a period in an alcohol or drug treatment program 445
with a level of security for the child as determined necessary by 446
the court; 447

(h) A period in which the court orders the child to observe a 448
curfew that may involve daytime or evening hours; 449

(i) A requirement that the child serve monitored time; 450

(j) A period of house arrest with or without electronic 451
monitoring; 452

(k) A period of electronic monitoring without house arrest or 453
electronically monitored house arrest that does not exceed the 454
maximum sentence of imprisonment that could be imposed upon an 455

adult who commits the same act. 456

A period of electronically monitored house arrest imposed 457
under this division shall not extend beyond the child's 458
twenty-first birthday. If a court imposes a period of 459
electronically monitored house arrest upon a child under this 460
division, it shall require the child: to wear, otherwise have 461
attached to the child's person, or otherwise be subject to 462
monitoring by a certified electronic monitoring device or to 463
participate in the operation of and monitoring by a certified 464
electronic monitoring system; to remain in the child's home or 465
other specified premises for the entire period of electronically 466
monitored house arrest except when the court permits the child to 467
leave those premises to go to school or to other specified 468
premises; to be monitored by a central system that can determine 469
the child's location at designated times; to report periodically 470
to a person designated by the court; and to enter into a written 471
contract with the court agreeing to comply with all requirements 472
imposed by the court, agreeing to pay any fee imposed by the court 473
for the costs of the electronically monitored house arrest, and 474
agreeing to waive the right to receive credit for any time served 475
on electronically monitored house arrest toward the period of any 476
other dispositional order imposed upon the child if the child 477
violates any of the requirements of the dispositional order of 478
electronically monitored house arrest. The court also may impose 479
other reasonable requirements upon the child. 480

Unless ordered by the court, a child shall not receive credit 481
for any time served on electronically monitored house arrest 482
toward any other dispositional order imposed upon the child for 483
the act for which was imposed the dispositional order of 484
electronically monitored house arrest. 485

(1) A suspension of the driver's license, probationary 486
driver's license, or temporary instruction permit issued to the 487

child or a suspension of the registration of all motor vehicles 488
registered in the name of the child. A child whose license or 489
permit is so suspended is ineligible for issuance of a license or 490
permit during the period of suspension. At the end of the period 491
of suspension, the child shall not be reissued a license or permit 492
until the child has paid any applicable reinstatement fee and 493
complied with all requirements governing license reinstatement. 494

(4) Commit the child to the custody of the court; 495

(5) Require the child to not be absent without legitimate 496
excuse from the public school the child is supposed to attend for 497
five or more consecutive days, seven or more school days in one 498
school month, or twelve or more school days in a school year; 499

(6)(a) If a child is adjudicated a delinquent child for being 500
a chronic truant or an habitual truant who previously has been 501
adjudicated an unruly child for being a habitual truant, do either 502
or both of the following: 503

(i) Require the child to participate in a truancy prevention 504
mediation program; 505

(ii) Make any order of disposition as authorized by this 506
section, except that the court shall not commit the child to a 507
facility described in division (A)(2) of this section unless the 508
court determines that the child violated a lawful court order made 509
pursuant to division (C)(1)(e) of section 2151.354 of the Revised 510
Code or division (A)(5) of this section. 511

(b) If a child is adjudicated a delinquent child for being a 512
chronic truant or a habitual truant who previously has been 513
adjudicated an unruly child for being a habitual truant and the 514
court determines that the parent, guardian, or other person having 515
care of the child has failed to cause the child's attendance at 516
school in violation of section 3321.38 of the Revised Code, do 517
either or both of the following: 518

(i) Require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program; 519
520
521

(ii) Require the parent, guardian, or other person having care of the child to participate in any community service program, preferably a community service program that requires the involvement of the parent, guardian, or other person having care of the child in the school attended by the child. 522
523
524
525
526

(7) Make any further disposition that the court finds proper, except that the child shall not be placed in any of the following: 527
528
529

(a) A state correctional institution, a county, multicounty, or municipal jail or workhouse, or another place in which an adult convicted of a crime, under arrest, or charged with a crime is held; 530
531
532
533

(b) A community corrections facility, if the child would be covered by the definition of public safety beds for purposes of sections 5139.41 to 5139.45 of the Revised Code if the court exercised its authority to commit the child to the legal custody of the department of youth services for institutionalization or institutionalization in a secure facility pursuant to this chapter. 534
535
536
537
538
539
540

(B) If a child is adjudicated a delinquent child, in addition to any order of disposition made under division (A) of this section, the court, in the following situations, shall suspend the child's temporary instruction permit, restricted license, probationary driver's license, or nonresident operating privilege, or suspend the child's ability to obtain such a permit: 541
542
543
544
545
546

(1) The child is adjudicated a delinquent child for violating section 2923.122 of the Revised Code, with the suspension and denial being in accordance with division (E)(1)(a), (c), (d), or 547
548
549

(e) of section 2923.122 of the Revised Code. 550

(2) The child is adjudicated a delinquent child for 551
committing an act that if committed by an adult would be a drug 552
abuse offense or for violating division (B) of section 2917.11 of 553
the Revised Code, with the suspension continuing until the child 554
attends and satisfactorily completes a drug abuse or alcohol abuse 555
education, intervention, or treatment program specified by the 556
court. During the time the child is attending the program, the 557
court shall retain any temporary instruction permit, probationary 558
driver's license, or driver's license issued to the child, and the 559
court shall return the permit or license when the child 560
satisfactorily completes the program. 561

(C) The court may establish a victim-offender mediation 562
program in which victims and their offenders meet to discuss the 563
offense and suggest possible restitution. If the court obtains the 564
assent of the victim of the delinquent act committed by the child, 565
the court may require the child to participate in the program. 566

567

(D)(1) If a child is adjudicated a delinquent child for 568
committing an act that would be a felony if committed by an adult 569
and if the child caused, attempted to cause, threatened to cause, 570
or created a risk of physical harm to the victim of the act, the 571
court, prior to issuing an order of disposition under this 572
section, shall order the preparation of a victim impact statement 573
by the probation department of the county in which the victim of 574
the act resides, by the court's own probation department, or by a 575
victim assistance program that is operated by the state, a county, 576
a municipal corporation, or another governmental entity. The court 577
shall consider the victim impact statement in determining the 578
order of disposition to issue for the child. 579

(2) Each victim impact statement shall identify the victim of 580
the act for which the child was adjudicated a delinquent child, 581

itemize any economic loss suffered by the victim as a result of
the act, identify any physical injury suffered by the victim as a
result of the act and the seriousness and permanence of the
injury, identify any change in the victim's personal welfare or
familial relationships as a result of the act and any
psychological impact experienced by the victim or the victim's
family as a result of the act, and contain any other information
related to the impact of the act upon the victim that the court
requires.

582
583
584
585
586
587
588
589
590

(3) A victim impact statement shall be kept confidential and
is not a public record. However, the court may furnish copies of
the statement to the department of youth services if the
delinquent child is committed to the department or to both the
adjudicated delinquent child or the adjudicated delinquent child's
counsel and the prosecuting attorney. The copy of a victim impact
statement furnished by the court to the department pursuant to
this section shall be kept confidential and is not a public
record. The copies of a victim impact statement that are made
available to the adjudicated delinquent child or the adjudicated
delinquent child's counsel and the prosecuting attorney pursuant
to this division shall be returned to the court by the person to
whom they were made available immediately following the imposition
of an order of disposition for the child under this chapter.

591
592
593
594
595
596
597
598
599
600
601
602
603
604

(4) The department of youth services shall work with local
probation departments and victim assistance programs to develop a
standard victim impact statement.

605
606
607

(E)(1) If a child is adjudicated a delinquent child for being
a chronic truant or an habitual truant who previously has been
adjudicated an unruly child for being an habitual truant and the
court determines that the parent, guardian, or other person having
care of the child has failed to cause the child's attendance at
school in violation of section 3321.38 of the Revised Code, in

608
609
610
611
612
613

addition to any order of disposition it makes under this section, 614
the court shall warn the parent, guardian, or other person having 615
care of the child that any subsequent adjudication of the child as 616
an unruly or delinquent child for being an habitual or chronic 617
truant may result in a criminal charge against the parent, 618
guardian, or other person having care of the child for a violation 619
of division (C) of section 2919.21 or section 2919.24 of the 620
Revised Code. 621

(2) If a child is adjudicated a delinquent child for 622
committing a violation of section 2909.09 of the Revised Code or a 623
substantially similar municipal ordinance, all of the following 624
apply: 625

(a) The court shall make any order of disposition for the 626
child required by this chapter and in addition may make any order 627
of disposition for the child authorized by this chapter. 628

(b) In addition to any order of disposition it makes for the 629
child under this chapter, the court shall issue an order to the 630
parent, guardian, or other person having care of the child 631
requiring that parent, guardian, or other person to prevent the 632
child from committing another violation of that section or a 633
substantially similar ordinance. The order shall warn the parent, 634
guardian, or other person having care of the child that, if the 635
child subsequently is adjudicated a delinquent child for again 636
committing a violation of that section or a substantially similar 637
municipal ordinance, in relation to the subsequent adjudication, 638
the court may impose a fine of not more than twenty thousand 639
dollars on the parent, guardian, or other person having care of 640
the child for violation of the court order. 641

(c) If the child previously was adjudicated delinquent for 642
committing a violation of section 2909.09 of the Revised Code or a 643
substantially similar municipal ordinance and if the court also 644
finds by a preponderance of the evidence that the parent, 645

guardian, or other person having care of the child violated a
court order of the type described in division (E)(2)(b) of this
section that was imposed regarding the prior violation, in
addition to any order of disposition it makes for the child under
this chapter and in addition to the order it issues under division
(E)(2)(b) of this section, the court may impose a fine of not more
than twenty thousand dollars on the parent, guardian, or other
person having care of the child for violating the court order
imposed regarding the prior violation. Prior to imposing a fine
under this division, the court shall hear any testimony that the
parent, guardian, or other person having care of the child offers
that would explain why the parent, guardian, or other person
having care of the child was not able to prevent the child from
committing the subsequent violation. The court may hear this
testimony at the same proceeding during which the child is
adjudicated a delinquent child for committing the violation of
section 2909.09 of the Revised Code or a substantially similar
municipal ordinance or at a separate proceeding. In determining
the amount of a fine to be imposed under this division, the court
shall give due consideration to this testimony but shall assign
the probative value to the testimony that the court determines is
proper. All fines collected pursuant to this division shall be
deposited in the state treasury to the credit of the highway
operating fund created by section 5735.291 of the Revised Code and
shall be used and expended as described in section 5579.11 of the
Revised Code.

646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671

(F)(1) During the period of a delinquent child's community
control granted under this section, authorized probation officers
who are engaged within the scope of their supervisory duties or
responsibilities may search, with or without a warrant, the person
of the delinquent child, the place of residence of the delinquent
child, and a motor vehicle, another item of tangible or intangible

672
673
674
675
676
677

personal property, or other real property in which the delinquent 678
child has a right, title, or interest or for which the delinquent 679
child has the express or implied permission of a person with a 680
right, title, or interest to use, occupy, or possess if the 681
probation officers have reasonable grounds to believe that the 682
delinquent child is not abiding by the law or otherwise is not 683
complying with the conditions of the delinquent child's community 684
control. The court that places a delinquent child on community 685
control under this section shall provide the delinquent child with 686
a written notice that informs the delinquent child that authorized 687
probation officers who are engaged within the scope of their 688
supervisory duties or responsibilities may conduct those types of 689
searches during the period of community control if they have 690
reasonable grounds to believe that the delinquent child is not 691
abiding by the law or otherwise is not complying with the 692
conditions of the delinquent child's community control. The court 693
also shall provide the written notice described in division (E)(2) 694
of this section to each parent, guardian, or custodian of the 695
delinquent child who is described in that division. 696

(2) The court that places a child on community control under 697
this section shall provide the child's parent, guardian, or other 698
custodian with a written notice that informs them that authorized 699
probation officers may conduct searches pursuant to division 700
(E)(1) of this section. The notice shall specifically state that a 701
permissible search might extend to a motor vehicle, another item 702
of tangible or intangible personal property, or a place of 703
residence or other real property in which a notified parent, 704
guardian, or custodian has a right, title, or interest and that 705
the parent, guardian, or custodian expressly or impliedly permits 706
the child to use, occupy, or possess. 707

(G) If a juvenile court commits a delinquent child to the 708
custody of any person, organization, or entity pursuant to this 709

section and if the delinquent act for which the child is so
committed is a sexually oriented offense, the court in the order
of disposition shall inform the person, organization, or entity
that it is the preferred course of action in this state that the
child be provided treatment as described in division (A)(2) of
section 5139.13 of the Revised Code and shall encourage the
person, organization, or entity to provide that treatment.

710
711
712
713
714
715
716

Sec. 2705.05. (A) ~~In~~ Except as provided in division (B) of
this section, in all contempt proceedings, the court shall conduct
a hearing. At the hearing, the court shall investigate the charge
and hear any answer or testimony that the accused makes or offers
and shall determine whether the accused is guilty of the contempt
charge. If the accused is found guilty, the court may impose any
of the following penalties:

717
718
719
720
721
722
723

(1) For a first offense, a fine of not more than two hundred
fifty dollars, a definite term of imprisonment of not more than
thirty days in jail, or both;

724
725
726

(2) For a second offense, a fine of not more than five
hundred dollars, a definite term of imprisonment of not more than
sixty days in jail, or both;

727
728
729

(3) For a third or subsequent offense, a fine of not more
than one thousand dollars, a definite term of imprisonment of not
more than ninety days in jail, or both.

730
731
732

(B) In determining whether to impose a fine for contempt
under division (E)(2)(b) of section 2152.19 of the Revised Code, a
juvenile court is not required to conduct a separate hearing as
required by division (A) of this section, but the court shall
comply with the procedures described in division (E)(2)(b) of
section 2152.19 of the Revised Code prior to imposing the fine.

733
734
735
736
737
738

(C) In all contempt proceedings initiated pursuant to section

739

2705.031 of the Revised Code against an employer, the bureau of 740
workers' compensation, an employer that is paying workers' 741
compensation benefits, a board, board of trustees, or other 742
governing entity of a retirement system, person paying or 743
distributing income to an obligor under a support order, or 744
financial institution that is ordered to withhold or deduct an 745
amount of money from the income or other assets of a person 746
required to pay support and that fails to withhold or deduct the 747
amount of money as ordered by the support order, the court also 748
may require the employer, the bureau of workers' compensation, an 749
employer that is paying workers' compensation benefits, a board, 750
board of trustees, or other governing entity of a retirement 751
system, person paying or distributing income to an obligor under a 752
support order, or financial institution to pay the accumulated 753
support arrearages. 754

Sec. 2909.09. (A) As used in this section: 755

(1) "Highway" means any highway as defined in section 4511.01 756
of the Revised Code or any lane, road, street, alley, bridge, or 757
overpass. 758

(2) "Alley," "street," "streetcar," "trackless trolley," and 759
"vehicle" have the same meanings as in section 4511.01 of the 760
Revised Code. 761

(3) "Vessel" and "waters in this state" have the same 762
meanings as in section 1547.01 of the Revised Code. 763

(B) No person shall knowingly, and by any means, drop or 764
throw any object at, onto, or in the path of any of the following: 765

(1) Any vehicle, streetcar, or trackless trolley on a 766
highway; 767

(2) Any boat or vessel on any of the waters in this state. 768

(C) Whoever violates this section is guilty of vehicular 769

vandalism. Except as otherwise provided in this division, 770
vehicular vandalism is a misdemeanor of the first degree. Except 771
as otherwise provided in this division, if the violation of this 772
section causes physical harm to property, vehicular vandalism is a 773
felony of the fifth degree. Except as otherwise provided in this 774
division, if the violation of this section creates a risk of 775
physical harm to any person or the violation of this section 776
causes physical harm to property and the value of the property so 777
harmed is five thousand dollars or more but less than one hundred 778
thousand dollars, vehicular vandalism is a felony of the fourth 779
degree. Except as otherwise provided in this division, if the 780
violation of this section causes physical harm to any person or 781
the violation of this section causes physical harm to property and 782
the value of the property so harmed is one hundred thousand 783
dollars or more, vehicular vandalism is a felony of the third 784
degree. If the violation of this section causes serious physical 785
harm to any person, vehicular vandalism is a felony of the second 786
degree. 787

Sec. 5579.11. All fines imposed under division (E)(2) of 788
section 2152.19 of the Revised Code shall be deposited into the 789
state treasury to the credit of the highway operating fund created 790
by section 5735.291 of the Revised Code. Notwithstanding sections 791
5735.29 and 5735.291 of the Revised Code, the department of 792
transportation shall use the fine money so deposited in the fund 793
to pay the cost of installing fences on highways, bridges, and 794
overpasses that are part of the state highway system to prevent 795
the dropping, throwing, hoisting, or transferring of objects from 796
those locations. 797

The department shall expend all such money so deposited in 798
the fund in the department of transportation district in which 799
occurred the violation of section 2909.09 of the Revised Code or a 800
substantially similar municipal ordinance that was the basis for 801

the contempt of court charge that resulted in the imposition of 802
the fine. 803

Section 2. That existing sections 2151.28, 2151.35, 2152.19, 804
and 2705.05 of the Revised Code are hereby repealed. 805

Section 3. Section 2151.28 of the Revised Code is presented 806
in this act as a composite of the section as amended by both Am. 807
Sub. S.B. 179 and Sub. S.B. 218 of the 123rd General Assembly. 808
Section 2151.35 of the Revised Code, scheduled to take effect 809
January 1, 2002, is presented in this act as a composite of the 810
section as amended by both Am. Sub. S.B. 179 and Sub. S.B. 218 of 811
the 123rd General Assembly. The General Assembly, applying the 812
principle stated in division (B) of section 1.52 of the Revised 813
Code that amendments are to be harmonized if reasonably capable of 814
simultaneous operation, finds that the composite is the resulting 815
version of the section in effect prior to the effective date of 816
the section as presented in this act. 817

Section 4. There is hereby created the Highway, Bridge, and 818
Overpass Vandal Fence Task Force, consisting of the Governor or 819
the Governor's designee, one person appointed by the Director of 820
Transportation, one person appointed by the Director of Public 821
Safety, who shall be the Superintendent or a trooper of the State 822
Highway Patrol, one person appointed by the Buckeye State Sheriffs 823
Association, one person appointed by the Ohio Association of 824
Chiefs of Police, one person appointed by the County Engineers 825
Association of Ohio, and three or more members of the public 826
appointed by the Governor. The Governor or the Governor's designee 827
shall be chairperson of the Task Force, and the Task Force members 828
shall elect a vice-chairperson from among their members and 829
appoint a secretary, who need not be a member of the Task Force. A 830
vacancy shall be filled in the same manner as the original 831

appointment. Members of the Task Force shall not receive a salary, 832
but the three Task Force members the Governor appoints shall be 833
reimbursed for the actual expenses they incur in performing their 834
duties as Task Force members. 835

The Task Force shall do all of the following: 836

(A) Develop an awareness program with local law enforcement 837
officials and the Ohio Department of Transportation relative to 838
the problem of objects thrown from highways, bridges, and 839
overpasses; 840

(B) Review and evaluate the overall situation regarding 841
objects thrown from highways, bridges, and overpasses, including 842
the types and number of objects thrown yearly, the perpetrators 843
involved, the locations within this state where such throwing has 844
occurred, and any other aspects of this criminal activity the Task 845
Force determines to be relevant and significant; 846

(C) Facilitate communication between the Ohio Department of 847
Transportation and law enforcement agencies by developing a 848
central computer system to track these incidents; 849

(D) Examine the value of the improved safety resulting from 850
the installation of vandal fences on all bridges and overpasses on 851
interstate freeways relative to the cost of such installation. 852

The Task Force shall compile its findings and formulate 853
recommendations and report these to a joint House of 854
Representatives and Senate Transportation Committee not later than 855
September 30, 2003. The joint committee shall consist of eight 856
members, four from the Senate appointed by the President of the 857
Senate and four from the House of Representatives appointed by the 858
Speaker. After the Task Force presents its report, the Governor 859
may declare the end to the existence of the Task Force or may 860
declare that the Task Force will remain in existence for such 861
additional time as the Governor determines necessary. If the 862

Governor declares that the Task Force will remain in existence,
the Task Force shall examine any issues relating to the throwing
of objects from highways, bridges, and overpasses that the Task
Force chooses to examine, until the Governor declares the end to
the existence of the Task Force.

863

864

865

866

867