

As Introduced

125th General Assembly
Regular Session
2003-2004

S. B. No. 58

Senators Jacobson, Stivers, Goodman, Armbruster, Harris, Carey, Brady,
Fingerhut

A B I L L

To amend section 2919.22 of the Revised Code to 1
expand the offense of endangering children to also 2
prohibit exposing children to an illegal 3
methamphetamine manufacturing laboratory and to 4
amend the version of section 2919.22 of the 5
Revised Code that is scheduled to take effect 6
January 1, 2004, to continue the provisions of 7
this act on and after that effective date. 8

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

Section 1. That section 2919.22 of the Revised Code be 9
amended to read as follows: 10

Sec. 2919.22. (A) No person, who is the parent, guardian, 11
custodian, person having custody or control, or person in loco 12
parentis of a child under eighteen years of age or a mentally or 13
physically handicapped child under twenty-one years of age, shall 14
create a substantial risk to the health or safety of the child, by 15
violating a duty of care, protection, or support. It is not a 16
violation of a duty of care, protection, or support under this 17
division when the parent, guardian, custodian, or person having 18
custody or control of a child treats the physical or mental 19

illness or defect of the child by spiritual means through prayer 20
alone, in accordance with the tenets of a recognized religious 21
body. 22

(B) No person shall do any of the following to a child under 23
eighteen years of age or a mentally or physically handicapped 24
child under twenty-one years of age: 25

(1) Abuse the child; 26

(2) Torture or cruelly abuse the child; 27

(3) Administer corporal punishment or other physical 28
disciplinary measure, or physically restrain the child in a cruel 29
manner or for a prolonged period, which punishment, discipline, or 30
restraint is excessive under the circumstances and creates a 31
substantial risk of serious physical harm to the child; 32

(4) Repeatedly administer unwarranted disciplinary measures 33
to the child, when there is a substantial risk that such conduct, 34
if continued, will seriously impair or retard the child's mental 35
health or development; 36

(5) Entice, coerce, permit, encourage, compel, hire, employ, 37
use, or allow the child to act, model, or in any other way 38
participate in, or be photographed for, the production, 39
presentation, dissemination, or advertisement of any material or 40
performance that the offender knows or reasonably should know is 41
obscene, is sexually oriented matter, or is nudity-oriented 42
matter; 43

(6) Allow the child to be in the vicinity of an illegal 44
methamphetamine manufacturing laboratory. 45

(C)(1) No person shall operate a vehicle, streetcar, or 46
trackless trolley within this state in violation of division (A) 47
of section 4511.19 of the Revised Code when one or more children 48
under eighteen years of age are in the vehicle, streetcar, or 49

trackless trolley. Notwithstanding any other provision of law, a 50
person may be convicted at the same trial or proceeding of a 51
violation of this division and a violation of division (A) of 52
section 4511.19 of the Revised Code that constitutes the basis of 53
the charge of the violation of this division. For purposes of 54
section 4511.191 of the Revised Code and all related provisions of 55
law, a person arrested for a violation of this division shall be 56
considered to be under arrest for operating a vehicle while under 57
the influence of alcohol, a drug of abuse, or alcohol and a drug 58
of abuse or for operating a vehicle with a prohibited 59
concentration of alcohol in the blood, breath, or urine. 60

(2) As used in division (C)(1) of this section, "vehicle," 61
"streetcar," and "trackless trolley" have the same meanings as in 62
section 4511.01 of the Revised Code. 63

(D)(1) Division (B)(5) of this section does not apply to any 64
material or performance that is produced, presented, or 65
disseminated for a bona fide medical, scientific, educational, 66
religious, governmental, judicial, or other proper purpose, by or 67
to a physician, psychologist, sociologist, scientist, teacher, 68
person pursuing bona fide studies or research, librarian, member 69
of the clergy, prosecutor, judge, or other person having a proper 70
interest in the material or performance. 71

(2) Mistake of age is not a defense to a charge under 72
division (B)(5) of this section. 73

(3) In a prosecution under division (B)(5) of this section, 74
the trier of fact may infer that an actor, model, or participant 75
in the material or performance involved is a juvenile if the 76
material or performance, through its title, text, visual 77
representation, or otherwise, represents or depicts the actor, 78
model, or participant as a juvenile. 79

(4) As used in this division and division (B)(5) of this 80

section: 81

(a) "Material," "performance," "obscene," and "sexual 82
activity" have the same meanings as in section 2907.01 of the 83
Revised Code. 84

(b) "Nudity-oriented matter" means any material or 85
performance that shows a minor in a state of nudity and that, 86
taken as a whole by the average person applying contemporary 87
community standards, appeals to prurient interest. 88

(c) "Sexually oriented matter" means any material or 89
performance that shows a minor participating or engaging in sexual 90
activity, masturbation, or bestiality. 91

(E)(1) Whoever violates this section is guilty of endangering 92
children. 93

(2) If the offender violates division (A) ~~or~~, (B)(1), or 94
(B)(6) of this section, endangering children is one of the 95
following: 96

(a) Except as otherwise provided in division (E)(2)(b), (c), 97
or (d) of this section, a misdemeanor of the first degree; 98

(b) If the offender previously has been convicted of an 99
offense under this section or of any offense involving neglect, 100
abandonment, contributing to the delinquency of, or physical abuse 101
of a child, except as otherwise provided in division (E)(2)(c) or 102
(d) of this section, a felony of the fourth degree; 103

(c) If the violation is a violation of division (A) or (B)(6) 104
of this section and results in serious physical harm to the child 105
involved, a felony of the third degree; 106

(d) If the violation is a violation of division (B)(1) of 107
this section and results in serious physical harm to the child 108
involved, a felony of the second degree. 109

(3) If the offender violates division (B)(2), (3), or (4) of 110

this section, except as otherwise provided in this division, 111
endangering children is a felony of the third degree. If the 112
violation results in serious physical harm to the child involved, 113
or if the offender previously has been convicted of an offense 114
under this section or of any offense involving neglect, 115
abandonment, contributing to the delinquency of, or physical abuse 116
of a child, endangering children is a felony of the second degree. 117

(4) If the offender violates division (B)(5) of this section, 118
endangering children is a felony of the second degree. 119

(5) If the offender violates division (C) of this section, 120
the offender shall be punished as follows: 121

(a) Except as otherwise provided in division (E)(5)(b) or (c) 122
of this section, endangering children in violation of division (C) 123
of this section is a misdemeanor of the first degree. 124

(b) If the violation results in serious physical harm to the 125
child involved or the offender previously has been convicted of an 126
offense under this section or any offense involving neglect, 127
abandonment, contributing to the delinquency of, or physical abuse 128
of a child, except as otherwise provided in division (E)(5)(c) of 129
this section, endangering children in violation of division (C) of 130
this section is a felony of the fifth degree. 131

(c) If the violation results in serious physical harm to the 132
child involved and if the offender previously has been convicted 133
of a violation of division (C) of this section, section 2903.06 or 134
2903.08 of the Revised Code, section 2903.07 of the Revised Code 135
as it existed prior to March 23, 2000, or section 2903.04 of the 136
Revised Code in a case in which the offender was subject to the 137
sanctions described in division (D) of that section, endangering 138
children in violation of division (C) of this section is a felony 139
of the fourth degree. 140

(d) In addition to any term of imprisonment, fine, or other 141

sentence, penalty, or sanction it imposes upon the offender 142
pursuant to division (E)(5)(a), (b), or (c) of this section or 143
pursuant to any other provision of law, the court also may impose 144
upon the offender one or both of the following sanctions: 145

(i) It may require the offender, as part of the offender's 146
sentence and in the manner described in division (F) of this 147
section, to perform not more than two hundred hours of supervised 148
community service work under the authority of any agency, 149
political subdivision, or charitable organization of the type 150
described in division (F)(1) of section 2951.02 of the Revised 151
Code, provided that the court shall not require the offender to 152
perform supervised community service work under this division 153
unless the offender agrees to perform the supervised community 154
service work. 155

(ii) It may suspend the driver's or commercial driver's 156
license or permit or nonresident operating privilege of the 157
offender for up to ninety days, in addition to any suspension or 158
revocation of the offender's driver's or commercial driver's 159
license or permit or nonresident operating privilege under Chapter 160
4506., 4507., 4509., or 4511. of the Revised Code or under any 161
other provision of law. 162

(e) In addition to any term of imprisonment, fine, or other 163
sentence, penalty, or sanction imposed upon the offender pursuant 164
to division (E)(5)(a), (b), (c), or (d) of this section or 165
pursuant to any other provision of law for the violation of 166
division (C) of this section, if as part of the same trial or 167
proceeding the offender also is convicted of or pleads guilty to a 168
separate charge charging the violation of division (A) of section 169
4511.19 of the Revised Code that was the basis of the charge of 170
the violation of division (C) of this section, the offender also 171
shall be sentenced, in accordance with section 4511.99 of the 172
Revised Code, for that violation of division (A) of section 173

4511.19 of the Revised Code and also shall be subject to all other 174
sanctions that are required or authorized by any provision of law 175
for that violation of division (A) of section 4511.19 of the 176
Revised Code. 177

(F)(1)(a) If a court, pursuant to division (E)(5)(d)(i) of 178
this section, requires an offender to perform supervised community 179
service work under the authority of an agency, subdivision, or 180
charitable organization, the requirement shall be part of the 181
community control sanction or sentence of the offender, and the 182
court shall impose the community service in accordance with and 183
subject to divisions (F)(1)(a) and (b) of this section. The court 184
may require an offender whom it requires to perform supervised 185
community service work as part of the offender's community control 186
sanction or sentence to pay the court a reasonable fee to cover 187
the costs of the offender's participation in the work, including, 188
but not limited to, the costs of procuring a policy or policies of 189
liability insurance to cover the period during which the offender 190
will perform the work. If the court requires the offender to 191
perform supervised community service work as part of the 192
offender's community control sanction or sentence, the court shall 193
do so in accordance with the following limitations and criteria: 194

(i) The court shall require that the community service work 195
be performed after completion of the term of imprisonment imposed 196
upon the offender for the violation of division (C) of this 197
section, if applicable. 198

(ii) The supervised community service work shall be subject 199
to the limitations set forth in divisions (F)(1)(a) to (c) of 200
section 2951.02 of the Revised Code. 201

(iii) The community service work shall be supervised in the 202
manner described in division (F)(1)(d) of section 2951.02 of the 203
Revised Code by an official or person with the qualifications 204
described in that division. The official or person periodically 205

shall report in writing to the court concerning the conduct of the 206
offender in performing the work. 207

(iv) The court shall inform the offender in writing that if 208
the offender does not adequately perform, as determined by the 209
court, all of the required community service work, the court may 210
order that the offender be committed to a jail or workhouse for a 211
period of time that does not exceed the term of imprisonment that 212
the court could have imposed upon the offender for the violation 213
of division (C) of this section, reduced by the total amount of 214
time that the offender actually was imprisoned under the sentence 215
or term that was imposed upon the offender for that violation and 216
by the total amount of time that the offender was confined for any 217
reason arising out of the offense for which the offender was 218
convicted and sentenced as described in sections 2949.08 and 219
2967.191 of the Revised Code, and that, if the court orders that 220
the offender be so committed, the court is authorized, but not 221
required, to grant the offender credit upon the period of the 222
commitment for the community service work that the offender 223
adequately performed. 224

(b) If a court, pursuant to this division and division 225
(E)(5)(d)(i) of this section, orders an offender to perform 226
community service work as part of the offender's community control 227
sanction or sentence and if the offender does not adequately 228
perform all of the required community service work, as determined 229
by the court, the court may order that the offender be committed 230
to a jail or workhouse for a period of time that does not exceed 231
the term of imprisonment that the court could have imposed upon 232
the offender for the violation of division (C) of this section, 233
reduced by the total amount of time that the offender actually was 234
imprisoned under the sentence or term that was imposed upon the 235
offender for that violation and by the total amount of time that 236
the offender was confined for any reason arising out of the 237

offense for which the offender was convicted and sentenced as 238
described in sections 2949.08 and 2967.191 of the Revised Code. 239
The court may order that a person committed pursuant to this 240
division shall receive hour-for-hour credit upon the period of the 241
commitment for the community service work that the offender 242
adequately performed. No commitment pursuant to this division 243
shall exceed the period of the term of imprisonment that the 244
sentencing court could have imposed upon the offender for the 245
violation of division (C) of this section, reduced by the total 246
amount of time that the offender actually was imprisoned under 247
that sentence or term and by the total amount of time that the 248
offender was confined for any reason arising out of the offense 249
for which the offender was convicted and sentenced as described in 250
sections 2949.08 and 2967.191 of the Revised Code. 251

(2) Divisions (E)(5)(d)(i) and (F)(1) of this section do not 252
limit or affect the authority of the court to suspend the sentence 253
imposed upon a misdemeanor offender and place the offender on 254
probation or otherwise suspend the sentence pursuant to sections 255
2929.51 and 2951.02 of the Revised Code, to require the 256
misdemeanor offender, as a condition of the offender's probation 257
or of otherwise suspending the offender's sentence, to perform 258
supervised community service work in accordance with division (F) 259
of section 2951.02 of the Revised Code, or to place a felony 260
offender under a community control sanction. 261

(G)(1) If a court suspends an offender's driver's or 262
commercial driver's license or permit or nonresident operating 263
privilege under division (E)(5)(d)(ii) of this section, the period 264
of the suspension shall be consecutive to, and commence after, the 265
period of suspension or revocation of the offender's driver's or 266
commercial driver's license or permit or nonresident operating 267
privilege that is imposed under Chapter 4506., 4507., 4509., or 268
4511. of the Revised Code or under any other provision of law in 269

relation to the violation of division (C) of this section that is 270
the basis of the suspension under division (E)(5)(d)(ii) of this 271
section or in relation to the violation of division (A) of section 272
4511.19 of the Revised Code that is the basis for that violation 273
of division (C) of this section. 274

(2) An offender is not entitled to request, and the court 275
shall not grant to the offender, occupational driving privileges 276
under division (G) of this section if the offender's license, 277
permit, or privilege has been suspended under division 278
(E)(5)(d)(ii) of this section and the offender, within the 279
preceding seven years, has been convicted of or pleaded guilty to 280
three or more violations of one or more of the following: 281

(a) Division (C) of this section; 282

(b) Division (A) or (B) of section 4511.19 of the Revised 283
Code; 284

(c) A municipal ordinance relating to operating a vehicle 285
while under the influence of alcohol, a drug of abuse, or alcohol 286
and a drug of abuse; 287

(d) A municipal ordinance relating to operating a vehicle 288
with a prohibited concentration of alcohol in the blood, breath, 289
or urine; 290

(e) Section 2903.04 of the Revised Code in a case in which 291
the offender was subject to the sanctions described in division 292
(D) of that section; 293

(f) Division (A)(1) of section 2903.06 or division (A)(1) of 294
section 2903.08 of the Revised Code or a municipal ordinance that 295
is substantially similar to either of those divisions; 296

(g) Division (A)(2), (3), or (4) of section 2903.06, division 297
(A)(2) of section 2903.08, or former section 2903.07 of the 298
Revised Code, or a municipal ordinance that is substantially 299

similar to any of those divisions or that former section, in a 300
case in which the jury or judge found that the offender was under 301
the influence of alcohol, a drug of abuse, or alcohol and a drug 302
of abuse; 303

(h) A statute of the United States or of any other state or a 304
municipal ordinance of a municipal corporation located in any 305
other state that is substantially similar to division (A) or (B) 306
of section 4511.19 of the Revised Code. 307

(3) Any other offender who is not described in division 308
(G)(2) of this section and whose license, permit, or nonresident 309
operating privilege has been suspended under division 310
(E)(5)(d)(ii) of this section may file with the sentencing court a 311
petition alleging that the suspension would seriously affect the 312
offender's ability to continue employment. Upon satisfactory proof 313
that there is reasonable cause to believe that the suspension 314
would seriously affect the offender's ability to continue 315
employment, the court may grant the offender occupational driving 316
privileges during the period during which the suspension otherwise 317
would be imposed, except that the court shall not grant 318
occupational driving privileges for employment as a driver of 319
commercial motor vehicles to any person who is disqualified from 320
operating a commercial motor vehicle under section 3123.611 or 321
4506.16 of the Revised Code or whose commercial driver's license 322
or commercial driver's temporary instruction permit has been 323
suspended under section 3123.58 of the Revised Code. 324

(H)(1) If a person violates division (C) of this section and 325
if, at the time of the violation, there were two or more children 326
under eighteen years of age in the motor vehicle involved in the 327
violation, the offender may be convicted of a violation of 328
division (C) of this section for each of the children, but the 329
court may sentence the offender for only one of the violations. 330

(2)(a) If a person is convicted of or pleads guilty to a 331

violation of division (C) of this section but the person is not 332
also convicted of and does not also plead guilty to a separate 333
charge charging the violation of division (A) of section 4511.19 334
of the Revised Code that was the basis of the charge of the 335
violation of division (C) of this section, both of the following 336
apply: 337

(i) For purposes of the provisions of section 4511.99 of the 338
Revised Code that set forth the penalties and sanctions for a 339
violation of division (A) of section 4511.19 of the Revised Code, 340
the conviction of or plea of guilty to the violation of division 341
(C) of this section shall not constitute a violation of division 342
(A) of section 4511.19 of the Revised Code; 343

(ii) For purposes of any provision of law that refers to a 344
conviction of or plea of guilty to a violation of division (A) of 345
section 4511.19 of the Revised Code and that is not described in 346
division (H)(2)(a)(i) of this section, the conviction of or plea 347
of guilty to the violation of division (C) of this section shall 348
constitute a conviction of or plea of guilty to a violation of 349
division (A) of section 4511.19 of the Revised Code. 350

(b) If a person is convicted of or pleads guilty to a 351
violation of division (C) of this section and the person also is 352
convicted of or pleads guilty to a separate charge charging the 353
violation of division (A) of section 4511.19 of the Revised Code 354
that was the basis of the charge of the violation of division (C) 355
of this section, the conviction of or plea of guilty to the 356
violation of division (C) of this section shall not constitute, 357
for purposes of any provision of law that refers to a conviction 358
of or plea of guilty to a violation of division (A) of section 359
4511.19 of the Revised Code, a conviction of or plea of guilty to 360
a violation of division (A) of section 4511.19 of the Revised 361
Code. 362

(I) As used in this section, ~~"community:~~ 363

(1) "Community control sanction" has the same meaning as in 364
section 2929.01 of the Revised Code. 365

(2) "In the vicinity of an illegal methamphetamine 366
manufacturing laboratory" means within the building in which the 367
laboratory is located, within one hundred feet of the laboratory, 368
or within any location from which the laboratory can be seen. 369

Section 2. That existing section 2919.22 of the Revised Code 370
is hereby repealed. 371

Section 3. That the version of section 2919.22 of the Revised 372
Code that is scheduled to take effect January 1, 2004, be amended 373
to read as follows: 374

Sec. 2919.22. (A) No person, who is the parent, guardian, 375
custodian, person having custody or control, or person in loco 376
parentis of a child under eighteen years of age or a mentally or 377
physically handicapped child under twenty-one years of age, shall 378
create a substantial risk to the health or safety of the child, by 379
violating a duty of care, protection, or support. It is not a 380
violation of a duty of care, protection, or support under this 381
division when the parent, guardian, custodian, or person having 382
custody or control of a child treats the physical or mental 383
illness or defect of the child by spiritual means through prayer 384
alone, in accordance with the tenets of a recognized religious 385
body. 386

(B) No person shall do any of the following to a child under 387
eighteen years of age or a mentally or physically handicapped 388
child under twenty-one years of age: 389

(1) Abuse the child; 390

(2) Torture or cruelly abuse the child; 391

(3) Administer corporal punishment or other physical 392
disciplinary measure, or physically restrain the child in a cruel 393
manner or for a prolonged period, which punishment, discipline, or 394
restraint is excessive under the circumstances and creates a 395
substantial risk of serious physical harm to the child; 396

(4) Repeatedly administer unwarranted disciplinary measures 397
to the child, when there is a substantial risk that such conduct, 398
if continued, will seriously impair or retard the child's mental 399
health or development; 400

(5) Entice, coerce, permit, encourage, compel, hire, employ, 401
use, or allow the child to act, model, or in any other way 402
participate in, or be photographed for, the production, 403
presentation, dissemination, or advertisement of any material or 404
performance that the offender knows or reasonably should know is 405
obscene, is sexually oriented matter, or is nudity-oriented 406
matter; 407

(6) Allow the child to be in the vicinity of an illegal 408
methamphetamine manufacturing laboratory. 409

(C)(1) No person shall operate a vehicle, streetcar, or 410
trackless trolley within this state in violation of division (A) 411
of section 4511.19 of the Revised Code when one or more children 412
under eighteen years of age are in the vehicle, streetcar, or 413
trackless trolley. Notwithstanding any other provision of law, a 414
person may be convicted at the same trial or proceeding of a 415
violation of this division and a violation of division (A) of 416
section 4511.19 of the Revised Code that constitutes the basis of 417
the charge of the violation of this division. For purposes of 418
sections 4511.191 to 4511.197 of the Revised Code and all related 419
provisions of law, a person arrested for a violation of this 420
division shall be considered to be under arrest for operating a 421
vehicle while under the influence of alcohol, a drug of abuse, or 422

a combination of them or for operating a vehicle with a prohibited 423
concentration of alcohol in the whole blood, blood serum or 424
plasma, breath, or urine. 425

(2) As used in division (C)(1) of this section, "vehicle," 426
"streetcar," and "trackless trolley" have the same meanings as in 427
section 4511.01 of the Revised Code. 428

(D)(1) Division (B)(5) of this section does not apply to any 429
material or performance that is produced, presented, or 430
disseminated for a bona fide medical, scientific, educational, 431
religious, governmental, judicial, or other proper purpose, by or 432
to a physician, psychologist, sociologist, scientist, teacher, 433
person pursuing bona fide studies or research, librarian, member 434
of the clergy, prosecutor, judge, or other person having a proper 435
interest in the material or performance. 436

(2) Mistake of age is not a defense to a charge under 437
division (B)(5) of this section. 438

(3) In a prosecution under division (B)(5) of this section, 439
the trier of fact may infer that an actor, model, or participant 440
in the material or performance involved is a juvenile if the 441
material or performance, through its title, text, visual 442
representation, or otherwise, represents or depicts the actor, 443
model, or participant as a juvenile. 444

(4) As used in this division and division (B)(5) of this 445
section: 446

(a) "Material," "performance," "obscene," and "sexual 447
activity" have the same meanings as in section 2907.01 of the 448
Revised Code. 449

(b) "Nudity-oriented matter" means any material or 450
performance that shows a minor in a state of nudity and that, 451
taken as a whole by the average person applying contemporary 452
community standards, appeals to prurient interest. 453

(c) "Sexually oriented matter" means any material or 454
performance that shows a minor participating or engaging in sexual 455
activity, masturbation, or bestiality. 456

(E)(1) Whoever violates this section is guilty of endangering 457
children. 458

(2) If the offender violates division (A) ~~or~~, (B)(1), or 459
(B)(6) of this section, endangering children is one of the 460
following: 461

(a) Except as otherwise provided in division (E)(2)(b), (c), 462
or (d) of this section, a misdemeanor of the first degree; 463

(b) If the offender previously has been convicted of an 464
offense under this section or of any offense involving neglect, 465
abandonment, contributing to the delinquency of, or physical abuse 466
of a child, except as otherwise provided in division (E)(2)(c) or 467
(d) of this section, a felony of the fourth degree; 468

(c) If the violation is a violation of division (A) or (B)(6) 469
of this section and results in serious physical harm to the child 470
involved, a felony of the third degree; 471

(d) If the violation is a violation of division (B)(1) of 472
this section and results in serious physical harm to the child 473
involved, a felony of the second degree. 474

(3) If the offender violates division (B)(2), (3), or (4) of 475
this section, except as otherwise provided in this division, 476
endangering children is a felony of the third degree. If the 477
violation results in serious physical harm to the child involved, 478
or if the offender previously has been convicted of an offense 479
under this section or of any offense involving neglect, 480
abandonment, contributing to the delinquency of, or physical abuse 481
of a child, endangering children is a felony of the second degree. 482

(4) If the offender violates division (B)(5) of this section, 483

endangering children is a felony of the second degree. 484

(5) If the offender violates division (C) of this section, 485
the offender shall be punished as follows: 486

(a) Except as otherwise provided in division (E)(5)(b) or (c) 487
of this section, endangering children in violation of division (C) 488
of this section is a misdemeanor of the first degree. 489

(b) If the violation results in serious physical harm to the 490
child involved or the offender previously has been convicted of an 491
offense under this section or any offense involving neglect, 492
abandonment, contributing to the delinquency of, or physical abuse 493
of a child, except as otherwise provided in division (E)(5)(c) of 494
this section, endangering children in violation of division (C) of 495
this section is a felony of the fifth degree. 496

(c) If the violation results in serious physical harm to the 497
child involved and if the offender previously has been convicted 498
of a violation of division (C) of this section, section 2903.06 or 499
2903.08 of the Revised Code, section 2903.07 of the Revised Code 500
as it existed prior to March 23, 2000, or section 2903.04 of the 501
Revised Code in a case in which the offender was subject to the 502
sanctions described in division (D) of that section, endangering 503
children in violation of division (C) of this section is a felony 504
of the fourth degree. 505

(d) In addition to any term of imprisonment, fine, or other 506
sentence, penalty, or sanction it imposes upon the offender 507
pursuant to division (E)(5)(a), (b), or (c) of this section or 508
pursuant to any other provision of law and in addition to any 509
suspension of the offender's driver's or commercial driver's 510
license or permit or nonresident operating privilege under Chapter 511
4506., 4509., 4510., or 4511. of the Revised Code or under any 512
other provision of law, the court also may impose upon the 513
offender a class seven suspension of the offender's driver's or 514

commercial driver's license or permit or nonresident operating 515
privilege from the range specified in division (A)(7) of section 516
4510.02 of the Revised Code. 517

(e) In addition to any term of imprisonment, fine, or other 518
sentence, penalty, or sanction imposed upon the offender pursuant 519
to division (E)(5)(a), (b), (c), or (d) of this section or 520
pursuant to any other provision of law for the violation of 521
division (C) of this section, if as part of the same trial or 522
proceeding the offender also is convicted of or pleads guilty to a 523
separate charge charging the violation of division (A) of section 524
4511.19 of the Revised Code that was the basis of the charge of 525
the violation of division (C) of this section, the offender also 526
shall be sentenced in accordance with section 4511.19 of the 527
Revised Code for that violation of division (A) of section 4511.19 528
of the Revised Code. 529

(F)(1)(a) A court may require an offender to perform not more 530
than two hundred hours of supervised community service work under 531
the authority of an agency, subdivision, or charitable 532
organization, if the offender agrees to perform the supervised 533
community service work. The requirement shall be part of the 534
community control sanction or sentence of the offender, and the 535
court shall impose the community service in accordance with and 536
subject to divisions (F)(1)(a) and (b) of this section. The court 537
may require an offender whom it requires to perform supervised 538
community service work as part of the offender's community control 539
sanction or sentence to pay the court a reasonable fee to cover 540
the costs of the offender's participation in the work, including, 541
but not limited to, the costs of procuring a policy or policies of 542
liability insurance to cover the period during which the offender 543
will perform the work. If the court requires the offender to 544
perform supervised community service work as part of the 545
offender's community control sanction or sentence, the court shall 546

do so in accordance with the following limitations and criteria: 547

(i) The court shall require that the community service work 548
be performed after completion of the term of imprisonment imposed 549
upon the offender for the violation of division (C) of this 550
section, if applicable. 551

(ii) The supervised community service work shall be subject 552
to the limitations set forth in divisions (F)(1)(a) to (c) of 553
section 2951.02 of the Revised Code. 554

(iii) The community service work shall be supervised in the 555
manner described in division (F)(1)(d) of section 2951.02 of the 556
Revised Code by an official or person with the qualifications 557
described in that division. The official or person periodically 558
shall report in writing to the court concerning the conduct of the 559
offender in performing the work. 560

(iv) The court shall inform the offender in writing that if 561
the offender does not adequately perform, as determined by the 562
court, all of the required community service work, the court may 563
order that the offender be committed to a jail or workhouse for a 564
period of time that does not exceed the term of imprisonment that 565
the court could have imposed upon the offender for the violation 566
of division (C) of this section, reduced by the total amount of 567
time that the offender actually was imprisoned under the sentence 568
or term that was imposed upon the offender for that violation and 569
by the total amount of time that the offender was confined for any 570
reason arising out of the offense for which the offender was 571
convicted and sentenced as described in sections 2949.08 and 572
2967.191 of the Revised Code, and that, if the court orders that 573
the offender be so committed, the court is authorized, but not 574
required, to grant the offender credit upon the period of the 575
commitment for the community service work that the offender 576
adequately performed. 577

(b) If a court, pursuant to division (F)(1)(a) of this 578
section, orders an offender to perform community service work as 579
part of the offender's community control sanction or sentence and 580
if the offender does not adequately perform all of the required 581
community service work, as determined by the court, the court may 582
order that the offender be committed to a jail or workhouse for a 583
period of time that does not exceed the term of imprisonment that 584
the court could have imposed upon the offender for the violation 585
of division (C) of this section, reduced by the total amount of 586
time that the offender actually was imprisoned under the sentence 587
or term that was imposed upon the offender for that violation and 588
by the total amount of time that the offender was confined for any 589
reason arising out of the offense for which the offender was 590
convicted and sentenced as described in sections 2949.08 and 591
2967.191 of the Revised Code. The court may order that a person 592
committed pursuant to this division shall receive hour-for-hour 593
credit upon the period of the commitment for the community service 594
work that the offender adequately performed. No commitment 595
pursuant to this division shall exceed the period of the term of 596
imprisonment that the sentencing court could have imposed upon the 597
offender for the violation of division (C) of this section, 598
reduced by the total amount of time that the offender actually was 599
imprisoned under that sentence or term and by the total amount of 600
time that the offender was confined for any reason arising out of 601
the offense for which the offender was convicted and sentenced as 602
described in sections 2949.08 and 2967.191 of the Revised Code. 603

(2) Division (F)(1) of this section does not limit or affect 604
the authority of the court to suspend the sentence imposed upon a 605
misdemeanor offender and place the offender on probation or 606
otherwise suspend the sentence pursuant to sections 2929.51 and 607
2951.02 of the Revised Code, to require the misdemeanor offender, 608
as a condition of the offender's probation or of otherwise 609

suspending the offender's sentence, to perform supervised 610
community service work in accordance with division (F) of section 611
2951.02 of the Revised Code, or to place a felony offender under a 612
community control sanction. 613

(G)(1) If a court suspends an offender's driver's or 614
commercial driver's license or permit or nonresident operating 615
privilege under division (E)(5)(d) of this section, the period of 616
the suspension shall be consecutive to, and commence after, the 617
period of suspension of the offender's driver's or commercial 618
driver's license or permit or nonresident operating privilege that 619
is imposed under Chapter 4506., 4509., 4510., or 4511. of the 620
Revised Code or under any other provision of law in relation to 621
the violation of division (C) of this section that is the basis of 622
the suspension under division (E)(5)(d) of this section or in 623
relation to the violation of division (A) of section 4511.19 of 624
the Revised Code that is the basis for that violation of division 625
(C) of this section. 626

(2) An offender is not entitled to request, and the court 627
shall not grant to the offender, limited driving privileges if the 628
offender's license, permit, or privilege has been suspended under 629
division (E)(5)(d) of this section and the offender, within the 630
preceding six years, has been convicted of or pleaded guilty to 631
three or more violations of one or more of the following: 632

(a) Division (C) of this section; 633

(b) Any equivalent offense, as defined in section 4511.181 of 634
the Revised Code. 635

(H)(1) If a person violates division (C) of this section and 636
if, at the time of the violation, there were two or more children 637
under eighteen years of age in the motor vehicle involved in the 638
violation, the offender may be convicted of a violation of 639
division (C) of this section for each of the children, but the 640

court may sentence the offender for only one of the violations. 641

(2)(a) If a person is convicted of or pleads guilty to a 642
violation of division (C) of this section but the person is not 643
also convicted of and does not also plead guilty to a separate 644
charge charging the violation of division (A) of section 4511.19 645
of the Revised Code that was the basis of the charge of the 646
violation of division (C) of this section, both of the following 647
apply: 648

(i) For purposes of the provisions of section 4511.19 of the 649
Revised Code that set forth the penalties and sanctions for a 650
violation of division (A) of section 4511.19 of the Revised Code, 651
the conviction of or plea of guilty to the violation of division 652
(C) of this section shall not constitute a violation of division 653
(A) of section 4511.19 of the Revised Code; 654

(ii) For purposes of any provision of law that refers to a 655
conviction of or plea of guilty to a violation of division (A) of 656
section 4511.19 of the Revised Code and that is not described in 657
division (H)(2)(a)(i) of this section, the conviction of or plea 658
of guilty to the violation of division (C) of this section shall 659
constitute a conviction of or plea of guilty to a violation of 660
division (A) of section 4511.19 of the Revised Code. 661

(b) If a person is convicted of or pleads guilty to a 662
violation of division (C) of this section and the person also is 663
convicted of or pleads guilty to a separate charge charging the 664
violation of division (A) of section 4511.19 of the Revised Code 665
that was the basis of the charge of the violation of division (C) 666
of this section, the conviction of or plea of guilty to the 667
violation of division (C) of this section shall not constitute, 668
for purposes of any provision of law that refers to a conviction 669
of or plea of guilty to a violation of division (A) of section 670
4511.19 of the Revised Code, a conviction of or plea of guilty to 671
a violation of division (A) of section 4511.19 of the Revised 672

Code. 673

(I) As used in this section: 674

(1) "Community control sanction" has the same meaning as in 675
section 2929.01 of the Revised Code; 676

(2) "In the vicinity of an illegal methamphetamine 677
manufacturing laboratory" means within the building in which the 678
laboratory is located, within one hundred feet of the laboratory, 679
or within any location from which the laboratory can be seen. 680

(3) "Limited driving privileges" has the same meaning as in 681
section 4501.01 of the Revised Code. 682

Section 4. That the existing version of section 2919.22 of 683
the Revised Code that is scheduled to take effect January 1, 2004, 684
is hereby repealed. 685

Section 5. Sections 3 and 4 of this act shall take effect 686
January 1, 2004. 687