

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 163

**Representatives Oelslager, Olman, Hagan, Raussen, Williams, Barrett,
D. Evans, C. Evans, Fessler, Latta, McGregor, Perry, Hollister**

A B I L L

To amend sections 2929.01, 2929.13, 2929.21, and 1
4511.99 and to enact sections 2941.1413 and 2
2941.1414 of the Revised Code to provide an 3
additional prison term or term of imprisonment for 4
certain repeat OMVI or OMVUAC offenders and to 5
maintain the provisions of this act on and after 6
January 1, 2004, by amending the versions of 7
sections 2929.01, 2929.13, and 4511.19 of the 8
Revised Code that take effect on that date. 9

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

Section 1. That sections 2929.01, 2929.13, 2929.21, and 10
4511.99 be amended and sections 2941.1413 and 2941.1414 of the 11
Revised Code be enacted to read as follows: 12

Sec. 2929.01. As used in this chapter: 13

(A)(1) "Alternative residential facility" means, subject to 14
division (A)(2) of this section, any facility other than an 15
offender's home or residence in which an offender is assigned to 16
live and that satisfies all of the following criteria: 17

(a) It provides programs through which the offender may seek 18
or maintain employment or may receive education, training, 19

treatment, or habilitation. 20

(b) It has received the appropriate license or certificate 21
for any specialized education, training, treatment, habilitation, 22
or other service that it provides from the government agency that 23
is responsible for licensing or certifying that type of education, 24
training, treatment, habilitation, or service. 25

(2) "Alternative residential facility" does not include a 26
community-based correctional facility, jail, halfway house, or 27
prison. 28

(B) "Bad time" means the time by which the parole board 29
administratively extends an offender's stated prison term or terms 30
pursuant to section 2967.11 of the Revised Code because the parole 31
board finds by clear and convincing evidence that the offender, 32
while serving the prison term or terms, committed an act that is a 33
criminal offense under the law of this state or the United States, 34
whether or not the offender is prosecuted for the commission of 35
that act. 36

(C) "Basic probation supervision" means a requirement that 37
the offender maintain contact with a person appointed to supervise 38
the offender in accordance with sanctions imposed by the court or 39
imposed by the parole board pursuant to section 2967.28 of the 40
Revised Code. "Basic probation supervision" includes basic parole 41
supervision and basic post-release control supervision. 42

(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and 43
"unit dose" have the same meanings as in section 2925.01 of the 44
Revised Code. 45

(E) "Community-based correctional facility" means a 46
community-based correctional facility and program or district 47
community-based correctional facility and program developed 48
pursuant to sections 2301.51 to 2301.56 of the Revised Code. 49

(F) "Community control sanction" means a sanction that is not 50

a prison term and that is described in section 2929.15, 2929.16, 51
2929.17, or 2929.18 of the Revised Code. 52

(G) "Controlled substance," "marihuana," "schedule I," and 53
"schedule II" have the same meanings as in section 3719.01 of the 54
Revised Code. 55

(H) "Curfew" means a requirement that an offender during a 56
specified period of time be at a designated place. 57

(I) "Day reporting" means a sanction pursuant to which an 58
offender is required each day to report to and leave a center or 59
other approved reporting location at specified times in order to 60
participate in work, education or training, treatment, and other 61
approved programs at the center or outside the center. 62

(J) "Deadly weapon" has the same meaning as in section 63
2923.11 of the Revised Code. 64

(K) "Drug and alcohol use monitoring" means a program under 65
which an offender agrees to submit to random chemical analysis of 66
the offender's blood, breath, or urine to determine whether the 67
offender has ingested any alcohol or other drugs. 68

(L) "Drug treatment program" means any program under which a 69
person undergoes assessment and treatment designed to reduce or 70
completely eliminate the person's physical or emotional reliance 71
upon alcohol, another drug, or alcohol and another drug and under 72
which the person may be required to receive assessment and 73
treatment on an outpatient basis or may be required to reside at a 74
facility other than the person's home or residence while 75
undergoing assessment and treatment. 76

(M) "Economic loss" means any economic detriment suffered by 77
a victim as a result of the commission of a felony and includes 78
any loss of income due to lost time at work because of any injury 79
caused to the victim, and any property loss, medical cost, or 80
funeral expense incurred as a result of the commission of the 81

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| felony. | 82 |
| (N) "Education or training" includes study at, or in | 83 |
| conjunction with a program offered by, a university, college, or | 84 |
| technical college or vocational study and also includes the | 85 |
| completion of primary school, secondary school, and literacy | 86 |
| curricula or their equivalent. | 87 |
| (O) "Electronically monitored house arrest" has the same | 88 |
| meaning as in section 2929.23 of the Revised Code. | 89 |
| (P) "Eligible offender" has the same meaning as in section | 90 |
| 2929.23 of the Revised Code except as otherwise specified in | 91 |
| section 2929.20 of the Revised Code. | 92 |
| (Q) "Firearm" has the same meaning as in section 2923.11 of | 93 |
| the Revised Code. | 94 |
| (R) "Halfway house" means a facility licensed by the division | 95 |
| of parole and community services of the department of | 96 |
| rehabilitation and correction pursuant to section 2967.14 of the | 97 |
| Revised Code as a suitable facility for the care and treatment of | 98 |
| adult offenders. | 99 |
| (S) "House arrest" means a period of confinement of an | 100 |
| eligible offender that is in the eligible offender's home or in | 101 |
| other premises specified by the sentencing court or by the parole | 102 |
| board pursuant to section 2967.28 of the Revised Code, that may be | 103 |
| electronically monitored house arrest, and during which all of the | 104 |
| following apply: | 105 |
| (1) The eligible offender is required to remain in the | 106 |
| eligible offender's home or other specified premises for the | 107 |
| specified period of confinement, except for periods of time during | 108 |
| which the eligible offender is at the eligible offender's place of | 109 |
| employment or at other premises as authorized by the sentencing | 110 |
| court or by the parole board. | 111 |

(2) The eligible offender is required to report periodically 112
to a person designated by the court or parole board. 113

(3) The eligible offender is subject to any other 114
restrictions and requirements that may be imposed by the 115
sentencing court or by the parole board. 116

(T) "Intensive probation supervision" means a requirement 117
that an offender maintain frequent contact with a person appointed 118
by the court, or by the parole board pursuant to section 2967.28 119
of the Revised Code, to supervise the offender while the offender 120
is seeking or maintaining necessary employment and participating 121
in training, education, and treatment programs as required in the 122
court's or parole board's order. "Intensive probation supervision" 123
includes intensive parole supervision and intensive post-release 124
control supervision. 125

(U) "Jail" means a jail, workhouse, minimum security jail, or 126
other residential facility used for the confinement of alleged or 127
convicted offenders that is operated by a political subdivision or 128
a combination of political subdivisions of this state. 129

(V) "Delinquent child" has the same meaning as in section 130
2152.02 of the Revised Code. 131

(W) "License violation report" means a report that is made by 132
a sentencing court, or by the parole board pursuant to section 133
2967.28 of the Revised Code, to the regulatory or licensing board 134
or agency that issued an offender a professional license or a 135
license or permit to do business in this state and that specifies 136
that the offender has been convicted of or pleaded guilty to an 137
offense that may violate the conditions under which the offender's 138
professional license or license or permit to do business in this 139
state was granted or an offense for which the offender's 140
professional license or license or permit to do business in this 141
state may be revoked or suspended. 142

(X) "Major drug offender" means an offender who is convicted 143
of or pleads guilty to the possession of, sale of, or offer to 144
sell any drug, compound, mixture, preparation, or substance that 145
consists of or contains at least one thousand grams of hashish; at 146
least one hundred grams of crack cocaine; at least one thousand 147
grams of cocaine that is not crack cocaine; at least two thousand 148
five hundred unit doses or two hundred fifty grams of heroin; at 149
least five thousand unit doses of L.S.D. or five hundred grams of 150
L.S.D. in a liquid concentrate, liquid extract, or liquid 151
distillate form; or at least one hundred times the amount of any 152
other schedule I or II controlled substance other than marihuana 153
that is necessary to commit a felony of the third degree pursuant 154
to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised 155
Code that is based on the possession of, sale of, or offer to sell 156
the controlled substance. 157

(Y) "Mandatory prison term" means any of the following: 158

(1) Subject to division (Y)(2) of this section, the term in 159
prison that must be imposed for the offenses or circumstances set 160
forth in divisions (F)(1) to (8) or (F)(12) of section 2929.13 and 161
division (D) of section 2929.14 of the Revised Code. Except as 162
provided in sections 2925.02, 2925.03, 2925.04, 2925.05, and 163
2925.11 of the Revised Code, unless the maximum or another 164
specific term is required under section 2929.14 of the Revised 165
Code, a mandatory prison term described in this division may be 166
any prison term authorized for the level of offense. 167

(2) The term of sixty or one hundred twenty days in prison 168
that a sentencing court is required to impose for a third or 169
fourth degree felony OMVI offense pursuant to division (G)(2) of 170
section 2929.13 and division (A)(4) or (8) of section 4511.99 of 171
the Revised Code or the term of one, two, three, four, or five 172
years in prison that a sentencing court is required to impose 173
pursuant to division (G)(2) of section 2929.13 of the Revised 174

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| (3) The term in prison imposed pursuant to section 2971.03 of the Revised Code for the offenses and in the circumstances described in division (F)(11) of section 2929.13 of the Revised Code and that term as modified or terminated pursuant to section 2971.05 of the Revised Code. | 176 177 178 179 180 |
| (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. | 181 182 183 184 |
| (AA) "Offender" means a person who, in this state, is convicted of or pleads guilty to a felony or a misdemeanor. | 185 186 |
| (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. | 187 188 189 190 191 |
| (CC) "Prison term" includes any of the following sanctions for an offender: | 192 193 |
| (1) A stated prison term; | 194 |
| (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; | 195 196 197 |
| (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. | 198 199 200 201 |
| (DD) "Repeat violent offender" means a person about whom both of the following apply: | 202 203 |
| (1) The person has been convicted of or has pleaded guilty | 204 |

to, and is being sentenced for committing, for complicity in 205
committing, or for an attempt to commit, aggravated murder, 206
murder, involuntary manslaughter, a felony of the first degree 207
other than one set forth in Chapter 2925. of the Revised Code, a 208
felony of the first degree set forth in Chapter 2925. of the 209
Revised Code that involved an attempt to cause serious physical 210
harm to a person or that resulted in serious physical harm to a 211
person, or a felony of the second degree that involved an attempt 212
to cause serious physical harm to a person or that resulted in 213
serious physical harm to a person. 214

(2) Either of the following applies: 215

(a) The person previously was convicted of or pleaded guilty 216
to, and previously served or, at the time of the offense was 217
serving, a prison term for, any of the following: 218

(i) Aggravated murder, murder, involuntary manslaughter, 219
rape, felonious sexual penetration as it existed under section 220
2907.12 of the Revised Code prior to September 3, 1996, a felony 221
of the first or second degree that resulted in the death of a 222
person or in physical harm to a person, or complicity in or an 223
attempt to commit any of those offenses; 224

(ii) An offense under an existing or former law of this 225
state, another state, or the United States that is or was 226
substantially equivalent to an offense listed under division 227
(DD)(2)(a)(i) of this section and that resulted in the death of a 228
person or in physical harm to a person. 229

(b) The person previously was adjudicated a delinquent child 230
for committing an act that if committed by an adult would have 231
been an offense listed in division (DD)(2)(a)(i) or (ii) of this 232
section, the person was committed to the department of youth 233
services for that delinquent act. 234

(EE) "Sanction" means any penalty imposed upon an offender 235

who is convicted of or pleads guilty to an offense, as punishment 236
for the offense. "Sanction" includes any sanction imposed pursuant 237
to any provision of sections 2929.14 to 2929.18 of the Revised 238
Code. 239

(FF) "Sentence" means the sanction or combination of 240
sanctions imposed by the sentencing court on an offender who is 241
convicted of or pleads guilty to a felony. 242

(GG) "Stated prison term" means the prison term, mandatory 243
prison term, or combination of all prison terms and mandatory 244
prison terms imposed by the sentencing court pursuant to section 245
2929.14 or 2971.03 of the Revised Code. "Stated prison term" 246
includes any credit received by the offender for time spent in 247
jail awaiting trial, sentencing, or transfer to prison for the 248
offense and any time spent under house arrest or electronically 249
monitored house arrest imposed after earning credits pursuant to 250
section 2967.193 of the Revised Code. 251

(HH) "Victim-offender mediation" means a reconciliation or 252
mediation program that involves an offender and the victim of the 253
offense committed by the offender and that includes a meeting in 254
which the offender and the victim may discuss the offense, discuss 255
restitution, and consider other sanctions for the offense. 256

(II) "Fourth degree felony OMVI offense" means a violation of 257
division (A) of section 4511.19 of the Revised Code that, under 258
section 4511.99 of the Revised Code, is a felony of the fourth 259
degree. 260

(JJ) "Mandatory term of local incarceration" means the term 261
of sixty or one hundred twenty days in a jail, a community-based 262
correctional facility, a halfway house, or an alternative 263
residential facility that a sentencing court may impose upon a 264
person who is convicted of or pleads guilty to a fourth degree 265
felony OMVI offense pursuant to division (G)(1) of section 2929.13 266

of the Revised Code and division (A)(4) or (8) of section 4511.99 267
of the Revised Code. 268

(KK) "Designated homicide, assault, or kidnapping offense," 269
"sexual motivation specification," "sexually violent offense," 270
"sexually violent predator," and "sexually violent predator 271
specification" have the same meanings as in section 2971.01 of the 272
Revised Code. 273

(LL) "Habitual sex offender," "sexually oriented offense," 274
and "sexual predator" have the same meanings as in section 2950.01 275
of the Revised Code. 276

(MM) An offense is "committed in the vicinity of a child" if 277
the offender commits the offense within thirty feet of or within 278
the same residential unit as a child who is under eighteen years 279
of age, regardless of whether the offender knows the age of the 280
child or whether the offender knows the offense is being committed 281
within thirty feet of or within the same residential unit as the 282
child and regardless of whether the child actually views the 283
commission of the offense. 284

(NN) "Family or household member" has the same meaning as in 285
section 2919.25 of the Revised Code. 286

(OO) "Motor vehicle" and "manufactured home" have the same 287
meanings as in section 4501.01 of the Revised Code. 288

(PP) "Detention" and "detention facility" have the same 289
meanings as in section 2921.01 of the Revised Code. 290

(QQ) "Third degree felony OMVI offense" means a violation of 291
division (A) of section 4511.19 of the Revised Code that, under 292
section 4511.99 of the Revised Code, is a felony of the third 293
degree. 294

(RR) "Random drug testing" has the same meaning as in section 295
5120.63 of the Revised Code. 296

(SS) "Felony sex offense" has the same meaning as in section 297
2957.28 of the Revised Code. 298

(TT) "Body armor" has the same meaning as in section 299
2941.1411 of the Revised Code. 300

Sec. 2929.13. (A) Except as provided in division (E), (F), or 301
(G) of this section and unless a specific sanction is required to 302
be imposed or is precluded from being imposed pursuant to law, a 303
court that imposes a sentence upon an offender for a felony may 304
impose any sanction or combination of sanctions on the offender 305
that are provided in sections 2929.14 to 2929.18 of the Revised 306
Code. The sentence shall not impose an unnecessary burden on state 307
or local government resources. 308

If the offender is eligible to be sentenced to community 309
control sanctions, the court shall consider the appropriateness of 310
imposing a financial sanction pursuant to section 2929.18 of the 311
Revised Code or a sanction of community service pursuant to 312
section 2929.17 of the Revised Code as the sole sanction for the 313
offense. Except as otherwise provided in this division, if the 314
court is required to impose a mandatory prison term for the 315
offense for which sentence is being imposed, the court also may 316
impose a financial sanction pursuant to section 2929.18 of the 317
Revised Code but may not impose any additional sanction or 318
combination of sanctions under section 2929.16 or 2929.17 of the 319
Revised Code. 320

If the offender is being sentenced for a fourth degree felony 321
OMVI offense or for a third degree felony OMVI offense, in 322
addition to the mandatory term of local incarceration or the 323
mandatory prison term required for the offense by division (G)(1) 324
or (2) of this section, the court shall impose upon the offender a 325
mandatory fine in accordance with division (B)(3) of section 326
2929.18 of the Revised Code and may impose whichever of the 327

following is applicable: 328

(1) For a fourth degree felony OMVI offense for which 329
sentence is imposed under division (G)(1) of this section, an 330
additional community control sanction or combination of community 331
control sanctions under section 2929.16 or 2929.17 of the Revised 332
Code; 333

(2) For a third or fourth degree felony OMVI offense for 334
which sentence is imposed under division (G)(2) of this section, 335
an additional prison term as described in division (D)(4) of 336
section 2929.14 of the Revised Code. 337

(B)(1) Except as provided in division (B)(2), (E), (F), or 338
(G) of this section, in sentencing an offender for a felony of the 339
fourth or fifth degree, the sentencing court shall determine 340
whether any of the following apply: 341

(a) In committing the offense, the offender caused physical 342
harm to a person. 343

(b) In committing the offense, the offender attempted to 344
cause or made an actual threat of physical harm to a person with a 345
deadly weapon. 346

(c) In committing the offense, the offender attempted to 347
cause or made an actual threat of physical harm to a person, and 348
the offender previously was convicted of an offense that caused 349
physical harm to a person. 350

(d) The offender held a public office or position of trust 351
and the offense related to that office or position; the offender's 352
position obliged the offender to prevent the offense or to bring 353
those committing it to justice; or the offender's professional 354
reputation or position facilitated the offense or was likely to 355
influence the future conduct of others. 356

(e) The offender committed the offense for hire or as part of 357

an organized criminal activity. 358

(f) The offense is a sex offense that is a fourth or fifth 359
degree felony violation of section 2907.03, 2907.04, 2907.05, 360
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 361
Revised Code. 362

(g) The offender at the time of the offense was serving, or 363
the offender previously had served, a prison term. 364

(h) The offender committed the offense while under a 365
community control sanction, while on probation, or while released 366
from custody on a bond or personal recognizance. 367

(i) The offender committed the offense while in possession of 368
a firearm. 369

(2)(a) If the court makes a finding described in division 370
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 371
section and if the court, after considering the factors set forth 372
in section 2929.12 of the Revised Code, finds that a prison term 373
is consistent with the purposes and principles of sentencing set 374
forth in section 2929.11 of the Revised Code and finds that the 375
offender is not amenable to an available community control 376
sanction, the court shall impose a prison term upon the offender. 377

(b) Except as provided in division (E), (F), or (G) of this 378
section, if the court does not make a finding described in 379
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 380
this section and if the court, after considering the factors set 381
forth in section 2929.12 of the Revised Code, finds that a 382
community control sanction or combination of community control 383
sanctions is consistent with the purposes and principles of 384
sentencing set forth in section 2929.11 of the Revised Code, the 385
court shall impose a community control sanction or combination of 386
community control sanctions upon the offender. 387

(C) Except as provided in division (E), (F), or (G) of this 388

section, in determining whether to impose a prison term as a 389
sanction for a felony of the third degree or a felony drug offense 390
that is a violation of a provision of Chapter 2925. of the Revised 391
Code and that is specified as being subject to this division for 392
purposes of sentencing, the sentencing court shall comply with the 393
purposes and principles of sentencing under section 2929.11 of the 394
Revised Code and with section 2929.12 of the Revised Code. 395

(D) Except as provided in division (E) or (F) of this 396
section, for a felony of the first or second degree and for a 397
felony drug offense that is a violation of any provision of 398
Chapter 2925., 3719., or 4729. of the Revised Code for which a 399
presumption in favor of a prison term is specified as being 400
applicable, it is presumed that a prison term is necessary in 401
order to comply with the purposes and principles of sentencing 402
under section 2929.11 of the Revised Code. Notwithstanding the 403
presumption established under this division, the sentencing court 404
may impose a community control sanction or a combination of 405
community control sanctions instead of a prison term on an 406
offender for a felony of the first or second degree or for a 407
felony drug offense that is a violation of any provision of 408
Chapter 2925., 3719., or 4729. of the Revised Code for which a 409
presumption in favor of a prison term is specified as being 410
applicable if it makes both of the following findings: 411

(1) A community control sanction or a combination of 412
community control sanctions would adequately punish the offender 413
and protect the public from future crime, because the applicable 414
factors under section 2929.12 of the Revised Code indicating a 415
lesser likelihood of recidivism outweigh the applicable factors 416
under that section indicating a greater likelihood of recidivism. 417

(2) A community control sanction or a combination of 418
community control sanctions would not demean the seriousness of 419
the offense, because one or more factors under section 2929.12 of 420

the Revised Code that indicate that the offender's conduct was 421
less serious than conduct normally constituting the offense are 422
applicable, and they outweigh the applicable factors under that 423
section that indicate that the offender's conduct was more serious 424
than conduct normally constituting the offense. 425

(E)(1) Except as provided in division (F) of this section, 426
for any drug offense that is a violation of any provision of 427
Chapter 2925. of the Revised Code and that is a felony of the 428
third, fourth, or fifth degree, the applicability of a presumption 429
under division (D) of this section in favor of a prison term or of 430
division (B) or (C) of this section in determining whether to 431
impose a prison term for the offense shall be determined as 432
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 433
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 434
Revised Code, whichever is applicable regarding the violation. 435

(2) If an offender who was convicted of or pleaded guilty to 436
a felony violates the conditions of a community control sanction 437
imposed for the offense solely by reason of producing positive 438
results on a drug test, the court, as punishment for the violation 439
of the sanction, shall not order that the offender be imprisoned 440
unless the court determines on the record either of the following: 441

(a) The offender had been ordered as a sanction for the 442
felony to participate in a drug treatment program, in a drug 443
education program, or in narcotics anonymous or a similar program, 444
and the offender continued to use illegal drugs after a reasonable 445
period of participation in the program. 446

(b) The imprisonment of the offender for the violation is 447
consistent with the purposes and principles of sentencing set 448
forth in section 2929.11 of the Revised Code. 449

(F) Notwithstanding divisions (A) to (E) of this section, the 450
court shall impose a prison term or terms under sections 2929.02 451

to 2929.06, section 2929.14, or section 2971.03 of the Revised Code and except as specifically provided in section 2929.20 or 2967.191 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code shall not reduce the terms pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses:

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

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the rape;

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

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

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

(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree

felony, or an offense under an existing or former law of this 483
state, another state, or the United States that is or was 484
substantially equivalent to one of those offenses; 485

(7) Any offense that is a third degree felony and that is 486
listed in division (DD)(1) of section 2929.01 of the Revised Code 487
if the offender previously was convicted of or pleaded guilty to 488
any offense that is listed in division (DD)(2)(a)(i) or (ii) of 489
section 2929.01 of the Revised Code; 490

(8) Any offense, other than a violation of section 2923.12 of 491
the Revised Code, that is a felony, if the offender had a firearm 492
on or about the offender's person or under the offender's control 493
while committing the felony, with respect to a portion of the 494
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 495
of the Revised Code for having the firearm; 496

(9) Any offense of violence that is a felony, if the offender 497
wore or carried body armor while committing the felony offense of 498
violence, with respect to the portion of the sentence imposed 499
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 500
Code for wearing or carrying the body armor; 501

(10) Corrupt activity in violation of section 2923.32 of the 502
Revised Code when the most serious offense in the pattern of 503
corrupt activity that is the basis of the offense is a felony of 504
the first degree; 505

(11) Any sexually violent offense for which the offender also 506
is convicted of or pleads guilty to a sexually violent predator 507
specification that was included in the indictment, count in the 508
indictment, or information charging the sexually violent offense; 509

(12) A violation of division (A)(1) or (2) of section 2921.36 510
of the Revised Code, or a violation of division (C) of that 511
section involving an item listed in division (A)(1) or (2) of that 512
section, if the offender is an officer or employee of the 513

department of rehabilitation and correction. 514

(G) Notwithstanding divisions (A) to (E) of this section, if 515
an offender is being sentenced for a fourth degree felony OMVI 516
offense or for a third degree felony OMVI offense, the court shall 517
impose upon the offender a mandatory term of local incarceration 518
or a mandatory prison term in accordance with the following: 519

(1) If the offender is being sentenced for a fourth degree 520
felony OMVI offense and if the offender has not pleaded guilty to 521
and has not been convicted of a specification of the type 522
described in section 2941.1413 of the Revised Code, the court may 523
impose upon the offender a mandatory term of local incarceration 524
of sixty days as specified in division (A)(4) of section 4511.99 525
of the Revised Code or a mandatory term of local incarceration of 526
one hundred twenty days as specified in division (A)(8) of that 527
section. The court shall not reduce the term pursuant to section 528
2929.20, 2967.193, or any other provision of the Revised Code. The 529
court that imposes a mandatory term of local incarceration under 530
this division shall specify whether the term is to be served in a 531
jail, a community-based correctional facility, a halfway house, or 532
an alternative residential facility, and the offender shall serve 533
the term in the type of facility specified by the court. A 534
mandatory term of local incarceration imposed under division 535
(G)(1) of this section is not subject to extension under section 536
2967.11 of the Revised Code, to a period of post-release control 537
under section 2967.28 of the Revised Code, or to any other Revised 538
Code provision that pertains to a prison term. 539

(2) If the offender is being sentenced for a third degree 540
felony OMVI offense, or if the offender is being sentenced for a 541
fourth degree felony OMVI offense and the court does not impose a 542
mandatory term of local incarceration under division (G)(1) of 543
this section, the court shall impose upon the offender a mandatory 544
prison term of one, two, three, four, or five years if the 545

offender also pleads guilty to or also is convicted of a 546
specification of the type described in section 2941.1413 of the 547
Revised Code or shall impose upon the offender a mandatory prison 548
term of sixty days as specified in division (A)(4) of section 549
4511.99 of the Revised Code or a mandatory prison term of one 550
hundred twenty days as specified in division (A)(8) of that 551
section if the offender has not pleaded guilty to and has not been 552
convicted of a specification of that type. The court shall not 553
reduce the term pursuant to section 2929.20, 2967.193, or any 554
other provision of the Revised Code. The offender shall serve the 555
one-, two-, three-, four-, or five-year mandatory prison term 556
consecutively to and prior to the prison term imposed for the 557
underlying offense and consecutively to any other mandatory prison 558
term imposed in relation to the offense. In no case shall an 559
offender who once has been sentenced to a mandatory term of local 560
incarceration pursuant to division (G)(1) of this section for a 561
fourth degree felony OMVI offense be sentenced to another 562
mandatory term of local incarceration under that division for any 563
violation of division (A) of section 4511.19 of the Revised Code. 564
The court shall not sentence the offender to a community control 565
sanction under section 2929.16 or 2929.17 of the Revised Code. The 566
department of rehabilitation and correction may place an offender 567
sentenced to a mandatory prison term under this division in an 568
intensive program prison established pursuant to section 5120.033 569
of the Revised Code if the department gave the sentencing judge 570
prior notice of its intent to place the offender in an intensive 571
program prison established under that section and if the judge did 572
not notify the department that the judge disapproved the 573
placement. Upon the establishment of the initial intensive program 574
prison pursuant to section 5120.033 of the Revised Code that is 575
privately operated and managed by a contractor pursuant to a 576
contract entered into under section 9.06 of the Revised Code, both 577
of the following apply: 578

(a) The department of rehabilitation and correction shall 579
make a reasonable effort to ensure that a sufficient number of 580
offenders sentenced to a mandatory prison term under this division 581
are placed in the privately operated and managed prison so that 582
the privately operated and managed prison has full occupancy. 583

(b) Unless the privately operated and managed prison has full 584
occupancy, the department of rehabilitation and correction shall 585
not place any offender sentenced to a mandatory prison term under 586
this division in any intensive program prison established pursuant 587
to section 5120.033 of the Revised Code other than the privately 588
operated and managed prison. 589

(H) If an offender is being sentenced for a sexually oriented 590
offense committed on or after January 1, 1997, the judge shall 591
require the offender to submit to a DNA specimen collection 592
procedure pursuant to section 2901.07 of the Revised Code if 593
either of the following applies: 594

(1) The offense was a sexually violent offense, and the 595
offender also was convicted of or pleaded guilty to a sexually 596
violent predator specification that was included in the 597
indictment, count in the indictment, or information charging the 598
sexually violent offense. 599

(2) The judge imposing sentence for the sexually oriented 600
offense determines pursuant to division (B) of section 2950.09 of 601
the Revised Code that the offender is a sexual predator. 602

(I) If an offender is being sentenced for a sexually oriented 603
offense committed on or after January 1, 1997, the judge shall 604
include in the sentence a summary of the offender's duty to 605
register pursuant to section 2950.04 of the Revised Code, the 606
offender's duty to provide notice of a change in residence address 607
and register the new residence address pursuant to section 2950.05 608
of the Revised Code, the offender's duty to periodically verify 609

the offender's current residence address pursuant to section 610
2950.06 of the Revised Code, and the duration of the duties. The 611
judge shall inform the offender, at the time of sentencing, of 612
those duties and of their duration and, if required under division 613
(A)(2) of section 2950.03 of the Revised Code, shall perform the 614
duties specified in that section. 615

(J)(1) Except as provided in division (J)(2) of this section, 616
when considering sentencing factors under this section in relation 617
to an offender who is convicted of or pleads guilty to an attempt 618
to commit an offense in violation of section 2923.02 of the 619
Revised Code, the sentencing court shall consider the factors 620
applicable to the felony category of the violation of section 621
2923.02 of the Revised Code instead of the factors applicable to 622
the felony category of the offense attempted. 623

(2) When considering sentencing factors under this section in 624
relation to an offender who is convicted of or pleads guilty to an 625
attempt to commit a drug abuse offense for which the penalty is 626
determined by the amount or number of unit doses of the controlled 627
substance involved in the drug abuse offense, the sentencing court 628
shall consider the factors applicable to the felony category that 629
the drug abuse offense attempted would be if that drug abuse 630
offense had been committed and had involved an amount or number of 631
unit doses of the controlled substance that is within the next 632
lower range of controlled substance amounts than was involved in 633
the attempt. 634

(K) As used in this section, "drug abuse offense" has the 635
same meaning as in section 2925.01 of the Revised Code. 636

Sec. 2929.21. (A) Except as provided in division (G) of this 637
section or in section 2929.23 of the Revised Code, whoever is 638
convicted of or pleads guilty to a misdemeanor other than a minor 639
misdemeanor shall be imprisoned for a definite term or fined, or 640

both, which term of imprisonment and fine shall be fixed by the 641
court as provided in this section. 642

Whoever is convicted of or pleads guilty to committing, 643
attempting to commit, or complicity in committing a violation of 644
section 2909.03 of the Revised Code that is a misdemeanor, or a 645
violation of division (A)(2) of section 2909.06 of the Revised 646
Code when the means used are fire or explosion, shall be required 647
to reimburse agencies for their investigation or prosecution costs 648
in accordance with section 2929.28 of the Revised Code. 649

(B) Except as provided in division (G) of this section, terms 650
of imprisonment for misdemeanor shall be imposed as follows: 651

(1) For a misdemeanor of the first degree, not more than six 652
months; 653

(2) For a misdemeanor of the second degree, not more than 654
ninety days; 655

(3) For a misdemeanor of the third degree, not more than 656
sixty days; 657

(4) For a misdemeanor of the fourth degree, not more than 658
thirty days. 659

(C) Fines for misdemeanor shall be imposed as follows: 660

(1) For a misdemeanor of the first degree, not more than one 661
thousand dollars; 662

(2) For a misdemeanor of the second degree, not more than 663
seven hundred fifty dollars; 664

(3) For a misdemeanor of the third degree, not more than five 665
hundred dollars; 666

(4) For a misdemeanor of the fourth degree, not more than two 667
hundred fifty dollars. 668

(D) Whoever is convicted of or pleads guilty to a minor 669

misdemeanor shall be fined not more than one hundred dollars. 670

(E) The court may require a person who is convicted of or 671
pleads guilty to a misdemeanor to make restitution for all or part 672
of the property damage that is caused by the offense and for all 673
or part of the value of the property that is the subject of any 674
theft offense, as defined in division (K) of section 2913.01 of 675
the Revised Code, that the person committed. If the court 676
determines that the victim of the offense was sixty-five years of 677
age or older or permanently or totally disabled at the time of the 678
commission of the offense, the court, regardless of whether the 679
offender knew the age of victim, shall consider this fact in favor 680
of imposing restitution, but this fact shall not control the 681
decision of the court. 682

(F)(1) If a person is sentenced to a term of imprisonment 683
pursuant to this section and the term of imprisonment is to be 684
served in a county jail in a county that has established a county 685
jail industry program pursuant to section 5147.30 of the Revised 686
Code, the court shall specify, as part of the sentence, whether 687
the person may be considered by the county sheriff of that county 688
for participation in the county jail industry program. The court 689
shall retain jurisdiction to modify its specification made 690
pursuant to this division during the person's term of imprisonment 691
upon a reassessment of the person's qualifications for 692
participation in the program. 693

(2) If a person is sentenced to a term of imprisonment 694
pursuant to this section that is to be served in a local detention 695
facility, as defined in section 2929.35 of the Revised Code, the 696
court may impose as part of the sentence pursuant to section 697
2929.36 of the Revised Code a reimbursement sanction, and, if the 698
local detention facility is covered by a policy adopted pursuant 699
to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 700
753.16, 2301.56, or 2947.19 of the Revised Code and section 701

2929.37 of the Revised Code, both of the following apply: 702

(a) The court shall specify both of the following as part of 703
the sentence: 704

(i) If the person is presented with an itemized bill pursuant 705
to section 2929.37 of the Revised Code for payment of the costs of 706
confinement, the person is required to pay the bill in accordance 707
with that section. 708

(ii) If the person does not dispute the bill described in 709
division (F)(2)(a)(i) of this section and does not pay the bill by 710
the times specified in section 2929.37 of the Revised Code, the 711
clerk of the court may issue a certificate of judgment against the 712
person as described in that section. 713

(b) The sentence automatically includes any certificate of 714
judgment issued as described in division (F)(2)(a)(ii) of this 715
section. 716

(G) If an offender is being sentenced for a sexually oriented 717
offense that is a misdemeanor committed on or after January 1, 718
1997, and if the judge imposing sentence for the sexually oriented 719
offense determines pursuant to division (B) of section 2950.09 of 720
the Revised Code that the offender is a sexual predator, the judge 721
shall include in the offender's sentence a statement that the 722
offender has been adjudicated as being a sexual predator, shall 723
comply with the requirements of section 2950.03 of the Revised 724
Code, and shall require the offender to submit to a DNA specimen 725
collection procedure pursuant to section 2901.07 of the Revised 726
Code. 727

(H) Before imposing sentence on an offender who is being 728
sentenced for a sexually oriented offense that is a misdemeanor 729
committed on or after January 1, 1997, the judge shall conduct a 730
hearing in accordance with division (B) of section 2950.09 of the 731
Revised Code to determine whether the offender is a sexual 732

predator. Before imposing sentence on an offender who is being 733
sentenced for a sexually oriented offense, the court also shall 734
comply with division (E) of section 2950.09 of the Revised Code. 735

(I) If an offender is being sentenced for a sexually oriented 736
offense that is a misdemeanor committed on or after January 1, 737
1997, the judge shall include in the sentence a summary of the 738
offender's duty to register pursuant to section 2950.04 of the 739
Revised Code, the offender's duty to provide notice of a change in 740
residence address and register the new residence address pursuant 741
to section 2950.05 of the Revised Code, the offender's duty to 742
periodically verify the offender's current residence address 743
pursuant to section 2950.06 of the Revised Code, and the duration 744
of the duties. The judge shall inform the offender, at the time of 745
sentencing, of those duties and of their duration and, if required 746
under division (A)(2) of section 2950.03 of the Revised Code, 747
shall perform the duties specified in that section. 748

(J) If an offender is convicted of or pleads guilty to a 749
violation of division (B) of section 4511.19 of the Revised Code 750
and also is convicted of or pleads guilty to a specification of 751
the type described in section 2941.1414 of the Revised Code, and 752
if the court imposes a term of imprisonment for the underlying 753
offense, the court shall impose upon the offender an additional 754
definite term of imprisonment of not more than six months. The 755
additional term of imprisonment shall not be reduced pursuant to 756
any provision of the Revised Code. The offender shall serve the 757
additional term of imprisonment consecutively to and prior to the 758
term of imprisonment imposed for the underlying offense and 759
consecutively to any other mandatory term imposed in relation to 760
the offense. 761

Sec. 2941.1413. (A) Imposition of a mandatory additional 762
prison term of one, two, three, four, or five years upon an 763

offender under division (G)(2) of section 2929.13 of the Revised Code is precluded unless the indictment, count in the indictment, or information charging a felony violation of division (A) of section 4511.19 of the Revised Code specifies that the offender previously has been convicted of or pleaded guilty to five or more violations identified in division (A)(2) of section 4511.99 of the Revised Code or, on and after January 1, 2004, to five or more equivalent offenses. The specification shall be stated at the end of the body of the indictment, count, or information and shall be stated in substantially the following form:

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"SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The Grand Jurors (or insert the person's or the prosecuting attorney's name when appropriate) further find and specify that (set forth that the offender, at the time the offender committed the offense, previously had been convicted of or pleaded guilty to five or more violations identified in division (A)(2) of section 4511.99 of the Revised Code or, on and after January 1, 2004, to five or more equivalent offenses)."

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(B) On and after January 1, 2004, "equivalent offense" has the same meaning as in section 4511.181 of the Revised Code.

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Sec. 2941.1414. (A) Imposition of a mandatory, additional, definite term of imprisonment of up to six months upon an offender under division (J) of section 2929.21 of the Revised Code is precluded unless the information charging a violation of division (B) of section 4511.19 of the Revised Code specifies that the offender previously has been convicted of or pleaded guilty to five or more violations identified in division (N)(1)(b) of section 4511.99 of the Revised Code or, on and after January 1, 2004, to five or more equivalent offenses. The specification shall be stated at the end of the body of the information and shall be

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stated in substantially the following form:

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"SPECIFICATION. (Insert the person's or the prosecuting attorney's name as appropriate) further finds and specifies that (set forth that the offender, at the time the offender committed the offense, previously had been convicted of or pleaded guilty to five or more violations identified in division (N)(1)(b) of section 4511.99 of the Revised Code or, on and after January 1, 2004, to five or more equivalent offenses)."

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(B) On and after January 1, 2004, "equivalent offense" has the same meaning as in section 4511.181 of the Revised Code.

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Sec. 4511.99. (A) Whoever violates division (A)(1), (2), (3), or (4) of section 4511.19 of the Revised Code, in addition to the license suspension or revocation provided in section 4507.16 of the Revised Code and any disqualification imposed under section 4506.16 of the Revised Code, shall be punished as provided in division (A)(1), (2), (3), or (4) of this section. Whoever violates division (A)(5), (6), or (7) of section 4511.19 of the Revised Code, in addition to the license suspension or revocation provided in section 4507.16 of the Revised Code and any disqualification imposed under section 4506.16 of the Revised Code, shall be punished as provided in division (A)(5), (6), (7), or (8) of this section.

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(1) Except as otherwise provided in division (A)(2), (3), or (4) of this section, the offender is guilty of a misdemeanor of the first degree and the court shall sentence the offender to a term of imprisonment of three consecutive days and may sentence the offender pursuant to section 2929.21 of the Revised Code to a longer term of imprisonment. In addition, the court shall impose upon the offender a fine of not less than two hundred fifty and not more than one thousand dollars.

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The court may suspend the execution of the mandatory three 824
consecutive days of imprisonment that it is required to impose by 825
this division, if the court, in lieu of the suspended term of 826
imprisonment, places the offender on probation and requires the 827
offender to attend, for three consecutive days, a drivers' 828
intervention program that is certified pursuant to section 3793.10 829
of the Revised Code. The court also may suspend the execution of 830
any part of the mandatory three consecutive days of imprisonment 831
that it is required to impose by this division, if the court 832
places the offender on probation for part of the three consecutive 833
days; requires the offender to attend, for that part of the three 834
consecutive days, a drivers' intervention program that is 835
certified pursuant to section 3793.10 of the Revised Code; and 836
sentences the offender to a term of imprisonment equal to the 837
remainder of the three consecutive days that the offender does not 838
spend attending the drivers' intervention program. The court may 839
require the offender, as a condition of probation, to attend and 840
satisfactorily complete any treatment or education programs that 841
comply with the minimum standards adopted pursuant to Chapter 842
3793. of the Revised Code by the director of alcohol and drug 843
addiction services, in addition to the required attendance at a 844
drivers' intervention program, that the operators of the drivers' 845
intervention program determine that the offender should attend and 846
to report periodically to the court on the offender's progress in 847
the programs. The court also may impose any other conditions of 848
probation on the offender that it considers necessary. 849

Of the fine imposed pursuant to this division, twenty-five 850
dollars shall be paid to an enforcement and education fund 851
established by the legislative authority of the law enforcement 852
agency in this state that primarily was responsible for the arrest 853
of the offender, as determined by the court that imposes the fine. 854
This share shall be used by the agency to pay only those costs it 855

incurs in enforcing section 4511.19 of the Revised Code or a 856
substantially similar municipal ordinance and in informing the 857
public of the laws governing the operation of a motor vehicle 858
while under the influence of alcohol, the dangers of operating a 859
motor vehicle while under the influence of alcohol, and other 860
information relating to the operation of a motor vehicle and the 861
consumption of alcoholic beverages. Fifty dollars of the fine 862
imposed pursuant to this division shall be paid to the political 863
subdivision that pays the cost of housing the offender during the 864
offender's term of incarceration to the credit of the fund that 865
pays the cost of the incarceration. If the offender was confined 866
as a result of the offense prior to being sentenced for the 867
offense but is not sentenced to a term of incarceration, the fifty 868
dollars shall be paid to the political subdivision that paid the 869
cost of housing the offender during that period of confinement. 870
The political subdivision shall use this share to pay or reimburse 871
incarceration or treatment costs it incurs in housing or providing 872
drug and alcohol treatment to persons who violate section 4511.19 873
of the Revised Code or a substantially similar municipal ordinance 874
and to pay for ignition interlock devices and electronic house 875
arrest equipment for persons who violate that section. Twenty-five 876
dollars of the fine imposed pursuant to this division shall be 877
deposited into the county indigent drivers alcohol treatment fund 878
or municipal indigent drivers alcohol treatment fund under the 879
control of that court, as created by the county or municipal 880
corporation pursuant to division (N) of section 4511.191 of the 881
Revised Code. The balance of the fine shall be disbursed as 882
otherwise provided by law. 883

(2)(a) Except as otherwise provided in division (A)(4) of 884
this section, the offender is guilty of a misdemeanor of the first 885
degree, and, except as provided in this division, the court shall 886
sentence the offender to a term of imprisonment of ten consecutive 887
days and may sentence the offender pursuant to section 2929.21 of 888

the Revised Code to a longer term of imprisonment if, within six 889
years of the offense, the offender has been convicted of or 890
pleaded guilty to one violation of the following: 891

(i) Division (A) or (B) of section 4511.19 of the Revised 892
Code; 893

(ii) A municipal ordinance relating to operating a vehicle 894
while under the influence of alcohol, a drug of abuse, or alcohol 895
and a drug of abuse; 896

(iii) A municipal ordinance relating to operating a vehicle 897
with a prohibited concentration of alcohol in the blood, breath, 898
or urine; 899

(iv) Section 2903.04 of the Revised Code in a case in which 900
the offender was subject to the sanctions described in division 901
(D) of that section; 902

(v) Division (A)(1) of section 2903.06 or division (A)(1) of 903
section 2903.08 of the Revised Code or a municipal ordinance that 904
is substantially similar to either of those divisions; 905

(vi) Division (A)(2), (3), or (4) of section 2903.06, 906
division (A)(2) of section 2903.08, or former section 2903.07 of 907
the Revised Code, or a municipal ordinance that is substantially 908
similar to any of those divisions or that former section, in a 909
case in which the jury or judge found that the offender was under 910
the influence of alcohol, a drug of abuse, or alcohol and a drug 911
of abuse; 912

(vii) A statute of the United States or of any other state or 913
a municipal ordinance of a municipal corporation located in any 914
other state that is substantially similar to division (A) or (B) 915
of section 4511.19 of the Revised Code. 916

As an alternative to the term of imprisonment required to be 917
imposed by this division, but subject to division (A)(12) of this 918

section, the court may impose upon the offender a sentence 919
consisting of both a term of imprisonment of five consecutive days 920
and not less than eighteen consecutive days of electronically 921
monitored house arrest as defined in division (A) of section 922
2929.23 of the Revised Code. The five consecutive days of 923
imprisonment and the period of electronically monitored house 924
arrest shall not exceed six months. The five consecutive days of 925
imprisonment do not have to be served prior to or consecutively 926
with the period of electronically monitored house arrest. 927

In addition, the court shall impose upon the offender a fine 928
of not less than three hundred fifty and not more than one 929
thousand five hundred dollars. 930

In addition to any other sentence that it imposes upon the 931
offender, the court may require the offender to attend a drivers' 932
intervention program that is certified pursuant to section 3793.10 933
of the Revised Code. If the officials of the drivers' intervention 934
program determine that the offender is alcohol dependent, they 935
shall notify the court, and the court shall order the offender to 936
obtain treatment through an alcohol and drug addiction program 937
authorized by section 3793.02 of the Revised Code. The cost of the 938
treatment shall be paid by the offender. 939

Of the fine imposed pursuant to this division, thirty-five 940
dollars shall be paid to an enforcement and education fund 941
established by the legislative authority of the law enforcement 942
agency in this state that primarily was responsible for the arrest 943
of the offender, as determined by the court that imposes the fine. 944
This share shall be used by the agency to pay only those costs it 945
incurs in enforcing section 4511.19 of the Revised Code or a 946
substantially similar municipal ordinance and in informing the 947
public of the laws governing the operation of a motor vehicle 948
while under the influence of alcohol, the dangers of operating a 949
motor vehicle while under the influence of alcohol, and other 950

information relating to the operation of a motor vehicle and the 951
consumption of alcoholic beverages. One hundred fifteen dollars of 952
the fine imposed pursuant to this division shall be paid to the 953
political subdivision that pays the cost of housing the offender 954
during the offender's term of incarceration. This share shall be 955
used by the political subdivision to pay or reimburse 956
incarceration or treatment costs it incurs in housing or providing 957
drug and alcohol treatment to persons who violate section 4511.19 958
of the Revised Code or a substantially similar municipal ordinance 959
and to pay for ignition interlock devices and electronic house 960
arrest equipment for persons who violate that section, and shall 961
be paid to the credit of the fund that pays the cost of the 962
incarceration. Fifty dollars of the fine imposed pursuant to this 963
division shall be deposited into the county indigent drivers 964
alcohol treatment fund or municipal indigent drivers alcohol 965
treatment fund under the control of that court, as created by the 966
county or municipal corporation pursuant to division (N) of 967
section 4511.191 of the Revised Code. The balance of the fine 968
shall be disbursed as otherwise provided by law. 969

(b) Regardless of whether the vehicle the offender was 970
operating at the time of the offense is registered in the 971
offender's name or in the name of another person, the court, in 972
addition to the penalties imposed under division (A)(2)(a) of this 973
section and all other penalties provided by law and subject to 974
section 4503.235 of the Revised Code, shall order the 975
immobilization for ninety days of the vehicle the offender was 976
operating at the time of the offense and the impoundment for 977
ninety days of the identification license plates of that vehicle. 978
The order for the immobilization and impoundment shall be issued 979
and enforced in accordance with section 4503.233 of the Revised 980
Code. 981

(3)(a) Except as otherwise provided in division (A)(4) of 982

this section and except as provided in this division, if, within 983
six years of the offense, the offender has been convicted of or 984
pleaded guilty to two violations identified in division (A)(2) of 985
this section, the court shall sentence the offender to a term of 986
imprisonment of thirty consecutive days and may sentence the 987
offender to a longer definite term of imprisonment of not more 988
than one year. As an alternative to the term of imprisonment 989
required to be imposed by this division, but subject to division 990
(A)(12) of this section, the court may impose upon the offender a 991
sentence consisting of both a term of imprisonment of fifteen 992
consecutive days and not less than fifty-five consecutive days of 993
electronically monitored house arrest as defined in division (A) 994
of section 2929.23 of the Revised Code. The fifteen consecutive 995
days of imprisonment and the period of electronically monitored 996
house arrest shall not exceed one year. The fifteen consecutive 997
days of imprisonment do not have to be served prior to or 998
consecutively with the period of electronically monitored house 999
arrest. 1000

In addition, the court shall impose upon the offender a fine 1001
of not less than five hundred fifty and not more than two thousand 1002
five hundred dollars. 1003

In addition to any other sentence that it imposes upon the 1004
offender, the court shall require the offender to attend an 1005
alcohol and drug addiction program authorized by section 3793.02 1006
of the Revised Code. The cost of the treatment shall be paid by 1007
the offender. If the court determines that the offender is unable 1008
to pay the cost of attendance at the treatment program, the court 1009
may order that payment of the cost of the offender's attendance at 1010
the treatment program be made from that court's indigent drivers 1011
alcohol treatment fund. 1012

Of the fine imposed pursuant to this division, one hundred 1013
twenty-three dollars shall be paid to an enforcement and education 1014

fund established by the legislative authority of the law 1015
enforcement agency in this state that primarily was responsible 1016
for the arrest of the offender, as determined by the court that 1017
imposes the fine. This share shall be used by the agency to pay 1018
only those costs it incurs in enforcing section 4511.19 of the 1019
Revised Code or a substantially similar municipal ordinance and in 1020
informing the public of the laws governing the operation of a 1021
motor vehicle while under the influence of alcohol, the dangers of 1022
operating a motor vehicle while under the influence of alcohol, 1023
and other information relating to the operation of a motor vehicle 1024
and the consumption of alcoholic beverages. Two hundred 1025
seventy-seven dollars of the fine imposed pursuant to this 1026
division shall be paid to the political subdivision that pays the 1027
cost of housing the offender during the offender's term of 1028
incarceration. This share shall be used by the political 1029
subdivision to pay or reimburse incarceration or treatment costs 1030
it incurs in housing or providing drug and alcohol treatment to 1031
persons who violate section 4511.19 of the Revised Code or a 1032
substantially similar municipal ordinance and to pay for ignition 1033
interlock devices and electronic house arrest equipment for 1034
persons who violate that section and shall be paid to the credit 1035
of the fund that pays the cost of incarceration. The balance of 1036
the fine shall be disbursed as otherwise provided by law. 1037

(b) Regardless of whether the vehicle the offender was 1038
operating at the time of the offense is registered in the 1039
offender's name or in the name of another person, the court, in 1040
addition to the penalties imposed under division (A)(3)(a) of this 1041
section and all other penalties provided by law and subject to 1042
section 4503.235 of the Revised Code, shall order the criminal 1043
forfeiture to the state of the vehicle the offender was operating 1044
at the time of the offense. The order of criminal forfeiture shall 1045
be issued and enforced in accordance with section 4503.234 of the 1046
Revised Code. 1047

(4)(a)(i) If, within six years of the offense, the offender 1048
has been convicted of or pleaded guilty to three or ~~more~~ four 1049
violations identified in division (A)(2) of this section or if, 1050
regardless of when any of the prior convictions or guilty pleas 1051
occurred, the offender previously has been convicted of or pleaded 1052
guilty to five or more violations of that nature, and if sentence 1053
is not required to be imposed under division (A)(4)(a)(ii) of this 1054
section, the offender is guilty of a felony of the fourth degree 1055
and, notwithstanding division (A)(4) of section 2929.14 of the 1056
Revised Code, may be sentenced to a definite prison term that 1057
shall be not less than six months and not more than thirty months. 1058
The court shall sentence the offender in accordance with sections 1059
2929.11 to 2929.19 of the Revised Code and, shall impose as part 1060
of the sentence a mandatory prison term of one, two, three, four, 1061
or five years as required by and in accordance with division 1062
(G)(2) of section 2929.13 of the Revised Code if the offender also 1063
pleads guilty to or also is convicted of a specification of the 1064
type described in section 2941.1413 of the Revised Code, and shall 1065
impose as part of the sentence either a mandatory term of local 1066
incarceration of sixty consecutive days of imprisonment in 1067
accordance with division (G)(1) of section 2929.13 of the Revised 1068
Code or a mandatory prison term of sixty consecutive days of 1069
imprisonment in accordance with division (G)(2) of that section if 1070
the offender does not plead guilty to and is not convicted of a 1071
specification of that type. If the court requires the offender to 1072
serve a mandatory term of local incarceration of sixty consecutive 1073
days of imprisonment in accordance with division (G)(1) of section 1074
2929.13 of the Revised Code, the court, pursuant to section 1075
2929.17 of the Revised Code, may impose upon the offender a 1076
sentence that includes a term of electronically monitored house 1077
arrest, provided that the term of electronically monitored house 1078
arrest shall not commence until after the offender has served the 1079
mandatory term of local incarceration. 1080

(ii) If the offender previously has been convicted of or 1081
pleaded guilty to a violation of division (A) of section 4511.19 1082
of the Revised Code under circumstances in which the violation was 1083
a felony, regardless of when the prior violation and the prior 1084
conviction or guilty plea occurred, the offender is guilty of a 1085
felony of the third degree. The court shall sentence the offender 1086
in accordance with sections 2929.11 to 2929.19 of the Revised Code 1087
and, shall impose as part of the sentence a mandatory prison term 1088
of one, two, three, four, or five years as required by and in 1089
accordance with division (G)(2) of section 2929.13 of the Revised 1090
Code if the offender also pleads guilty to or also is convicted of 1091
a specification of the type described in section 2941.1413 of the 1092
Revised Code, and shall impose as part of the sentence a mandatory 1093
prison term of sixty consecutive days of imprisonment in 1094
accordance with division (G)(2) of section 2929.13 of the Revised 1095
Code if the offender does not plead guilty to and is not convicted 1096
of a specification of that type. 1097

(iii) In addition to all other sanctions imposed on an 1098
offender under division (A)(4)(a)(i) or (ii) of this section, the 1099
court shall impose upon the offender, pursuant to section 2929.18 1100
of the Revised Code, a fine of not less than eight hundred nor 1101
more than ten thousand dollars. 1102

In addition to any other sanction that it imposes upon the 1103
offender under division (A)(4)(a)(i) or (ii) of this section, the 1104
court shall require the offender to attend an alcohol and drug 1105
addiction program authorized by section 3793.02 of the Revised 1106
Code. The cost of the treatment shall be paid by the offender. If 1107
the court determines that the offender is unable to pay the cost 1108
of attendance at the treatment program, the court may order that 1109
payment of the cost of the offender's attendance at the treatment 1110
program be made from the court's indigent drivers alcohol 1111
treatment fund. 1112

Of the fine imposed pursuant to this division, two hundred 1113
ten dollars shall be paid to an enforcement and education fund 1114
established by the legislative authority of the law enforcement 1115
agency in this state that primarily was responsible for the arrest 1116
of the offender, as determined by the court that imposes the fine. 1117
This share shall be used by the agency to pay only those costs it 1118
incurs in enforcing section 4511.19 of the Revised Code or a 1119
substantially similar municipal ordinance and in informing the 1120
public of the laws governing operation of a motor vehicle while 1121
under the influence of alcohol, the dangers of operation of a 1122
motor vehicle while under the influence of alcohol, and other 1123
information relating to the operation of a motor vehicle and the 1124
consumption of alcoholic beverages. Four hundred forty dollars of 1125
the fine imposed pursuant to this division shall be paid to the 1126
political subdivision that pays the cost of housing the offender 1127
during the offender's term of incarceration. This share shall be 1128
used by the political subdivision to pay or reimburse 1129
incarceration or treatment costs it incurs in housing or providing 1130
drug and alcohol treatment to persons who violate section 4511.19 1131
of the Revised Code or a substantially similar municipal ordinance 1132
and to pay for ignition interlock devices and electronic house 1133
arrest equipment for persons who violate that section, and shall 1134
be paid to the credit of the fund that pays the cost of 1135
incarceration. The balance of the fine shall be disbursed as 1136
otherwise provided by law. 1137

(b) Regardless of whether the vehicle the offender was 1138
operating at the time of the offense is registered in the 1139
offender's name or in the name of another person, the court, in 1140
addition to the sanctions imposed under division (A)(4)(a) of this 1141
section and all other sanctions provided by law and subject to 1142
section 4503.235 of the Revised Code, shall order the criminal 1143
forfeiture to the state of the vehicle the offender was operating 1144

at the time of the offense. The order of criminal forfeiture shall 1145
be issued and enforced in accordance with section 4503.234 of the 1146
Revised Code. 1147

(c) As used in division (A)(4)(a) of this section, "mandatory 1148
prison term" and "mandatory term of local incarceration" have the 1149
same meanings as in section 2929.01 of the Revised Code. 1150

If title to a motor vehicle that is subject to an order for 1151
criminal forfeiture under this section is assigned or transferred 1152
and division (C)(2) or (3) of section 4503.234 of the Revised Code 1153
applies, in addition to or independent of any other penalty 1154
established by law, the court may fine the offender the value of 1155
the vehicle as determined by publications of the national auto 1156
dealer's association. The proceeds from any fine imposed under 1157
this division shall be distributed in accordance with division 1158
(D)(4) of section 4503.234 of the Revised Code. 1159

(5)(a) Except as otherwise provided in division (A)(6), (7), 1160
or (8) of this section, the offender is guilty of a misdemeanor of 1161
the first degree, and the court shall sentence the offender to one 1162
of the following: 1163

(i) A term of imprisonment of at least three consecutive days 1164
and a requirement that the offender attend, for three consecutive 1165
days, a drivers' intervention program that is certified pursuant 1166
to section 3793.10 of the Revised Code; 1167

(ii) If the court determines that the offender is not 1168
conducive to treatment in the program, if the offender refuses to 1169
attend the program, or if the place of imprisonment can provide a 1170
drivers' intervention program, a term of imprisonment of at least 1171
six consecutive days. 1172

(b) In addition, the court shall impose upon the offender a 1173
fine of not less than two hundred fifty and not more than one 1174
thousand dollars. 1175

The court may require the offender, as a condition of 1176
probation, to attend and satisfactorily complete any treatment or 1177
education programs that comply with the minimum standards adopted 1178
pursuant to Chapter 3793. of the Revised Code by the director of 1179
alcohol and drug addiction services, in addition to the required 1180
attendance at a drivers' intervention program, that the operators 1181
of the drivers' intervention program determine that the offender 1182
should attend and to report periodically to the court on the 1183
offender's progress in the programs. The court also may impose any 1184
other conditions of probation on the offender that it considers 1185
necessary. 1186

Of the fine imposed pursuant to this division, twenty-five 1187
dollars shall be paid to an enforcement and education fund 1188
established by the legislative authority of the law enforcement 1189
agency in this state that primarily was responsible for the arrest 1190
of the offender, as determined by the court that imposes the fine. 1191
The agency shall use this share to pay only those costs it incurs 1192
in enforcing section 4511.19 of the Revised Code or a 1193
substantially similar municipal ordinance and in informing the 1194
public of the laws governing the operation of a motor vehicle 1195
while under the influence of alcohol, the dangers of operating a 1196
motor vehicle while under the influence of alcohol, and other 1197
information relating to the operation of a motor vehicle and the 1198
consumption of alcoholic beverages. Fifty dollars of the fine 1199
imposed pursuant to this division shall be paid to the political 1200
subdivision that pays the cost of housing the offender during the 1201
offender's term of incarceration to the credit of the fund that 1202
pays the cost of the incarceration. The political subdivision 1203
shall use this share to pay or reimburse incarceration or 1204
treatment costs it incurs in housing or providing drug and alcohol 1205
treatment to persons who violate section 4511.19 of the Revised 1206
Code or a substantially similar municipal ordinance and to pay for 1207

ignition interlock devices and electronic house arrest equipment 1208
for persons who violate that section. Twenty-five dollars of the 1209
fine imposed pursuant to this division shall be deposited into the 1210
county indigent drivers alcohol treatment fund or municipal 1211
indigent drivers alcohol treatment fund under the control of that 1212
court, as created by the county or municipal corporation pursuant 1213
to division (N) of section 4511.191 of the Revised Code. The 1214
balance of the fine shall be disbursed as otherwise provided by 1215
law. 1216

(6)(a) Except as otherwise provided in division (A)(8) of 1217
this section and except as provided in this division, if, within 1218
six years of the offense, the offender has been convicted of or 1219
pleaded guilty to one violation of division (A) or (B) of section 1220
4511.19 of the Revised Code, a municipal ordinance relating to 1221
operating a vehicle while under the influence of alcohol, a drug 1222
of abuse, or alcohol and a drug of abuse, a municipal ordinance 1223
relating to operating a vehicle with a prohibited concentration of 1224
alcohol in the blood, breath, or urine, section 2903.04 of the 1225
Revised Code in a case in which the offender was subject to the 1226
sanctions described in division (D) of that section, section 1227
2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal 1228
ordinance that is substantially similar to section 2903.07 of the 1229
Revised Code in a case in which the jury or judge found that the 1230
offender was under the influence of alcohol, a drug of abuse, or 1231
alcohol and a drug of abuse, or a statute of the United States or 1232
of any other state or a municipal ordinance of a municipal 1233
corporation located in any other state that is substantially 1234
similar to division (A) or (B) of section 4511.19 of the Revised 1235
Code, the offender is guilty of a misdemeanor of the first degree, 1236
and the court shall sentence the offender to a term of 1237
imprisonment of twenty consecutive days and may sentence the 1238
offender pursuant to section 2929.21 of the Revised Code to a 1239
longer term of imprisonment. As an alternative to the term of 1240

imprisonment required to be imposed by this division, but subject 1241
to division (A)(12) of this section, the court may impose upon the 1242
offender a sentence consisting of both a term of imprisonment of 1243
ten consecutive days and not less than thirty-six consecutive days 1244
of electronically monitored house arrest as defined in division 1245
(A) of section 2929.23 of the Revised Code. The ten consecutive 1246
days of imprisonment and the period of electronically monitored 1247
house arrest shall not exceed six months. The ten consecutive days 1248
of imprisonment do not have to be served prior to or consecutively 1249
with the period of electronically monitored house arrest. 1250

In addition, the court shall impose upon the offender a fine 1251
of not less than three hundred fifty and not more than one 1252
thousand five hundred dollars. 1253

In addition to any other sentence that it imposes upon the 1254
offender, the court may require the offender to attend a drivers' 1255
intervention program that is certified pursuant to section 3793.10 1256
of the Revised Code. If the officials of the drivers' intervention 1257
program determine that the offender is alcohol dependent, they 1258
shall notify the court, and the court shall order the offender to 1259
obtain treatment through an alcohol and drug addiction program 1260
authorized by section 3793.02 of the Revised Code. The offender 1261
shall pay the cost of the treatment. 1262

Of the fine imposed pursuant to this division, thirty-five 1263
dollars shall be paid to an enforcement and education fund 1264
established by the legislative authority of the law enforcement 1265
agency in this state that primarily was responsible for the arrest 1266
of the offender, as determined by the court that imposes the fine. 1267
The agency shall use this share to pay only those costs it incurs 1268
in enforcing section 4511.19 of the Revised Code or a 1269
substantially similar municipal ordinance and in informing the 1270
public of the laws governing the operation of a motor vehicle 1271
while under the influence of alcohol, the dangers of operating a 1272

motor vehicle while under the influence of alcohol, and other 1273
information relating to the operation of a motor vehicle and the 1274
consumption of alcoholic beverages. One hundred fifteen dollars of 1275
the fine imposed pursuant to this division shall be paid to the 1276
political subdivision that pays the cost of housing the offender 1277
during the offender's term of incarceration. The political 1278
subdivision shall use this share to pay or reimburse incarceration 1279
or treatment costs it incurs in housing or providing drug and 1280
alcohol treatment to persons who violate section 4511.19 of the 1281
Revised Code or a substantially similar municipal ordinance and to 1282
pay for ignition interlock devices and electronic house arrest 1283
equipment for persons who violate that section, and this share 1284
shall be paid to the credit of the fund that pays the cost of the 1285
incarceration. Fifty dollars of the fine imposed pursuant to this 1286
division shall be deposited into the county indigent drivers 1287
alcohol treatment fund or municipal indigent drivers alcohol 1288
treatment fund under the control of that court, as created by the 1289
county or municipal corporation pursuant to division (N) of 1290
section 4511.191 of the Revised Code. The balance of the fine 1291
shall be disbursed as otherwise provided by law. 1292

(b) Regardless of whether the vehicle the offender was 1293
operating at the time of the offense is registered in the 1294
offender's name or in the name of another person, the court, in 1295
addition to the penalties imposed under division (A)(6)(a) of this 1296
section and all other penalties provided by law and subject to 1297
section 4503.235 of the Revised Code, shall order the 1298
immobilization for ninety days of the vehicle the offender was 1299
operating at the time of the offense and the impoundment for 1300
ninety days of the identification license plates of that vehicle. 1301
The order for the immobilization and impoundment shall be issued 1302
and enforced in accordance with section 4503.233 of the Revised 1303
Code. 1304

(7)(a) Except as otherwise provided in division (A)(8) of 1305
this section and except as provided in this division, if, within 1306
six years of the offense, the offender has been convicted of or 1307
pleaded guilty to two violations of division (A) or (B) of section 1308
4511.19 of the Revised Code, a municipal ordinance relating to 1309
operating a vehicle while under the influence of alcohol, a drug 1310
of abuse, or alcohol and a drug of abuse, a municipal ordinance 1311
relating to operating a vehicle with a prohibited concentration of 1312
alcohol in the blood, breath, or urine, section 2903.04 of the 1313
Revised Code in a case in which the offender was subject to the 1314
sanctions described in division (D) of that section, section 1315
2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal 1316
ordinance that is substantially similar to section 2903.07 of the 1317
Revised Code in a case in which the jury or judge found that the 1318
offender was under the influence of alcohol, a drug of abuse, or 1319
alcohol and a drug of abuse, or a statute of the United States or 1320
of any other state or a municipal ordinance of a municipal 1321
corporation located in any other state that is substantially 1322
similar to division (A) or (B) of section 4511.19 of the Revised 1323
Code, the court shall sentence the offender to a term of 1324
imprisonment of sixty consecutive days and may sentence the 1325
offender to a longer definite term of imprisonment of not more 1326
than one year. As an alternative to the term of imprisonment 1327
required to be imposed by this division, but subject to division 1328
(A)(12) of this section, the court may impose upon the offender a 1329
sentence consisting of both a term of imprisonment of thirty 1330
consecutive days and not less than one hundred ten consecutive 1331
days of electronically monitored house arrest as defined in 1332
division (A) of section 2929.23 of the Revised Code. The thirty 1333
consecutive days of imprisonment and the period of electronically 1334
monitored house arrest shall not exceed one year. The thirty 1335
consecutive days of imprisonment do not have to be served prior to 1336
or consecutively with the period of electronically monitored house 1337

arrest. 1338

In addition, the court shall impose upon the offender a fine 1339
of not less than five hundred fifty and not more than two thousand 1340
five hundred dollars. 1341

In addition to any other sentence that it imposes upon the 1342
offender, the court shall require the offender to attend an 1343
alcohol and drug addiction program authorized by section 3793.02 1344
of the Revised Code. The offender shall pay the cost of the 1345
treatment. If the court determines that the offender is unable to 1346
pay the cost of attendance at the treatment program, the court may 1347
order that payment of the cost of the offender's attendance at the 1348
treatment program be made from that court's indigent drivers 1349
alcohol treatment fund. 1350

Of the fine imposed pursuant to this division, one hundred 1351
twenty-three dollars shall be paid to an enforcement and education 1352
fund established by the legislative authority of the law 1353
enforcement agency in this state that primarily was responsible 1354
for the arrest of the offender, as determined by the court that 1355
imposes the fine. The agency shall use this share to pay only 1356
those costs it incurs in enforcing section 4511.19 of the Revised 1357
Code or a substantially similar municipal ordinance and in 1358
informing the public of the laws governing the operation of a 1359
motor vehicle while under the influence of alcohol, the dangers of 1360
operating a motor vehicle while under the influence of alcohol, 1361
and other information relating to the operation of a motor vehicle 1362
and the consumption of alcoholic beverages. Two hundred 1363
seventy-seven dollars of the fine imposed pursuant to this 1364
division shall be paid to the political subdivision that pays the 1365
cost of housing the offender during the offender's term of 1366
incarceration. The political subdivision shall use this share to 1367
pay or reimburse incarceration or treatment costs it incurs in 1368
housing or providing drug and alcohol treatment to persons who 1369

violate section 4511.19 of the Revised Code or a substantially 1370
similar municipal ordinance and to pay for ignition interlock 1371
devices and electronic house arrest equipment for persons who 1372
violate that section, and this share shall be paid to the credit 1373
of the fund that pays the cost of incarceration. The balance of 1374
the fine shall be disbursed as otherwise provided by law. 1375

(b) Regardless of whether the vehicle the offender was 1376
operating at the time of the offense is registered in the 1377
offender's name or in the name of another person, the court, in 1378
addition to the penalties imposed under division (A)(7)(a) of this 1379
section and all other penalties provided by law and subject to 1380
section 4503.235 of the Revised Code, shall order the 1381
immobilization for one hundred eighty days of the vehicle the 1382
offender was operating at the time of the offense and the 1383
impoundment for one hundred eighty days of the identification 1384
license plates of that vehicle. The order for the immobilization 1385
and impoundment shall be issued and enforced in accordance with 1386
section 4503.233 of the Revised Code. 1387

(8)(a)(i) If, within six years of the offense, the offender 1388
has been convicted of or pleaded guilty to three or ~~more~~ four 1389
violations of division (A) or (B) of section 4511.19 of the 1390
Revised Code, a municipal ordinance relating to operating a 1391
vehicle while under the influence of alcohol, a drug of abuse, or 1392
alcohol and a drug of abuse, a municipal ordinance relating to 1393
operating a vehicle with a prohibited concentration of alcohol in 1394
the blood, breath, or urine, section 2903.04 of the Revised Code 1395
in a case in which the offender was subject to the sanctions 1396
described in division (D) of that section, section 2903.06, 1397
2903.07, or 2903.08 of the Revised Code or a municipal ordinance 1398
that is substantially similar to section 2903.07 of the Revised 1399
Code in a case in which the jury or judge found that the offender 1400
was under the influence of alcohol, a drug of abuse, or alcohol 1401

and a drug of abuse, or a statute of the United States or of any 1402
other state or a municipal ordinance of a municipal corporation 1403
located in any other state that is substantially similar to 1404
division (A) or (B) of section 4511.19 of the Revised Code or if, 1405
regardless of when any of the prior convictions or guilty pleas 1406
occurred, the offender previously has been convicted of or pleaded 1407
guilty to five or more violations of that nature, and if sentence 1408
is not required to be imposed under division (A)(8)(a)(ii) of this 1409
section, the offender is guilty of a felony of the fourth degree 1410
and, notwithstanding division (A)(4) of section 2929.14 of the 1411
Revised Code, may be sentenced to a definite prison term that 1412
shall be not less than six months and not more than thirty months. 1413
The court shall sentence the offender in accordance with sections 1414
2929.11 to 2929.19 of the Revised Code and, shall impose as part 1415
of the sentence a mandatory prison term of one, two, three, four, 1416
or five years as required by and in accordance with division 1417
(G)(2) of section 2929.13 of the Revised Code if the offender also 1418
pleads guilty to or also is convicted of a specification of the 1419
type described in section 2941.1413 of the Revised Code, and shall 1420
impose as part of the sentence either a mandatory term of local 1421
incarceration of one hundred twenty consecutive days of 1422
imprisonment in accordance with division (G)(1) of section 2929.13 1423
of the Revised Code or a mandatory prison term of one hundred 1424
twenty consecutive days of imprisonment in accordance with 1425
division (G)(2) of that section if the offender does not plead 1426
guilty to and is not convicted of a specification of that type. If 1427
the court requires the offender to serve a mandatory term of local 1428
incarceration of one hundred twenty consecutive days of 1429
imprisonment in accordance with division (G)(1) of section 2929.13 1430
of the Revised Code, the court, pursuant to section 2929.17 of the 1431
Revised Code, may impose upon the offender a sentence that 1432
includes a term of electronically monitored house arrest, provided 1433
that the term of electronically monitored house arrest shall not 1434

commence until after the offender has served the mandatory term of 1435
local incarceration. 1436

(ii) If the offender previously has been convicted of or 1437
pleaded guilty to a violation of division (A) of section 4511.19 1438
of the Revised Code under circumstances in which the violation was 1439
a felony, regardless of when the prior violation and the prior 1440
conviction or guilty plea occurred, the offender is guilty of a 1441
felony of the third degree. The court shall sentence the offender 1442
in accordance with sections 2929.11 to 2929.19 of the Revised Code 1443
and, shall impose as part of the sentence a mandatory prison term 1444
of one, two, three, four, or five years as required by and in 1445
accordance with division (G)(2) of section 2929.13 of the Revised 1446
Code if the offender also pleads guilty to or also is convicted of 1447
a specification of the type described in section 2941.1413 of the 1448
Revised Code, and shall impose as part of the sentence a mandatory 1449
prison term of one hundred twenty consecutive days of imprisonment 1450
in accordance with division (G)(2) of section 2929.13 of the 1451
Revised Code if the offender does not plead guilty to and is not 1452
convicted of a specification of that type. 1453

(iii) In addition to all other sanctions imposed on an 1454
offender under division (A)(8)(a)(i) or (ii) of this section, the 1455
court shall impose upon the offender, pursuant to section 2929.18 1456
of the Revised Code, a fine of not less than eight hundred nor 1457
more than ten thousand dollars. 1458

In addition to any other sanction that it imposes upon the 1459
offender under division (A)(8)(a)(i) or (ii) of this section, the 1460
court shall require the offender to attend an alcohol and drug 1461
addiction program authorized by section 3793.02 of the Revised 1462
Code. The cost of the treatment shall be paid by the offender. If 1463
the court determines that the offender is unable to pay the cost 1464
of attendance at the treatment program, the court may order that 1465
payment of the cost of the offender's attendance at the treatment 1466

program be made from the court's indigent drivers alcohol 1467
treatment fund. 1468

Of the fine imposed pursuant to this division, two hundred 1469
ten dollars shall be paid to an enforcement and education fund 1470
established by the legislative authority of the law enforcement 1471
agency in this state that primarily was responsible for the arrest 1472
of the offender, as determined by the court that imposes the fine. 1473
The agency shall use this share to pay only those costs it incurs 1474
in enforcing section 4511.19 of the Revised Code or a 1475
substantially similar municipal ordinance and in informing the 1476
public of the laws governing operation of a motor vehicle while 1477
under the influence of alcohol, the dangers of operation of a 1478
motor vehicle while under the influence of alcohol, and other 1479
information relating to the operation of a motor vehicle and the 1480
consumption of alcoholic beverages. Four hundred forty dollars of 1481
the fine imposed pursuant to this division shall be paid to the 1482
political subdivision that pays the cost of housing the offender 1483
during the offender's term of incarceration. The political 1484
subdivision shall use this share to pay or reimburse incarceration 1485
or treatment costs it incurs in housing or providing drug and 1486
alcohol treatment to persons who violate section 4511.19 of the 1487
Revised Code or a substantially similar municipal ordinance and to 1488
pay for ignition interlock devices and electronic house arrest 1489
equipment for persons who violate that section, and this share 1490
shall be paid to the credit of the fund that pays the cost of 1491
incarceration. The balance of the fine shall be disbursed as 1492
otherwise provided by law. 1493

(b) Regardless of whether the vehicle the offender was 1494
operating at the time of the offense is registered in the 1495
offender's name or in the name of another person, the court, in 1496
addition to the sanctions imposed under division (A)(8)(a) of this 1497
section and all other sanctions provided by law and subject to 1498

section 4503.235 of the Revised Code, shall order the criminal 1499
forfeiture to the state of the vehicle the offender was operating 1500
at the time of the offense. The order of criminal forfeiture shall 1501
be issued and enforced in accordance with section 4503.234 of the 1502
Revised Code. 1503

(c) As used in division (A)(8)(a) of this section, "mandatory 1504
prison term" and "mandatory term of local incarceration" have the 1505
same meanings as in section 2929.01 of the Revised Code. 1506

(d) If title to a motor vehicle that is subject to an order 1507
for criminal forfeiture under this section is assigned or 1508
transferred and division (C)(2) or (3) of section 4503.234 of the 1509
Revised Code applies, in addition to or independent of any other 1510
penalty established by law, the court may fine the offender the 1511
value of the vehicle as determined by publications of the national 1512
auto dealer's association. The proceeds from any fine imposed 1513
under this division shall be distributed in accordance with 1514
division (D)(4) of section 4503.234 of the Revised Code. 1515

(9)(a) Except as provided in division (A)(9)(b) of this 1516
section, upon a showing that imprisonment would seriously affect 1517
the ability of an offender sentenced pursuant to division (A)(1), 1518
(2), (3), (4), (5), (6), (7), or (8) of this section to continue 1519
the offender's employment, the court may authorize that the 1520
offender be granted work release from imprisonment after the 1521
offender has served the three, six, ten, twenty, thirty, or sixty 1522
consecutive days of imprisonment or the mandatory term of local 1523
incarceration of sixty or one hundred twenty consecutive days that 1524
the court is required by division (A)(1), (2), (3), (4), (5), (6), 1525
(7), or (8) of this section to impose. No court shall authorize 1526
work release from imprisonment during the three, six, ten, twenty, 1527
thirty, or sixty consecutive days of imprisonment or the mandatory 1528
term of local incarceration or mandatory prison term of sixty or 1529
one hundred twenty consecutive days that the court is required by 1530

division (A)(1), (2), (3), (4), (5), (6), (7), or (8) of this 1531
section to impose. The duration of the work release shall not 1532
exceed the time necessary each day for the offender to commute to 1533
and from the place of employment and the place of imprisonment and 1534
the time actually spent under employment. 1535

(b) An offender who is sentenced pursuant to division (A)(2), 1536
(3), (6), or (7) of this section to a term of imprisonment 1537
followed by a period of electronically monitored house arrest is 1538
not eligible for work release from imprisonment, but that person 1539
shall be permitted work release during the period of 1540
electronically monitored house arrest. No court shall authorize 1541
work release from a mandatory prison term that the court is 1542
required to impose under division (G)(2) of section 2929.13 of the 1543
Revised Code. The duration of the work release shall not exceed 1544
the time necessary each day for the offender to commute to and 1545
from the place of employment and the offender's home or other 1546
place specified by the sentencing court and the time actually 1547
spent under employment. 1548

(10) Notwithstanding any section of the Revised Code that 1549
authorizes the suspension of the imposition or execution of a 1550
sentence, the placement of an offender in any treatment program in 1551
lieu of imprisonment, or the use of a community control sanction 1552
for an offender convicted of a felony, no court shall suspend the 1553
ten, twenty, thirty, or sixty consecutive days of imprisonment 1554
required to be imposed on an offender by division (A)(2), (3), 1555
(6), or (7) of this section, no court shall place an offender who 1556
is sentenced pursuant to division (A)(2), (3), (4), (6), (7), or 1557
(8) of this section in any treatment program in lieu of 1558
imprisonment until after the offender has served the ten, twenty, 1559
thirty, or sixty consecutive days of imprisonment or the mandatory 1560
term of local incarceration or mandatory prison term of sixty or 1561
one hundred twenty consecutive days required to be imposed 1562

pursuant to division (A)(2), (3), (4), (6), (7), or (8) of this 1563
section or a mandatory prison term of one, two, three, four, or 1564
five years that the court is required to impose under division 1565
(G)(2) of section 2929.13 of the Revised Code, no court that 1566
sentences an offender under division (A)(4) or (8) of this section 1567
shall impose any sanction other than a mandatory term of local 1568
incarceration or mandatory prison term to apply to the offender 1569
until after the offender has served the mandatory term of local 1570
incarceration or mandatory prison term ~~of sixty or one hundred~~ 1571
~~twenty consecutive days~~ required to be imposed pursuant to 1572
division (A)(4) or (8) of this section or division (G) of section 1573
2929.13 of the Revised Code, and no court that imposes a sentence 1574
of imprisonment and a period of electronically monitored house 1575
arrest upon an offender under division (A)(2), (3), (6), or (7) of 1576
this section shall suspend any portion of the sentence or place 1577
the offender in any treatment program in lieu of imprisonment or 1578
electronically monitored house arrest. Notwithstanding any section 1579
of the Revised Code that authorizes the suspension of the 1580
imposition or execution of a sentence or the placement of an 1581
offender in any treatment program in lieu of imprisonment, no 1582
court, except as specifically authorized by division (A)(1) or (5) 1583
of this section, shall suspend the three or more consecutive days 1584
of imprisonment required to be imposed by division (A)(1) or (5) 1585
of this section or place an offender who is sentenced pursuant to 1586
division (A)(1) or (5) of this section in any treatment program in 1587
lieu of imprisonment until after the offender has served the three 1588
or more consecutive days of imprisonment required to be imposed 1589
pursuant to division (A)(1) or (5) of this section. 1590

(11) No court shall sentence an offender to an alcohol 1591
treatment program pursuant to division (A)(1), (2), (3), (4), (5), 1592
(6), (7), or (8) of this section unless the treatment program 1593
complies with the minimum standards adopted pursuant to Chapter 1594
3793. of the Revised Code by the director of alcohol and drug 1595

addiction services. 1596

(12) No court shall impose the alternative sentence of a term 1597
of imprisonment plus a term of electronically monitored house 1598
arrest permitted to be imposed by division (A)(2), (3), (6), or 1599
(7) of this section, unless within sixty days of the date of 1600
sentencing, the court issues a written finding, entered into the 1601
record, that due to the unavailability of space at the 1602
incarceration facility where the offender is required to serve the 1603
term of imprisonment imposed upon the offender, the offender will 1604
not be able to commence serving the term of imprisonment within 1605
the sixty-day period following the date of sentencing. If the 1606
court issues such a written finding, the court may impose the 1607
alternative sentence comprised of a term of imprisonment and a 1608
term of electronically monitored house arrest permitted to be 1609
imposed by division (A)(2), (3), (6), or (7) of this section. 1610

(B) Whoever violates section 4511.192, 4511.251, or 4511.85 1611
of the Revised Code is guilty of a misdemeanor of the first 1612
degree. The court, in addition to or independent of all other 1613
penalties provided by law, may suspend for a period not to exceed 1614
one year the driver's or commercial driver's license or permit or 1615
nonresident operating privilege of any person who pleads guilty to 1616
or is convicted of a violation of section 4511.192 of the Revised 1617
Code. 1618

(C) Whoever violates section 4511.63, 4511.76, 4511.761, 1619
4511.762, 4511.764, 4511.77, or 4511.79 of the Revised Code is 1620
guilty of one of the following: 1621

(1) Except as otherwise provided in division (C)(2) of this 1622
section, a minor misdemeanor. 1623

(2) If the offender previously has been convicted of or 1624
pleaded guilty to one or more violations of section 4511.63, 1625
4511.76, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 of the 1626

Revised Code or a municipal ordinance that is substantially 1627
similar to any of those sections, a misdemeanor of the fourth 1628
degree. 1629

(D)(1) Whoever violates any provision of sections 4511.01 to 1630
4511.76 or section 4511.84 of the Revised Code, for which no 1631
penalty otherwise is provided in this section is guilty of one of 1632
the following: 1633

(a) Except as otherwise provided in division (D)(1)(b), 1634
(1)(c), (2), (3), or (4) of this section, a minor misdemeanor; 1635

(b) If, within one year of the offense, the offender 1636
previously has been convicted of or pleaded guilty to one 1637
violation of any provision of sections 4511.01 to 4511.76 or 1638
section 4511.84 of the Revised Code for which no penalty otherwise 1639
is provided in this section or a municipal ordinance that is 1640
substantially similar to any provision of sections 4511.01 to 1641
4511.76 or section 4511.84 of the Revised Code for which no 1642
penalty otherwise is provided in this section, a misdemeanor of 1643
the fourth degree; 1644

(c) If, within one year of the offense, the offender 1645
previously has been convicted of or pleaded guilty to two or more 1646
violations of any provision described in division (D)(1)(b) of 1647
this section or any municipal ordinance that is substantially 1648
similar to any of those provisions, a misdemeanor of the third 1649
degree. 1650

(2) When any person is found guilty of a first offense for a 1651
violation of section 4511.21 of the Revised Code upon a finding 1652
that the person operated a motor vehicle faster than thirty-five 1653
miles an hour in a business district of a municipal corporation, 1654
or faster than fifty miles an hour in other portions, or faster 1655
than thirty-five miles an hour while passing through a school zone 1656
during recess or while children are going to or leaving school 1657

during the opening or closing hours, the person is guilty of a 1658
misdemeanor of the fourth degree. 1659

(3) Notwithstanding section 2929.21 of the Revised Code, upon 1660
a finding that such person operated a motor vehicle in a 1661
construction zone where a sign was then posted in accordance with 1662
section 4511.98 of the Revised Code, the court, in addition to all 1663
other penalties provided by law, shall impose a fine of two times 1664
the usual amount imposed for the violation. No court shall impose 1665
a fine of two times the usual amount imposed for the violation 1666
upon an offender who alleges, in an affidavit filed with the court 1667
prior to the offender's sentencing, that the offender is indigent 1668
and is unable to pay the fine imposed pursuant to this division, 1669
provided the court determines the offender is an indigent person 1670
and is unable to pay the fine. 1671

(4) Notwithstanding section 2929.21 of the Revised Code, upon 1672
a finding that a person operated a motor vehicle in violation of 1673
division (C) of section 4511.213 of the Revised Code, the court, 1674
in addition to all other penalties provided by law, shall impose a 1675
fine of two times the usual amount imposed for the violation. 1676

(E) Whenever a person is found guilty in a court of record of 1677
a violation of section 4511.761, 4511.762, or 4511.77 of the 1678
Revised Code, the trial judge, in addition to or independent of 1679
all other penalties provided by law, may suspend for any period of 1680
time not exceeding three years, or revoke the license of any 1681
person, partnership, association, or corporation, issued under 1682
section 4511.763 of the Revised Code. 1683

(F) Whoever violates division (E) or (F) of section 4511.51, 1684
division (A), (D), or (E) of section 4511.521, section 4511.681, 1685
division (A) or (C) of section 4511.69, section 4511.772, or 1686
division (A) or (B) of section 4511.82 of the Revised Code is 1687
guilty of a minor misdemeanor. 1688

(G) Whoever violates division (A) of section 4511.75 of the Revised Code may be fined an amount not to exceed five hundred dollars. A person who is issued a citation for a violation of division (A) of section 4511.75 of the Revised Code is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial, but instead must appear in person in the proper court to answer the charge.

(H)(1) Whoever is a resident of this state and violates division (A) or (B) of section 4511.81 of the Revised Code shall be punished as follows:

(a) Except as otherwise provided in division (H)(1)(b) of this section, the offender is guilty of a minor misdemeanor.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (A) or (B) of section 4511.81 of the Revised Code or of a municipal ordinance that is substantially similar to either of those divisions, the offender is guilty of a misdemeanor of the fourth degree.

(2) Whoever is not a resident of this state, violates division (A) or (B) of section 4511.81 of the Revised Code, and fails to prove by a preponderance of the evidence that the offender's use or nonuse of a child restraint system was in accordance with the law of the state of which the offender is a resident is guilty of a minor misdemeanor on a first offense; on a second or subsequent offense, that person is guilty of a misdemeanor of the fourth degree.

(3) All fines imposed pursuant to division (H)(1) or (2) of this section shall be forwarded to the treasurer of state for deposit in the "child highway safety fund" created by division (G) of section 4511.81 of the Revised Code.

(I) Whoever violates section 4511.202 of the Revised Code is guilty of operating a motor vehicle without being in control of

it, a minor misdemeanor. 1720

(J) Whoever violates division (B) of section 4511.74, 1721
division (B)(1), (2), or (3), (C), or (E)(1), (2), or (3) of 1722
section 4511.83 of the Revised Code is guilty of a misdemeanor of 1723
the first degree. 1724

(K) Except as otherwise provided in this division, whoever 1725
violates division (E) of section 4511.11, division (A) or (C) of 1726
section 4511.17, or section 4511.18 of the Revised Code is guilty 1727
of a misdemeanor of the third degree. If a violation of division 1728
(A) or (C) of section 4511.17 of the Revised Code creates a risk 1729
of physical harm to any person, the offender is guilty of a 1730
misdemeanor of the first degree. A violation of division (A) or 1731
(C) of section 4511.17 of the Revised Code that causes serious 1732
physical harm to property that is owned, leased, or controlled by 1733
a state or local authority is a felony of the fifth degree. 1734

(L) Whoever violates division (H) of section 4511.69 of the 1735
Revised Code shall be punished as follows: 1736

(1) Except as otherwise provided in division (L)(2) of this 1737
section, the offender shall be issued a warning. 1738

(2) If the offender previously has been convicted of or 1739
pleaded guilty to a violation of division (H) of section 4511.69 1740
of the Revised Code or of a municipal ordinance that is 1741
substantially similar to that division, the offender shall not be 1742
issued a warning but shall be fined twenty-five dollars for each 1743
parking location that is not properly marked or whose markings are 1744
not properly maintained. 1745

(M) Whoever violates division (A)(1) or (2) of section 1746
4511.45 of the Revised Code is guilty of a misdemeanor of the 1747
fourth degree on a first offense; on a second offense within one 1748
year after the first offense, the person is guilty of a 1749
misdemeanor of the third degree; and on each subsequent offense 1750

within one year after the first offense, the person is guilty of a 1751
misdemeanor of the second degree. 1752

(N)(1) Whoever violates division (B) of section 4511.19 of 1753
the Revised Code is guilty of operating a motor vehicle after 1754
under-age alcohol consumption and shall be punished as follows: 1755

(a) Except as otherwise provided in division (N)(1)(b) of 1756
this section, the offender is guilty of a misdemeanor of the 1757
fourth degree. 1758

(b) The offender is guilty of a misdemeanor of the third 1759
degree if, within one year of the offense, the offender has been 1760
convicted of or pleaded guilty to any violation of the following: 1761

(i) Division (A) or (B) of section 4511.19 of the Revised 1762
Code; 1763

(ii) A municipal ordinance relating to operating a vehicle 1764
while under the influence of alcohol, a drug of abuse, or alcohol 1765
and a drug of abuse; 1766

(iii) A municipal ordinance relating to operating a vehicle 1767
with a prohibited concentration of alcohol in the blood, breath, 1768
or urine; 1769

(iv) Section 2903.04 of the Revised Code in a case in which 1770
the offender was subject to the sanctions described in division 1771
(D) of that section; 1772

(v) Division (A)(1) of section 2903.06 or division (A)(1) of 1773
section 2903.08 of the Revised Code or a municipal ordinance that 1774
is substantially similar to either of those divisions; 1775

(vi) Division (A)(2), (3), or (4) of section 2903.06 or 1776
division (A)(2) of section 2903.08 of the Revised Code or a 1777
municipal ordinance that is substantially similar to any of those 1778
divisions, or former section 2903.07 of the Revised Code or a 1779
substantially similar municipal ordinance, in a case in which the 1780

jury or judge found that the offender was under the influence of 1781
alcohol, a drug of abuse, or alcohol and a drug of abuse; 1782

(vii) A statute of the United States or of any other state or 1783
a municipal ordinance of a municipal corporation located in any 1784
other state that is substantially similar to division (A) or (B) 1785
of section 4511.19 of the Revised Code. 1786

(2) In addition to or independent of all other penalties 1787
provided by law, the offender's driver's or commercial driver's 1788
license or permit or nonresident operating privilege shall be 1789
suspended in accordance with, and for the period of time specified 1790
in, division (E) of section 4507.16 of the Revised Code. 1791

(O) Whoever violates section 4511.62 of the Revised Code is 1792
guilty of a misdemeanor of the fourth degree. 1793

(P) Whoever violates division (F)(1)(a) or (b) of section 1794
4511.69 of the Revised Code is guilty of a misdemeanor and shall 1795
be fined not less than two hundred fifty nor more than five 1796
hundred dollars, but in no case shall an offender be sentenced to 1797
any term of imprisonment. 1798

Arrest or conviction for a violation of division (F)(1)(a) or 1799
(b) of section 4511.69 of the Revised Code does not constitute a 1800
criminal record and need not be reported by the person so arrested 1801
or convicted in response to any inquiries contained in any 1802
application for employment, license, or other right or privilege, 1803
or made in connection with the person's appearance as a witness. 1804

Every fine collected under this division shall be paid by the 1805
clerk of the court to the political subdivision in which the 1806
violation occurred. Except as provided in this division, the 1807
political subdivision shall use the fine moneys it receives under 1808
this division to pay the expenses it incurs in complying with the 1809
signage and notice requirements contained in division (E) of 1810
section 4511.69 of the Revised Code. The political subdivision may 1811

use up to fifty per cent of each fine it receives under this 1812
division to pay the costs of educational, advocacy, support, and 1813
assistive technology programs for persons with disabilities, and 1814
for public improvements within the political subdivision that 1815
benefit or assist persons with disabilities, if governmental 1816
agencies or nonprofit organizations offer the programs. 1817

(Q)(1) Whoever violates division (B) or (C) of section 1818
4511.512 of the Revised Code is guilty of a minor misdemeanor and 1819
shall be punished as follows: 1820

(a) The offender shall be fined ten dollars. 1821

(b) If the offender previously has been convicted of or 1822
pleaded guilty to a violation of division (B) or (C) of section 1823
4511.512 of the Revised Code or a substantially similar municipal 1824
ordinance, the court, in addition to imposing the fine required 1825
under division (Q)(1)(a) of this section, shall do one of the 1826
following: 1827

(i) Order the impoundment for not less than one day but not 1828
more than thirty days of the electric personal assistive mobility 1829
device that was involved in the current violation of that 1830
division. The court shall order the device to be impounded at a 1831
safe indoor location designated by the court and may assess 1832
storage fees of not more than five dollars per day, provided the 1833
total storage, processing, and release fees assessed against the 1834
offender or the device in connection with the device's impoundment 1835
or subsequent release shall not exceed fifty dollars. 1836

(ii) If the court does not issue an impoundment order 1837
pursuant to division (Q)(1)(b)(i) of this section, issue an order 1838
prohibiting the offender from operating any electric personal 1839
assistive mobility device on the public streets, highways, 1840
sidewalks, and paths and portions of roadways set aside for the 1841
exclusive use of bicycles for not less than one day but not more 1842

than thirty days. 1843

(2) Whoever violates division (D) of section 4511.512 of the Revised Code is guilty of a minor misdemeanor. 1844
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Section 2. That existing sections 2929.01, 2929.13, 2929.21, and 4511.99 of the Revised Code are hereby repealed. 1846
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Section 3. That sections 2929.01, 2929.13, and 4511.19 of the Revised Code that are scheduled to take effect on January 1, 2004, be amended to read as follows: 1848
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Sec. 2929.01. As used in this chapter: 1851

(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: 1852
1853
1854
1855

(a) It provides programs through which the offender may seek or maintain employment or may receive education, training, treatment, or habilitation. 1856
1857
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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. 1859
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(2) "Alternative residential facility" does not include a community-based correctional facility, jail, halfway house, or prison. 1864
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1866

(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, 1867
1868
1869
1870

while serving the prison term or terms, committed an act that is a 1871
criminal offense under the law of this state or the United States, 1872
whether or not the offender is prosecuted for the commission of 1873
that act. 1874

(C) "Basic probation supervision" means a requirement that 1875
the offender maintain contact with a person appointed to supervise 1876
the offender in accordance with sanctions imposed by the court or 1877
imposed by the parole board pursuant to section 2967.28 of the 1878
Revised Code. "Basic probation supervision" includes basic parole 1879
supervision and basic post-release control supervision. 1880

(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and 1881
"unit dose" have the same meanings as in section 2925.01 of the 1882
Revised Code. 1883

(E) "Community-based correctional facility" means a 1884
community-based correctional facility and program or district 1885
community-based correctional facility and program developed 1886
pursuant to sections 2301.51 to 2301.56 of the Revised Code. 1887

(F) "Community control sanction" means a sanction that is not 1888
a prison term and that is described in section 2929.15, 2929.16, 1889
2929.17, or 2929.18 of the Revised Code. 1890

(G) "Controlled substance," "marihuana," "schedule I," and 1891
"schedule II" have the same meanings as in section 3719.01 of the 1892
Revised Code. 1893

(H) "Curfew" means a requirement that an offender during a 1894
specified period of time be at a designated place. 1895

(I) "Day reporting" means a sanction pursuant to which an 1896
offender is required each day to report to and leave a center or 1897
other approved reporting location at specified times in order to 1898
participate in work, education or training, treatment, and other 1899
approved programs at the center or outside the center. 1900

(J) "Deadly weapon" has the same meaning as in section 1901
2923.11 of the Revised Code. 1902

(K) "Drug and alcohol use monitoring" means a program under 1903
which an offender agrees to submit to random chemical analysis of 1904
the offender's blood, breath, or urine to determine whether the 1905
offender has ingested any alcohol or other drugs. 1906

(L) "Drug treatment program" means any program under which a 1907
person undergoes assessment and treatment designed to reduce or 1908
completely eliminate the person's physical or emotional reliance 1909
upon alcohol, another drug, or alcohol and another drug and under 1910
which the person may be required to receive assessment and 1911
treatment on an outpatient basis or may be required to reside at a 1912
facility other than the person's home or residence while 1913
undergoing assessment and treatment. 1914

(M) "Economic loss" means any economic detriment suffered by 1915
a victim as a result of the commission of a felony and includes 1916
any loss of income due to lost time at work because of any injury 1917
caused to the victim, and any property loss, medical cost, or 1918
funeral expense incurred as a result of the commission of the 1919
felony. 1920

(N) "Education or training" includes study at, or in 1921
conjunction with a program offered by, a university, college, or 1922
technical college or vocational study and also includes the 1923
completion of primary school, secondary school, and literacy 1924
curricula or their equivalent. 1925

(O) "Electronically monitored house arrest" has the same 1926
meaning as in section 2929.23 of the Revised Code. 1927

(P) "Eligible offender" has the same meaning as in section 1928
2929.23 of the Revised Code except as otherwise specified in 1929
section 2929.20 of the Revised Code. 1930

(Q) "Firearm" has the same meaning as in section 2923.11 of 1931
the Revised Code. 1932

(R) "Halfway house" means a facility licensed by the division 1933
of parole and community services of the department of 1934
rehabilitation and correction pursuant to section 2967.14 of the 1935
Revised Code as a suitable facility for the care and treatment of 1936
adult offenders. 1937

(S) "House arrest" means a period of confinement of an 1938
eligible offender that is in the eligible offender's home or in 1939
other premises specified by the sentencing court or by the parole 1940
board pursuant to section 2967.28 of the Revised Code, that may be 1941
electronically monitored house arrest, and during which all of the 1942
following apply: 1943

(1) The eligible offender is required to remain in the 1944
eligible offender's home or other specified premises for the 1945
specified period of confinement, except for periods of time during 1946
which the eligible offender is at the eligible offender's place of 1947
employment or at other premises as authorized by the sentencing 1948
court or by the parole board. 1949

(2) The eligible offender is required to report periodically 1950
to a person designated by the court or parole board. 1951

(3) The eligible offender is subject to any other 1952
restrictions and requirements that may be imposed by the 1953
sentencing court or by the parole board. 1954

(T) "Intensive probation supervision" means a requirement 1955
that an offender maintain frequent contact with a person appointed 1956
by the court, or by the parole board pursuant to section 2967.28 1957
of the Revised Code, to supervise the offender while the offender 1958
is seeking or maintaining necessary employment and participating 1959
in training, education, and treatment programs as required in the 1960
court's or parole board's order. "Intensive probation supervision" 1961

includes intensive parole supervision and intensive post-release control supervision. 1962
1963

(U) "Jail" means a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or a combination of political subdivisions of this state. 1964
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(V) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code. 1968
1969

(W) "License violation report" means a report that is made by a sentencing court, or by the parole board pursuant to section 2967.28 of the Revised Code, to the regulatory or licensing board or agency that issued an offender a professional license or a license or permit to do business in this state and that specifies that the offender has been convicted of or pleaded guilty to an offense that may violate the conditions under which the offender's professional license or license or permit to do business in this state was granted or an offense for which the offender's professional license or license or permit to do business in this state may be revoked or suspended. 1970
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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 1981
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Code that is based on the possession of, sale of, or offer to sell the controlled substance. 1994
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(Y) "Mandatory prison term" means any of the following: 1996

(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. 1997
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(2) The term of sixty or one hundred twenty days in prison that a sentencing court is required to impose for a third or fourth degree felony OVI offense pursuant to division (G)(2) of section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 of the Revised Code or the term of one, two, three, four, or five years in prison that a sentencing court is required to impose pursuant to division (G)(2) of section 2929.13 of the Revised Code. 2006
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(3) The term in prison imposed pursuant to section 2971.03 of the Revised Code for the offenses and in the circumstances described in division (F)(11) of section 2929.13 of the Revised Code and that term as modified or terminated pursuant to section 2971.05 of the Revised Code. 2014
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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. 2019
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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. 2023
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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.

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

(1) A stated prison term;

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

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

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

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

(2) Either of the following applies:

(a) The person previously was convicted of or pleaded guilty

to, and previously served or, at the time of the offense was 2055
serving, a prison term for, any of the following: 2056

(i) Aggravated murder, murder, involuntary manslaughter, 2057
rape, felonious sexual penetration as it existed under section 2058
2907.12 of the Revised Code prior to September 3, 1996, a felony 2059
of the first or second degree that resulted in the death of a 2060
person or in physical harm to a person, or complicity in or an 2061
attempt to commit any of those offenses; 2062

(ii) An offense under an existing or former law of this 2063
state, another state, or the United States that is or was 2064
substantially equivalent to an offense listed under division 2065
(DD)(2)(a)(i) of this section and that resulted in the death of a 2066
person or in physical harm to a person. 2067

(b) The person previously was adjudicated a delinquent child 2068
for committing an act that if committed by an adult would have 2069
been an offense listed in division (DD)(2)(a)(i) or (ii) of this 2070
section, the person was committed to the department of youth 2071
services for that delinquent act. 2072

(EE) "Sanction" means any penalty imposed upon an offender 2073
who is convicted of or pleads guilty to an offense, as punishment 2074
for the offense. "Sanction" includes any sanction imposed pursuant 2075
to any provision of sections 2929.14 to 2929.18 of the Revised 2076
Code. 2077

(FF) "Sentence" means the sanction or combination of 2078
sanctions imposed by the sentencing court on an offender who is 2079
convicted of or pleads guilty to a felony. 2080

(GG) "Stated prison term" means the prison term, mandatory 2081
prison term, or combination of all prison terms and mandatory 2082
prison terms imposed by the sentencing court pursuant to section 2083
2929.14 or 2971.03 of the Revised Code. "Stated prison term" 2084
includes any credit received by the offender for time spent in 2085

jail awaiting trial, sentencing, or transfer to prison for the 2086
offense and any time spent under house arrest or electronically 2087
monitored house arrest imposed after earning credits pursuant to 2088
section 2967.193 of the Revised Code. 2089

(HH) "Victim-offender mediation" means a reconciliation or 2090
mediation program that involves an offender and the victim of the 2091
offense committed by the offender and that includes a meeting in 2092
which the offender and the victim may discuss the offense, discuss 2093
restitution, and consider other sanctions for the offense. 2094

(II) "Fourth degree felony OVI offense" means a violation of 2095
division (A) of section 4511.19 of the Revised Code that, under 2096
division (G) of that section, is a felony of the fourth degree. 2097

(JJ) "Mandatory term of local incarceration" means the term 2098
of sixty or one hundred twenty days in a jail, a community-based 2099
correctional facility, a halfway house, or an alternative 2100
residential facility that a sentencing court may impose upon a 2101
person who is convicted of or pleads guilty to a fourth degree 2102
felony OVI offense pursuant to division (G)(1) of section 2929.13 2103
of the Revised Code and division (G)(1)(d) or (e) of section 2104
4511.19 of the Revised Code. 2105

(KK) "Designated homicide, assault, or kidnapping offense," 2106
"sexual motivation specification," "sexually violent offense," 2107
"sexually violent predator," and "sexually violent predator 2108
specification" have the same meanings as in section 2971.01 of the 2109
Revised Code. 2110

(LL) "Habitual sex offender," "sexually oriented offense," 2111
and "sexual predator" have the same meanings as in section 2950.01 2112
of the Revised Code. 2113

(MM) An offense is "committed in the vicinity of a child" if 2114
the offender commits the offense within thirty feet of or within 2115
the same residential unit as a child who is under eighteen years 2116

of age, regardless of whether the offender knows the age of the 2117
child or whether the offender knows the offense is being committed 2118
within thirty feet of or within the same residential unit as the 2119
child and regardless of whether the child actually views the 2120
commission of the offense. 2121

(NN) "Family or household member" has the same meaning as in 2122
section 2919.25 of the Revised Code. 2123

(OO) "Motor vehicle" and "manufactured home" have the same 2124
meanings as in section 4501.01 of the Revised Code. 2125

(PP) "Detention" and "detention facility" have the same 2126
meanings as in section 2921.01 of the Revised Code. 2127

(QQ) "Third degree felony OVI offense" means a violation of 2128
division (A) of section 4511.19 of the Revised Code that, under 2129
division (G) of that section, is a felony of the third degree. 2130

(RR) "Random drug testing" has the same meaning as in section 2131
5120.63 of the Revised Code. 2132

(SS) "Felony sex offense" has the same meaning as in section 2133
2957.28 of the Revised Code. 2134

(TT) "Body armor" has the same meaning as in section 2135
2941.1411 of the Revised Code. 2136

Sec. 2929.13. (A) Except as provided in division (E), (F), or 2137
(G) of this section and unless a specific sanction is required to 2138
be imposed or is precluded from being imposed pursuant to law, a 2139
court that imposes a sentence upon an offender for a felony may 2140
impose any sanction or combination of sanctions on the offender 2141
that are provided in sections 2929.14 to 2929.18 of the Revised 2142
Code. The sentence shall not impose an unnecessary burden on state 2143
or local government resources. 2144

If the offender is eligible to be sentenced to community 2145
control sanctions, the court shall consider the appropriateness of 2146

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

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

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

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

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

(a) In committing the offense, the offender caused physical

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| harm to a person. | 2178 |
| (b) In committing the offense, the offender attempted to | 2179 |
| cause or made an actual threat of physical harm to a person with a | 2180 |
| deadly weapon. | 2181 |
| (c) In committing the offense, the offender attempted to | 2182 |
| cause or made an actual threat of physical harm to a person, and | 2183 |
| the offender previously was convicted of an offense that caused | 2184 |
| physical harm to a person. | 2185 |
| (d) The offender held a public office or position of trust | 2186 |
| and the offense related to that office or position; the offender's | 2187 |
| position obliged the offender to prevent the offense or to bring | 2188 |
| those committing it to justice; or the offender's professional | 2189 |
| reputation or position facilitated the offense or was likely to | 2190 |
| influence the future conduct of others. | 2191 |
| (e) The offender committed the offense for hire or as part of | 2192 |
| an organized criminal activity. | 2193 |
| (f) The offense is a sex offense that is a fourth or fifth | 2194 |
| degree felony violation of section 2907.03, 2907.04, 2907.05, | 2195 |
| 2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the | 2196 |
| Revised Code. | 2197 |
| (g) The offender at the time of the offense was serving, or | 2198 |
| the offender previously had served, a prison term. | 2199 |
| (h) The offender committed the offense while under a | 2200 |
| community control sanction, while on probation, or while released | 2201 |
| from custody on a bond or personal recognizance. | 2202 |
| (i) The offender committed the offense while in possession of | 2203 |
| a firearm. | 2204 |
| (2)(a) If the court makes a finding described in division | 2205 |
| (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this | 2206 |
| section and if the court, after considering the factors set forth | 2207 |

in section 2929.12 of the Revised Code, finds that a prison term 2208
is consistent with the purposes and principles of sentencing set 2209
forth in section 2929.11 of the Revised Code and finds that the 2210
offender is not amenable to an available community control 2211
sanction, the court shall impose a prison term upon the offender. 2212

(b) Except as provided in division (E), (F), or (G) of this 2213
section, if the court does not make a finding described in 2214
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 2215
this section and if the court, after considering the factors set 2216
forth in section 2929.12 of the Revised Code, finds that a 2217
community control sanction or combination of community control 2218
sanctions is consistent with the purposes and principles of 2219
sentencing set forth in section 2929.11 of the Revised Code, the 2220
court shall impose a community control sanction or combination of 2221
community control sanctions upon the offender. 2222

(C) Except as provided in division (E), (F), or (G) of this 2223
section, in determining whether to impose a prison term as a 2224
sanction for a felony of the third degree or a felony drug offense 2225
that is a violation of a provision of Chapter 2925. of the Revised 2226
Code and that is specified as being subject to this division for 2227
purposes of sentencing, the sentencing court shall comply with the 2228
purposes and principles of sentencing under section 2929.11 of the 2229
Revised Code and with section 2929.12 of the Revised Code. 2230

(D) Except as provided in division (E) or (F) of this 2231
section, for a felony of the first or second degree and for a 2232
felony drug offense that is a violation of any provision of 2233
Chapter 2925., 3719., or 4729. of the Revised Code for which a 2234
presumption in favor of a prison term is specified as being 2235
applicable, it is presumed that a prison term is necessary in 2236
order to comply with the purposes and principles of sentencing 2237
under section 2929.11 of the Revised Code. Notwithstanding the 2238
presumption established under this division, the sentencing court 2239

may impose a community control sanction or a combination of 2240
community control sanctions instead of a prison term on an 2241
offender for a felony of the first or second degree or for a 2242
felony drug offense that is a violation of any provision of 2243
Chapter 2925., 3719., or 4729. of the Revised Code for which a 2244
presumption in favor of a prison term is specified as being 2245
applicable if it makes both of the following findings: 2246

(1) A community control sanction or a combination of 2247
community control sanctions would adequately punish the offender 2248
and protect the public from future crime, because the applicable 2249
factors under section 2929.12 of the Revised Code indicating a 2250
lesser likelihood of recidivism outweigh the applicable factors 2251
under that section indicating a greater likelihood of recidivism. 2252

(2) A community control sanction or a combination of 2253
community control sanctions would not demean the seriousness of 2254
the offense, because one or more factors under section 2929.12 of 2255
the Revised Code that indicate that the offender's conduct was 2256
less serious than conduct normally constituting the offense are 2257
applicable, and they outweigh the applicable factors under that 2258
section that indicate that the offender's conduct was more serious 2259
than conduct normally constituting the offense. 2260

(E)(1) Except as provided in division (F) of this section, 2261
for any drug offense that is a violation of any provision of 2262
Chapter 2925. of the Revised Code and that is a felony of the 2263
third, fourth, or fifth degree, the applicability of a presumption 2264
under division (D) of this section in favor of a prison term or of 2265
division (B) or (C) of this section in determining whether to 2266
impose a prison term for the offense shall be determined as 2267
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2268
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 2269
Revised Code, whichever is applicable regarding the violation. 2270

(2) If an offender who was convicted of or pleaded guilty to 2271

a felony violates the conditions of a community control sanction 2272
imposed for the offense solely by reason of producing positive 2273
results on a drug test, the court, as punishment for the violation 2274
of the sanction, shall not order that the offender be imprisoned 2275
unless the court determines on the record either of the following: 2276

(a) The offender had been ordered as a sanction for the 2277
felony to participate in a drug treatment program, in a drug 2278
education program, or in narcotics anonymous or a similar program, 2279
and the offender continued to use illegal drugs after a reasonable 2280
period of participation in the program. 2281

(b) The imprisonment of the offender for the violation is 2282
consistent with the purposes and principles of sentencing set 2283
forth in section 2929.11 of the Revised Code. 2284

(F) Notwithstanding divisions (A) to (E) of this section, the 2285
court shall impose a prison term or terms under sections 2929.02 2286
to 2929.06, section 2929.14, or section 2971.03 of the Revised 2287
Code and except as specifically provided in section 2929.20 or 2288
2967.191 of the Revised Code or when parole is authorized for the 2289
offense under section 2967.13 of the Revised Code shall not reduce 2290
the terms pursuant to section 2929.20, section 2967.193, or any 2291
other provision of Chapter 2967. or Chapter 5120. of the Revised 2292
Code for any of the following offenses: 2293

(1) Aggravated murder when death is not imposed or murder; 2294

(2) Any rape, regardless of whether force was involved and 2295
regardless of the age of the victim, or an attempt to commit rape 2296
if, had the offender completed the rape that was attempted, the 2297
offender would have been subject to a sentence of life 2298
imprisonment or life imprisonment without parole for the rape; 2299

(3) Gross sexual imposition or sexual battery, if the victim 2300
is under thirteen years of age, if the offender previously was 2301
convicted of or pleaded guilty to rape, the former offense of 2302

felonious sexual penetration, gross sexual imposition, or sexual 2303
battery, and if the victim of the previous offense was under 2304
thirteen years of age; 2305

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 2306
2903.11, 2903.12, or 2903.13 of the Revised Code if the section 2307
requires the imposition of a prison term; 2308

(5) A first, second, or third degree felony drug offense for 2309
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2310
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 2311
4729.99 of the Revised Code, whichever is applicable regarding the 2312
violation, requires the imposition of a mandatory prison term; 2313

(6) Any offense that is a first or second degree felony and 2314
that is not set forth in division (F)(1), (2), (3), or (4) of this 2315
section, if the offender previously was convicted of or pleaded 2316
guilty to aggravated murder, murder, any first or second degree 2317
felony, or an offense under an existing or former law of this 2318
state, another state, or the United States that is or was 2319
substantially equivalent to one of those offenses; 2320

(7) Any offense that is a third degree felony and that is 2321
listed in division (DD)(1) of section 2929.01 of the Revised Code 2322
if the offender previously was convicted of or pleaded guilty to 2323
any offense that is listed in division (DD)(2)(a)(i) or (ii) of 2324
section 2929.01 of the Revised Code; 2325

(8) Any offense, other than a violation of section 2923.12 of 2326
the Revised Code, that is a felony, if the offender had a firearm 2327
on or about the offender's person or under the offender's control 2328
while committing the felony, with respect to a portion of the 2329
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 2330
of the Revised Code for having the firearm; 2331

(9) Any offense of violence that is a felony, if the offender 2332
wore or carried body armor while committing the felony offense of 2333

violence, with respect to the portion of the sentence imposed 2334
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 2335
Code for wearing or carrying the body armor; 2336

(10) Corrupt activity in violation of section 2923.32 of the 2337
Revised Code when the most serious offense in the pattern of 2338
corrupt activity that is the basis of the offense is a felony of 2339
the first degree; 2340

(11) Any sexually violent offense for which the offender also 2341
is convicted of or pleads guilty to a sexually violent predator 2342
specification that was included in the indictment, count in the 2343
indictment, or information charging the sexually violent offense; 2344

(12) A violation of division (A)(1) or (2) of section 2921.36 2345
of the Revised Code, or a violation of division (C) of that 2346
section involving an item listed in division (A)(1) or (2) of that 2347
section, if the offender is an officer or employee of the 2348
department of rehabilitation and correction. 2349

(G) Notwithstanding divisions (A) to (E) of this section, if 2350
an offender is being sentenced for a fourth degree felony OVI 2351
offense or for a third degree felony OVI offense, the court shall 2352
impose upon the offender a mandatory term of local incarceration 2353
or a mandatory prison term in accordance with the following: 2354

(1) If the offender is being sentenced for a fourth degree 2355
felony OVI offense and if the offender has not pleaded guilty to 2356
and has not been convicted of a specification of the type 2357
described in section 2941.1413 of the Revised Code, the court may 2358
impose upon the offender a mandatory term of local incarceration 2359
of sixty days or one hundred twenty days as specified in division 2360
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 2361
not reduce the term pursuant to section 2929.20, 2967.193, or any 2362
other provision of the Revised Code. The court that imposes a 2363
mandatory term of local incarceration under this division shall 2364

specify whether the term is to be served in a jail, a 2365
community-based correctional facility, a halfway house, or an 2366
alternative residential facility, and the offender shall serve the 2367
term in the type of facility specified by the court. A mandatory 2368
term of local incarceration imposed under division (G)(1) of this 2369
section is not subject to extension under section 2967.11 of the 2370
Revised Code, to a period of post-release control under section 2371
2967.28 of the Revised Code, or to any other Revised Code 2372
provision that pertains to a prison term. 2373

(2) If the offender is being sentenced for a third degree 2374
felony OVI offense, or if the offender is being sentenced for a 2375
fourth degree felony OVI offense and the court does not impose a 2376
mandatory term of local incarceration under division (G)(1) of 2377
this section, the court shall impose upon the offender a mandatory 2378
prison term of one, two, three, four, or five years if the 2379
offender also pleads guilty to or also is convicted of a 2380
specification of the type described in section 2941.1413 of the 2381
Revised Code or shall impose upon the offender a mandatory prison 2382
term of sixty days or one hundred twenty days as specified in 2383
division (G)(1)(e) of section 4511.19 of the Revised Code if the 2384
offender has not pleaded guilty to and has not been convicted of a 2385
specification of that type. The court shall not reduce the term 2386
pursuant to section 2929.20, 2967.193, or any other provision of 2387
the Revised Code. The offender shall serve the one-, two-, three-, 2388
four-, or five-year mandatory prison term consecutively to and 2389
prior to the prison term imposed for the underlying offense and 2390
consecutively to any other mandatory prison term imposed in 2391
relation to the offense. In no case shall an offender who once has 2392
been sentenced to a mandatory term of local incarceration pursuant 2393
to division (G)(1) of this section for a fourth degree felony OVI 2394
offense be sentenced to another mandatory term of local 2395
incarceration under that division for any violation of division 2396
(A) of section 4511.19 of the Revised Code. The court shall not 2397

sentence the offender to a community control sanction under 2398
section 2929.16 or 2929.17 of the Revised Code. The department of 2399
rehabilitation and correction may place an offender sentenced to a 2400
mandatory prison term under this division in an intensive program 2401
prison established pursuant to section 5120.033 of the Revised 2402
Code if the department gave the sentencing judge prior notice of 2403
its intent to place the offender in an intensive program prison 2404
established under that section and if the judge did not notify the 2405
department that the judge disapproved the placement. Upon the 2406
establishment of the initial intensive program prison pursuant to 2407
section 5120.033 of the Revised Code that is privately operated 2408
and managed by a contractor pursuant to a contract entered into 2409
under section 9.06 of the Revised Code, both of the following 2410
apply: 2411

(a) The department of rehabilitation and correction shall 2412
make a reasonable effort to ensure that a sufficient number of 2413
offenders sentenced to a mandatory prison term under this division 2414
are placed in the privately operated and managed prison so that 2415
the privately operated and managed prison has full occupancy. 2416

(b) Unless the privately operated and managed prison has full 2417
occupancy, the department of rehabilitation and correction shall 2418
not place any offender sentenced to a mandatory prison term under 2419
this division in any intensive program prison established pursuant 2420
to section 5120.033 of the Revised Code other than the privately 2421
operated and managed prison. 2422

(H) If an offender is being sentenced for a sexually oriented 2423
offense committed on or after January 1, 1997, the judge shall 2424
require the offender to submit to a DNA specimen collection 2425
procedure pursuant to section 2901.07 of the Revised Code if 2426
either of the following applies: 2427

(1) The offense was a sexually violent offense, and the 2428
offender also was convicted of or pleaded guilty to a sexually 2429

violent predator specification that was included in the 2430
indictment, count in the indictment, or information charging the 2431
sexually violent offense. 2432

(2) The judge imposing sentence for the sexually oriented 2433
offense determines pursuant to division (B) of section 2950.09 of 2434
the Revised Code that the offender is a sexual predator. 2435

(I) If an offender is being sentenced for a sexually oriented 2436
offense committed on or after January 1, 1997, the judge shall 2437
include in the sentence a summary of the offender's duty to 2438
register pursuant to section 2950.04 of the Revised Code, the 2439
offender's duty to provide notice of a change in residence address 2440
and register the new residence address pursuant to section 2950.05 2441
of the Revised Code, the offender's duty to periodically verify 2442
the offender's current residence address pursuant to section 2443
2950.06 of the Revised Code, and the duration of the duties. The 2444
judge shall inform the offender, at the time of sentencing, of 2445
those duties and of their duration and, if required under division 2446
(A)(2) of section 2950.03 of the Revised Code, shall perform the 2447
duties specified in that section. 2448

(J)(1) Except as provided in division (J)(2) of this section, 2449
when considering sentencing factors under this section in relation 2450
to an offender who is convicted of or pleads guilty to an attempt 2451
to commit an offense in violation of section 2923.02 of the 2452
Revised Code, the sentencing court shall consider the factors 2453
applicable to the felony category of the violation of section 2454
2923.02 of the Revised Code instead of the factors applicable to 2455
the felony category of the offense attempted. 2456

(2) When considering sentencing factors under this section in 2457
relation to an offender who is convicted of or pleads guilty to an 2458
attempt to commit a drug abuse offense for which the penalty is 2459
determined by the amount or number of unit doses of the controlled 2460
substance involved in the drug abuse offense, the sentencing court 2461

shall consider the factors applicable to the felony category that 2462
the drug abuse offense attempted would be if that drug abuse 2463
offense had been committed and had involved an amount or number of 2464
unit doses of the controlled substance that is within the next 2465
lower range of controlled substance amounts than was involved in 2466
the attempt. 2467

(K) As used in this section, "drug abuse offense" has the 2468
same meaning as in section 2925.01 of the Revised Code. 2469

Sec. 4511.19. (A) No person shall operate any vehicle, 2470
streetcar, or trackless trolley within this state, if, at the time 2471
of the operation, any of the following apply: 2472

(1) The person is under the influence of alcohol, a drug of 2473
abuse, or a combination of them; 2474

(2) The person has a concentration of ten-hundredths of one 2475
per cent or more but less than seventeen-hundredths of one per 2476
cent by weight per unit volume of alcohol in the person's whole 2477
blood; 2478

(3) The person has a concentration of twelve-hundredths of 2479
one per cent or more but less than two hundred four-thousandths of 2480
one per cent by weight per unit volume of alcohol in the person's 2481
blood serum or plasma; 2482

(4) The person has a concentration of ten-hundredths of one 2483
gram or more but less than seventeen-hundredths of one gram by 2484
weight of alcohol per two hundred ten liters of the person's 2485
breath; 2486

(5) The person has a concentration of fourteen-hundredths of 2487
one gram or more but less than two hundred 2488
thirty-eight-thousandths of one gram by weight of alcohol per one 2489
hundred milliliters of the person's urine; 2490

(6) The person has a concentration of seventeen-hundredths of 2491

one per cent or more by weight per unit volume of alcohol in the 2492
person's whole blood; 2493

(7) The person has a concentration of two hundred 2494
four-thousandths of one per cent or more by weight per unit volume 2495
of alcohol in the person's blood serum or plasma; 2496

(8) The person has a concentration of seventeen-hundredths of 2497
one gram or more by weight of alcohol per two hundred ten liters 2498
of the person's breath; 2499

(9) The person has a concentration of two hundred 2500
thirty-eight-thousandths of one gram or more by weight of alcohol 2501
per one hundred milliliters of the person's urine. 2502

(B) No person under twenty-one years of age shall operate any 2503
vehicle, streetcar, or trackless trolley within this state, if, at 2504
the time of the operation, any of the following apply: 2505

(1) The person has a concentration of at least two-hundredths 2506
of one per cent but less than ten-hundredths of one per cent by 2507
weight per unit volume of alcohol in the person's whole blood; 2508

(2) The person has a concentration of at least 2509
three-hundredths of one per cent but less than twelve-hundredths 2510
of one per cent by weight per unit volume of alcohol in the 2511
person's blood serum or plasma; 2512

(3) The person has a concentration of at least two-hundredths 2513
of one gram but less than ten-hundredths of one gram by weight of 2514
alcohol per two hundred ten liters of the person's breath; 2515

(4) The person has a concentration of at least twenty-eight 2516
one-thousandths of one gram but less than fourteen-hundredths of 2517
one gram by weight of alcohol per one hundred milliliters of the 2518
person's urine. 2519

(C) In any proceeding arising out of one incident, a person 2520
may be charged with a violation of division (A)(1) and a violation 2521

of division (B)(1), (2), or (3) of this section, but the person 2522
may not be convicted of more than one violation of these 2523
divisions. 2524

(D)(1) In any criminal prosecution or juvenile court 2525
proceeding for a violation of this section or for an equivalent 2526
offense, the court may admit evidence on the concentration of 2527
alcohol, drugs of abuse, or a combination of them in the 2528
defendant's whole blood, blood serum or plasma, breath, urine, or 2529
other bodily substance at the time of the alleged violation as 2530
shown by chemical analysis of the substance withdrawn within two 2531
hours of the time of the alleged violation. 2532

When a person submits to a blood test at the request of a law 2533
enforcement officer under section 4511.191 of the Revised Code, 2534
only a physician, a registered nurse, or a qualified technician, 2535
chemist, or phlebotomist shall withdraw blood for the purpose of 2536
determining the alcohol, drug, or alcohol and drug content of the 2537
whole blood, blood serum, or blood plasma. This limitation does 2538
not apply to the taking of breath or urine specimens. A person 2539
authorized to withdraw blood under this division may refuse to 2540
withdraw blood under this division, if in that person's opinion, 2541
the physical welfare of the person would be endangered by the 2542
withdrawing of blood. 2543

The bodily substance withdrawn shall be analyzed in 2544
accordance with methods approved by the director of health by an 2545
individual possessing a valid permit issued by the director 2546
pursuant to section 3701.143 of the Revised Code. 2547

(2) In a criminal prosecution or juvenile court proceeding 2548
for a violation of division (A) of this section or for an 2549
equivalent offense, if there was at the time the bodily substance 2550
was withdrawn a concentration of less than the applicable 2551
concentration of alcohol specified in divisions (A)(2), (3), (4), 2552
and (5) of this section, that fact may be considered with other 2553

competent evidence in determining the guilt or innocence of the 2554
defendant. This division does not limit or affect a criminal 2555
prosecution or juvenile court proceeding for a violation of 2556
division (B) of this section or for an equivalent offense that is 2557
substantially equivalent to that division. 2558

(3) Upon the request of the person who was tested, the 2559
results of the chemical test shall be made available to the person 2560
or the person's attorney, immediately upon the completion of the 2561
chemical test analysis. 2562

The person tested may have a physician, a registered nurse, 2563
or a qualified technician, chemist, or phlebotomist of the 2564
person's own choosing administer a chemical test or tests, at the 2565
person's expense, in addition to any administered at the request 2566
of a law enforcement officer. The form to be read to the person to 2567
be tested, as required under section 4511.192 of the Revised Code, 2568
shall state that the person may have an independent test performed 2569
at the person's expense. The failure or inability to obtain an 2570
additional chemical test by a person shall not preclude the 2571
admission of evidence relating to the chemical test or tests taken 2572
at the request of a law enforcement officer. 2573

(E)(1) Subject to division (E)(3) of this section, in any 2574
criminal prosecution or juvenile court proceeding for a violation 2575
of division (A)(2), (3), (4), (5), (6), (7), (8), or (9) or 2576
(B)(1), (2), (3), or (4) of this section or for an equivalent 2577
offense that is substantially equivalent to any of those 2578
divisions, a laboratory report from any forensic laboratory 2579
certified by the department of health that contains an analysis of 2580
the whole blood, blood serum or plasma, breath, urine, or other 2581
bodily substance tested and that contains all of the information 2582
specified in this division shall be admitted as prima-facie 2583
evidence of the information and statements that the report 2584
contains. The laboratory report shall contain all of the 2585

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| following: | 2586 |
| (a) The signature, under oath, of any person who performed the analysis; | 2587 2588 |
| (b) Any findings as to the identity and quantity of alcohol, a drug of abuse, or a combination of them that was found; | 2589 2590 |
| (c) A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties; | 2591 2592 2593 2594 2595 2596 2597 |
| (d) An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the department of health. | 2598 2599 2600 2601 2602 |
| (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in division (E)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant. | 2603 2604 2605 2606 2607 2608 2609 |
| (3) A report of the type described in division (E)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day | 2610 2611 2612 2613 2614 2615 2616 |

time limit in the interest of justice. 2617

(F) Except as otherwise provided in this division, any 2618
physician, registered nurse, or qualified technician, chemist, or 2619
phlebotomist who withdraws blood from a person pursuant to this 2620
section, and any hospital, first-aid station, or clinic at which 2621
blood is withdrawn from a person pursuant to this section, is 2622
immune from criminal liability and civil liability based upon a 2623
claim of assault and battery or any other claim that is not a 2624
claim of malpractice, for any act performed in withdrawing blood 2625
from the person. The immunity provided in this division is not 2626
available to a person who withdraws blood if the person engages in 2627
willful or wanton misconduct. 2628

(G)(1) Whoever violates any provision of divisions (A)(1) to 2629
(9) of this section is guilty of operating a vehicle under the 2630
influence of alcohol, a drug of abuse, or a combination of them. 2631
The court shall sentence the offender under Chapter 2929. of the 2632
Revised Code, except as otherwise authorized or required by 2633
divisions (G)(1)(a) to (e) of this section: 2634

(a) Except as otherwise provided in division (G)(1)(b), (c), 2635
(d), or (e) of this section, the offender is guilty of a 2636
misdemeanor of the first degree, and the court shall sentence the 2637
offender to all of the following: 2638

(i) If the sentence is being imposed for a violation of 2639
division (A)(1), (2), (3), (4), or (5) of this section, a 2640
mandatory jail term of three consecutive days. As used in this 2641
division, three consecutive days means seventy-two consecutive 2642
hours. The court may sentence an offender to both an intervention 2643
program and a jail term. The court may impose a jail term in 2644
addition to the three-day mandatory jail term or intervention 2645
program. However, in no case shall the cumulative jail term 2646
imposed for the offense exceed six months. 2647

The court may suspend the execution of the three-day jail term under this division if the court, in lieu of that suspended term, places the offender on probation and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under section 3793.10 of the Revised Code. The court also may suspend the execution of any part of the three-day jail term under this division if it places the offender on probation for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of probation and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Chapter 3793. of the Revised Code by the director of alcohol and drug addiction services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of probation that it considers necessary.

(ii) If the sentence is being imposed for a violation of division (A)(6), (7), (8), or (9) of this section, except as otherwise provided in this division, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. As used in this division, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers'

intervention program, or if the jail at which the offender is to 2680
serve the jail term imposed can provide a driver's intervention 2681
program, the court shall sentence the offender to a mandatory jail 2682
term of at least six consecutive days. 2683

The court may require the offender, as a condition of 2684
probation, to attend and satisfactorily complete any treatment or 2685
education programs that comply with the minimum standards adopted 2686
pursuant to Chapter 3793. of the Revised Code by the director of 2687
alcohol and drug addiction services, in addition to the required 2688
attendance at drivers' intervention program, that the operators of 2689
the drivers' intervention program determine that the offender 2690
should attend and to report periodically to the court on the 2691
offender's progress in the programs. The court also may impose any 2692
other conditions of probation on the offender that it considers 2693
necessary. 2694

(iii) In all cases, a fine of not less than two hundred fifty 2695
and not more than one thousand dollars; 2696

(iv) In all cases, a class five license suspension of the 2697
offender's driver's or commercial driver's license or permit or 2698
nonresident operating privilege from the range specified in 2699
division (A)(5) of section 4510.02 of the Revised Code. The court 2700
may grant limited driving privileges relative to the suspension 2701
under sections 4510.021 and 4510.13 of the Revised Code. 2702

(b) Except as otherwise provided in division (G)(1)(e) of 2703
this section, an offender who, within six years of the offense, 2704
previously has been convicted of or pleaded guilty to one 2705
violation of division (A) or (B) of this section or one other 2706
equivalent offense is guilty of a misdemeanor of the first degree. 2707
The court shall sentence the offender to all of the following: 2708

(i) If the sentence is being imposed for a violation of 2709
division (A)(1), (2), (3), (4), or (5) of this section, a 2710

mandatory jail term of ten consecutive days. The court shall 2711
impose the ten-day mandatory jail term under this division unless, 2712
subject to division (G)(3) of this section, it instead imposes a 2713
sentence under that division consisting of both a jail term and a 2714
term of electronically monitored house arrest. The court may 2715
impose a jail term in addition to the ten-day mandatory jail term. 2716
The cumulative jail term imposed for the offense shall not exceed 2717
six months. 2718

In addition to the jail term or the term of electronically 2719
monitored house arrest and jail term, the court may require the 2720
offender to attend a drivers' intervention program that is 2721
certified pursuant to section 3793.10 of the Revised Code. If the 2722
operator of the program determines that the offender is alcohol 2723
dependent, the program shall notify the court, and, subject to 2724
division (I) of this section, the court shall order the offender 2725
to obtain treatment through an alcohol and drug addiction program 2726
authorized by section 3793.02 of the Revised Code. 2727

(ii) If the sentence is being imposed for a violation of 2728
division (A)(6), (7), (8), or (9) of this section, except as 2729
otherwise provided in this division, a mandatory jail term of 2730
twenty consecutive days. The court shall impose the twenty-day 2731
mandatory jail term under this division unless, subject to 2732
division (G)(3) of this section, it instead imposes a sentence 2733
under that division consisting of both a jail term and a term of 2734
electronically monitored house arrest. The court may impose a jail 2735
term in addition to the twenty-day mandatory jail term. The 2736
cumulative jail term imposed for the offense shall not exceed six 2737
months. 2738

In addition to the jail term or the term of electronically 2739
monitored house arrest and jail term, the court may require the 2740
offender to attend a driver's intervention program that is 2741
certified pursuant to section 3793.10 of the Revised Code. If the 2742

operator of the program determines that the offender is alcohol 2743
dependent, the program shall notify the court, and, subject to 2744
division (I) of this section, the court shall order the offender 2745
to obtain treatment through an alcohol and drug addiction program 2746
authorized by section 3793.02 of the Revised Code. 2747

(iii) In all cases, notwithstanding the fines set forth in 2748
Chapter 2929. of the Revised Code, a fine of not less than three 2749
hundred fifty and not more than one thousand five hundred dollars; 2750

(iv) In all cases, a class four license suspension of the 2751
offender's driver's license, commercial driver's license, 2752
temporary instruction permit, probationary license, or nonresident 2753
operating privilege from the range specified in division (A)(4) of 2754
section 4510.02 of the Revised Code. The court may grant limited 2755
driving privileges relative to the suspension under sections 2756
4510.021 and 4510.13 of the Revised Code. 2757

(v) In all cases, if the vehicle is registered in the 2758
offender's name, immobilization of the vehicle involved in the 2759
offense for ninety days in accordance with section 4503.233 of the 2760
Revised Code and impoundment of the license plates of that vehicle 2761
for ninety days. 2762

(c) Except as otherwise provided in division (G)(1)(e) of 2763
this section, an offender who, within six years of the offense, 2764
previously has been convicted of or pleaded guilty to two 2765
violations of division (A) or (B) of this section or other 2766
equivalent offenses is guilty of a misdemeanor. The court shall 2767
sentence the offender to all of the following: 2768

(i) If the sentence is being imposed for a violation of 2769
division (A)(1), (2), (3), (4), or (5) of this section, a 2770
mandatory jail term of thirty consecutive days. The court shall 2771
impose the thirty-day mandatory jail term under this division 2772
unless, subject to division (G)(3) of this section, it instead 2773

imposes a sentence under that division consisting of both a jail 2774
term and a term of electronically monitored house arrest. The 2775
court may impose a jail term in addition to the thirty-day 2776
mandatory jail term. Notwithstanding the terms of imprisonment set 2777
forth in Chapter 2929. of the Revised Code, the additional jail 2778
term shall not exceed one year, and the cumulative jail term 2779
imposed for the offense shall not exceed one year. 2780

(ii) If the sentence is being imposed for a violation of 2781
division (A)(6), (7), (8), or (9) of this section, a mandatory 2782
jail term of sixty consecutive days. The court shall impose the 2783
sixty-day mandatory jail term under this division unless, subject 2784
to division (G)(3) of this section, it instead imposes a sentence 2785
under that division consisting of both a jail term and a term of 2786
electronically monitored house arrest. The court may impose a jail 2787
term in addition to the sixty-day mandatory jail term. 2788
Notwithstanding the terms of imprisonment set forth in Chapter 2789
2929. of the Revised Code, the additional jail term shall not 2790
exceed one year, and the cumulative jail term imposed for the 2791
offense shall not exceed one year. 2792

(iii) In all cases, notwithstanding the fines set forth in 2793
Chapter 2929. of the Revised Code, a fine of not less than five 2794
hundred fifty and not more than two thousand five hundred dollars; 2795

(iv) In all cases, a class three license suspension of the 2796
offender's driver's license, commercial driver's license, 2797
temporary instruction permit, probationary license, or nonresident 2798
operating privilege from the range specified in division (A)(3) of 2799
section 4510.02 of the Revised Code. The court may grant limited 2800
driving privileges relative to the suspension under sections 2801
4510.021 and 4510.13 of the Revised Code. 2802

(v) In all cases, if the vehicle is registered in the 2803
offender's name, criminal forfeiture of the vehicle involved in 2804
the offense in accordance with section 4503.234 of the Revised 2805

Code. Division (G)(6) of this section applies regarding any 2806
vehicle that is subject to an order of criminal forfeiture under 2807
this division. 2808

(vi) In all cases, participation in an alcohol and drug 2809
addiction program authorized by section 3793.02 of the Revised 2810
Code, subject to division (I) of this section. 2811

(d) Except as otherwise provided in division (G)(1)(e) of 2812
this section, an offender who, within six years of the offense, 2813
previously has been convicted of or pleaded guilty to three or 2814
~~more~~ four violations of division (A) or (B) of this section or 2815
other equivalent offenses or an offender who, regardless of when 2816
any of the prior convictions or guilty pleas occurred, previously 2817
has been convicted of or pleaded guilty to five or more violations 2818
of that nature is guilty of a felony of the fourth degree. The 2819
court shall sentence the offender to all of the following: 2820

(i) If the sentence is being imposed for a violation of 2821
division (A)(1), (2), (3), (4), or (5) of this section, a 2822
mandatory prison term of one, two, three, four, or five years as 2823
required by and in accordance with division (G)(2) of section 2824
2929.13 of the Revised Code if the offender also is convicted of 2825
or also pleads guilty to a specification of the type described in 2826
section 2941.1413 of the Revised Code or, in the discretion of the 2827
court, either a mandatory term of local incarceration of sixty 2828
consecutive days in accordance with division (G)(1) of section 2829
2929.13 of the Revised Code or a mandatory prison term of sixty 2830
consecutive days of imprisonment in accordance with division 2831
(G)(2) of that section if the offender is not convicted of and 2832
does not plead guilty to a specification of that type. If the 2833
court imposes a mandatory term of local incarceration, it may 2834
impose a jail term in addition to the sixty-day mandatory term, 2835
the cumulative total of the mandatory term and the jail term for 2836
the offense shall not exceed one year, and no prison term is 2837

authorized for the offense. If the court imposes a mandatory 2838
prison term, notwithstanding division (A)(4) of section 2929.14 of 2839
the Revised Code, it also may sentence the offender to a definite 2840
prison term that shall be not less than six months and not more 2841
than thirty months, the prison terms shall be imposed as described 2842
in division (G)(2) of section 2929.13 of the Revised Code, and no 2843
term of local incarceration, community residential sanction, or 2844
nonresidential sanction is authorized for the offense. 2845

(ii) If the sentence is being imposed for a violation of 2846
division (A)(6), (7), (8), or (9) of this section, a mandatory 2847
prison term of one, two, three, four, or five years as required by 2848
and in accordance with division (G)(2) of section 2929.13 of the 2849
Revised Code if the offender also is convicted of or also pleads 2850
guilty to a specification of the type described in section 2851
2941.1413 of the Revised Code or, in the discretion of the court, 2852
either a mandatory term of local incarceration of one hundred 2853
twenty consecutive days in accordance with division (G)(1) of 2854
section 2929.13 of the Revised Code or a mandatory prison term of 2855
one hundred twenty consecutive days in accordance with division 2856
(G)(2) of that section if the offender is not convicted of and 2857
does not plead guilty to a specification of that type. If the 2858
court imposes a mandatory term of local incarceration, it may 2859
impose a jail term in addition to the one hundred twenty-day 2860
mandatory term, the cumulative total of the mandatory term and the 2861
jail term for the offense shall not exceed one year, and no prison 2862
term is authorized for the offense. If the court imposes a 2863
mandatory prison term, notwithstanding division (A)(4) of section 2864
2929.14 of the Revised Code, it also may sentence the offender to 2865
a definite prison term that shall be not less than six months and 2866
not more than thirty months, the prison terms shall be imposed as 2867
described in division (G)(2) of section 2929.13 of the Revised 2868
Code, and no term of local incarceration, community residential 2869
sanction, or nonresidential sanction is authorized for the 2870

offense. 2871

(iii) In all cases, notwithstanding section 2929.18 of the Revised Code, a fine of not less than eight hundred nor more than ten thousand dollars; 2872
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(iv) In all cases, a class two license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code. 2875
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(v) In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with section 4503.234 of the Revised Code. Division (G)(6) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this division. 2882
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(vi) In all cases, participation in an alcohol and drug addiction program authorized by section 3793.02 of the Revised Code, subject to division (I) of this section. 2888
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(vii) In all cases, if the court sentences the offender to a mandatory term of local incarceration, in addition to the mandatory term, the court, pursuant to section 2929.17 of the Revised Code, may impose a term of electronically monitored house arrest. The term shall not commence until after the offender has served the mandatory term of local incarceration. 2891
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(e) An offender who previously has been convicted of or pleaded guilty to a violation of division (A) of this section that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree. The court shall sentence the offender to all of the 2897
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following: 2902

(i) If the offender is being sentenced for a violation of 2903
division (A)(1), (2), (3), (4), or (5) of this section, a 2904
mandatory prison term of one, two, three, four, or five years as 2905
required by and in accordance with division (G)(2) of section 2906
2929.13 of the Revised Code if the offender also is convicted of 2907
or also pleads guilty to a specification of the type described in 2908
section 2941.1413 of the Revised Code or a mandatory prison term 2909
of sixty consecutive days in accordance with division (G)(2) of 2910
section 2929.13 of the Revised Code if the offender is not 2911
convicted of and does not plead guilty to a specification of that 2912
type. The court may impose a prison term in addition to the 2913
~~sixty-day~~ mandatory prison term. The cumulative total of the a 2914
sixty-day mandatory prison term and the additional prison term for 2915
the offense shall not exceed five years. No term of local 2916
incarceration, community residential sanction, or nonresidential 2917
sanction is authorized for the offense. 2918

(ii) If the sentence is being imposed for a violation of 2919
division (A)(6), (7), (8), or (9) of this section, a mandatory 2920
prison term of one, two, three, four, or five years as required by 2921
and in accordance with division (G)(2) of section 2929.13 of the 2922
Revised Code if the offender also is convicted of or also pleads 2923
guilty to a specification of the type described in section 2924
2941.1413 of the Revised Code or a mandatory prison term of one 2925
hundred twenty consecutive days in accordance with division (G)(2) 2926
of section 2929.13 of the Revised Code if the offender is not 2927
convicted of and does not plead guilty to a specification of that 2928
type. The court may impose a prison term in addition to the ~~one~~ 2929
~~hundred twenty-day~~ mandatory prison term. The cumulative total of 2930
~~the a~~ one hundred twenty-day mandatory prison term and the 2931
additional prison term for the offense shall not exceed five 2932
years. No term of local incarceration, community residential 2933

sanction, or nonresidential sanction is authorized for the 2934
offense. 2935

(iii) In all cases, notwithstanding section 2929.18 of the 2936
Revised Code, a fine of not less than eight hundred nor more than 2937
ten thousand dollars; 2938

(iv) In all cases, a class two license suspension of the 2939
offender's driver's license, commercial driver's license, 2940
temporary instruction permit, probationary license, or nonresident 2941
operating privilege from the range specified in division (A)(2) of 2942
section 4510.02 of the Revised Code. The court may grant limited 2943
driving privileges relative to the suspension under sections 2944
4510.021 and 4510.13 of the Revised Code. 2945

(v) In all cases, if the vehicle is registered in the 2946
offender's name, criminal forfeiture of the vehicle involved in 2947
the offense in accordance with section 4503.234 of the Revised 2948
Code. Division (G)(6) of this section applies regarding any 2949
vehicle that is subject to an order of criminal forfeiture under 2950
this division. 2951

(vi) In all cases, participation in an alcohol and drug 2952
addiction program authorized by section 3793.02 of the Revised 2953
Code, subject to division (I) of this section. 2954

(2) An offender who is convicted of or pleads guilty to a 2955
violation of division (A) of this section and who subsequently 2956
seeks reinstatement of the driver's or occupational driver's 2957
license or permit or nonresident operating privilege suspended 2958
under this section as a result of the conviction or guilty plea 2959
shall pay a reinstatement fee as provided in division (F)(2) of 2960
section 4511.191 of the Revised Code. 2961

(3) If an offender is sentenced to a jail term under division 2962
(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) of this section and 2963
if, within sixty days of sentencing of the offender, the court 2964

issues a written finding on the record that, due to the 2965
unavailability of space at the jail where the offender is required 2966
to serve the term, the offender will not be able to begin serving 2967
that term within the sixty-day period following the date of 2968
sentencing, the court may impose an alternative sentence under 2969
this division that includes a term of electronically monitored 2970
house arrest, as defined in section 2929.23 of the Revised Code. 2971

As an alternative to a mandatory jail term of ten consecutive 2972
days required by division (G)(1)(b)(i) of this section, the court, 2973
under this division, may sentence the offender to five consecutive 2974
days in jail and not less than eighteen consecutive days of 2975
electronically monitored house arrest. The cumulative total of the 2976
five consecutive days in jail and the period of electronically 2977
monitored house arrest shall not exceed six months. The five 2978
consecutive days in jail do not have to be served prior to or 2979
consecutively to the period of house arrest. 2980

As an alternative to the mandatory jail term of twenty 2981
consecutive days required by division (G)(1)(b)(ii) of this 2982
section, the court, under this division, may sentence the offender 2983
to ten consecutive days in jail and not less than thirty-six 2984
consecutive days of electronically monitored house arrest. The 2985
cumulative total of the ten consecutive days in jail and the 2986
period of electronically monitored house arrest shall not exceed 2987
six months. The ten consecutive days in jail do not have to be 2988
served prior to or consecutively to the period of house arrest. 2989

As an alternative to a mandatory jail term of thirty 2990
consecutive days required by division (G)(1)(c)(i) of this 2991
section, the court, under this division, may sentence the offender 2992
to fifteen consecutive days in jail and not less than fifty-five 2993
consecutive days of electronically monitored house arrest. The 2994
cumulative total of the fifteen consecutive days in jail and the 2995
period of electronically monitored house arrest shall not exceed 2996

one year. The fifteen consecutive days in jail do not have to be 2997
served prior to or consecutively to the period of house arrest. 2998

As an alternative to the mandatory jail term of sixty 2999
consecutive days required by division (G)(1)(c)(ii) of this 3000
section, the court, under this division, may sentence the offender 3001
to thirty consecutive days in jail and not less than one hundred 3002
ten consecutive days of electronically monitored house arrest. The 3003
cumulative total of the thirty consecutive days in jail and the 3004
period of electronically monitored house arrest shall not exceed 3005
one year. The thirty consecutive days in jail do not have to be 3006
served prior to or consecutively to the period of house arrest. 3007

(4) If an offender's driver's or occupational driver's 3008
license or permit or nonresident operating privilege is suspended 3009
under division (G) of this section and if section 4510.13 of the 3010
Revised Code permits the court to grant limited driving 3011
privileges, the court may grant the limited driving privileges 3012
only if the court imposes as one of the conditions of the 3013
privileges that the offender must display on the vehicle that is 3014
driven subject to the privileges restricted license plates that 3015
are issued under section 4503.231 of the Revised Code, except as 3016
provided in division (B) of that section. 3017

(5) Fines imposed under this section for a violation of 3018
division (A) of this section shall be distributed as follows: 3019

(a) Twenty-five dollars of the fine imposed under division 3020
(G)(1)(a)(iii), thirty-five dollars of the fine imposed under 3021
division (G)(1)(b)(iii), one hundred twenty-three dollars of the 3022
fine imposed under division (G)(1)(c)(iii), and two hundred ten 3023
dollars of the fine imposed under division (G)(1)(d)(iii) or 3024
(e)(iii) of this section shall be paid to an enforcement and 3025
education fund established by the legislative authority of the law 3026
enforcement agency in this state that primarily was responsible 3027
for the arrest of the offender, as determined by the court that 3028

imposes the fine. The agency shall use this share to pay only 3029
those costs it incurs in enforcing this section or a municipal OVI 3030
ordinance and in informing the public of the laws governing the 3031
operation of a vehicle while under the influence of alcohol, the 3032
dangers of the operation of a vehicle under the influence of 3033
alcohol, and other information relating to the operation of a 3034
vehicle under the influence of alcohol and the consumption of 3035
alcoholic beverages. 3036

(b) Fifty dollars of the fine imposed under division 3037
(G)(1)(a)(iii) of this section shall be paid to the political 3038
subdivision that pays the cost of housing the offender during the 3039
offender's term of incarceration. If the offender is being 3040
sentenced for a violation of division (A)(1), (2), (3), (4), or 3041
(5) of this section and was confined as a result of the offense 3042
prior to being sentenced for the offense but is not sentenced to a 3043
term of incarceration, the fifty dollars shall be paid to the 3044
political subdivision that paid the cost of housing the offender 3045
during that period of confinement. The political subdivision shall 3046
use the share under this division to pay or reimburse 3047
incarceration or treatment costs it incurs in housing or providing 3048
drug and alcohol treatment to persons who violate this section or 3049
a municipal OVI ordinance, costs of any immobilizing or disabling 3050
device used on the offender's vehicle, and costs of electronic 3051
house arrest equipment needed for persons who violate this 3052
section. 3053

(c) Twenty-five dollars of the fine imposed under division 3054
(G)(1)(a)(iii) and fifty dollars of the fine imposed under 3055
division (G)(1)(b)(iii) of this section shall be deposited into 3056
the county or municipal indigent drivers' alcohol treatment fund 3057
under the control of that court, as created by the county or 3058
municipal corporation under division (N) of section 4511.191 of 3059
the Revised Code. 3060

(d) One hundred fifteen dollars of the fine imposed under 3061
division (G)(1)(b)(iii), two hundred seventy-seven dollars of the 3062
fine imposed under division (G)(1)(c)(iii), and four hundred forty 3063
dollars of the fine imposed under division (G)(1)(d)(iii) or 3064
(e)(iii) of this section shall be paid to the political 3065
subdivision that pays the cost of housing the offender during the 3066
offender's term of incarceration. The political subdivision shall 3067
use this share to pay or reimburse incarceration or treatment 3068
costs it incurs in housing or providing drug and alcohol treatment 3069
to persons who violate this section or a municipal OVI ordinance, 3070
costs for any immobilizing or disabling device used on the 3071
offender's vehicle, and costs of electronic housearrest equipment 3072
needed for persons who violate this section. 3073

(e) The balance of the fine imposed under division 3074
(G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), or (e)(iii) of this 3075
section shall be disbursed as otherwise provided by law. 3076

(6) If title to a motor vehicle that is subject to an order 3077
of criminal forfeiture under division (G)(1)(c), (d), or (e) of 3078
this section is assigned or transferred and division (B)(2) or (3) 3079
of section 4503.234 of the Revised Code applies, in addition to or 3080
independent of any other penalty established by law, the court may 3081
fine the offender the value of the vehicle as determined by 3082
publications of the national auto dealers association. The 3083
proceeds of any fine so imposed shall be distributed in accordance 3084
with division (C)(2) of that section. 3085

(H) Whoever violates division (B) of this section is guilty 3086
of operating a vehicle after underage alcohol consumption and 3087
shall be punished as follows: 3088

(1) Except as otherwise provided in division (H)(2) of this 3089
section, the offender is guilty of a misdemeanor of the fourth 3090
degree. In addition to any other sanction imposed for the offense, 3091

the court shall impose a class six suspension of the offender's 3092
driver's license, commercial driver's license, temporary 3093
instruction permit, probationary license, or nonresident operating 3094
privilege from the range specified in division (A)(6) of section 3095
4510.02 of the Revised Code. 3096

(2) If, within one year of the offense, the offender 3097
previously has been convicted of or pleaded guilty to one or more 3098
violations of division (A) or (B) of this section or other 3099
equivalent offense offenses, the offender is guilty of a 3100
misdemeanor of the third degree. In addition to any other sanction 3101
imposed for the offense, the court shall impose a class four 3102
suspension of the offender's driver's license, commercial driver's 3103
license, temporary instruction permit, probationary license, or 3104
nonresident operating privilege from the range specified in 3105
division (A)(4) of section 4510.02 of the Revised Code. 3106

(I)(1) No court shall sentence an offender to an alcohol 3107
treatment program under this section unless the treatment program 3108
complies with the minimum standards for alcohol treatment programs 3109
adopted under Chapter 3793. of the Revised Code by the director of 3110
alcohol and drug addiction services. 3111

(2) An offender who stays in a drivers' intervention program 3112
or in an alcohol treatment program under an order issued under 3113
this section shall pay the cost of the stay in the program. 3114
However, if the court determines that an offender who stays in an 3115
alcohol treatment program under an order issued under this section 3116
is unable to pay the cost of the stay in the program, the court 3117
may order that the cost be paid from the court's indigent drivers' 3118
alcohol treatment fund. 3119

(J) If a person whose driver's or commercial driver's license 3120
or permit or nonresident operating privilege is suspended under 3121
this section files an appeal regarding any aspect of the person's 3122
trial or sentence, the appeal itself does not stay the operation 3123

of the suspension. 3124

(K) All terms defined in sections 4510.01 of the Revised Code 3125
apply to this section. If the meaning of a term defined in section 3126
4510.01 of the Revised Code conflicts with the meaning of the same 3127
term as defined in section 4501.01 or 4511.01 of the Revised Code, 3128
the term as defined in section 4510.01 of the Revised Code applies 3129
to this section. 3130

(L)(1) The Ohio Traffic Rules in effect on ~~the effective date~~ 3131
~~of this amendment~~ January 1, 2004, as adopted by the supreme court 3132
under authority of section 2937.46 of the Revised Code, do not 3133
apply to felony violations of this section. Subject to division 3134
(L)(2) of this section, the Rules of Criminal Procedure apply to 3135
felony violations of this section. 3136

(2) If, on or after ~~the effective date of this amendment~~ 3137
January 1, 2004, the supreme court modifies the Ohio Traffic Rules 3138
to provide procedures to govern felony violations of this section, 3139
the modified rules shall apply to felony violations of this 3140
section. 3141

Section 4. That the existing versions of sections 2929.01, 3142
2929.13, and 4511.19 of the Revised Code that are scheduled to 3143
take effect January 1, 2004, are hereby repealed. 3144

Section 5. Sections 3 and 4 of this act shall take effect on 3145
January 1, 2004. 3146

Section 6. The amendment by this act of section 4511.99 of 3147
the Revised Code has interim effect and does not supersede the 3148
earlier amendment, with delayed effective date of Am. Sub. S.B. 3149
123 of the 124th General Assembly. 3150

Section 7. (A) Section 2929.13 of the Revised Code, effective 3151

until January 1, 2004, is presented in Section 1 of this act as a 3152
composite of the section as amended by both Am. Sub. H.B. 327 and 3153
Sub. H.B. 485 of the 124th General Assembly. The General Assembly, 3154
applying the principle stated in division (B) of section 1.52 of 3155
the Revised Code that amendments are to be harmonized if 3156
reasonably capable of simultaneous operation, finds that the 3157
composite is the resulting version of the section in effect prior 3158
to the effective date of the section as presented in Section 1 of 3159
this act. 3160

(B) Section 2929.13 of the Revised Code, effective on January 3161
1, 2004, is presented in Section 3 of this act as a composite of 3162
the section as amended by Am. Sub. H.B. 327, Sub. H.B. 485, and 3163
Am. Sub. S.B. 123 of the 124th General Assembly. The General 3164
Assembly, applying the principle stated in division (B) of section 3165
1.52 of the Revised Code that amendments are to be harmonized if 3166
reasonably capable of simultaneous operation, finds that the 3167
composite is the resulting version of the section in effect prior 3168
to the effective date of the section as presented in Section 3 of 3169
this act. 3170