

As Introduced

**126th General Assembly
Regular Session
2005-2006**

H. B. No. 461

Representatives Wolpert, Yuko, Ujvagi, Otterman, Healy

—

A BILL

To amend sections 2903.06, 2929.01, 2929.13, 2929.14, 1
2929.18, 2929.19, and 2953.08 and to enact section 2
2929.142 of the Revised Code to increase the 3
prison term for aggravated vehicular homicide when 4
the offender has prior OVI convictions or guilty 5
pleas. 6

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

Section 1. That sections 2903.06, 2929.01, 2929.13, 2929.14, 7
2929.18, 2929.19, and 2953.08 be amended and section 2929.142 of 8
the Revised Code be enacted to read as follows: 9

Sec. 2903.06. (A) No person, while operating or participating 10
in the operation of a motor vehicle, motorcycle, snowmobile, 11
locomotive, watercraft, or aircraft, shall cause the death of 12
another or the unlawful termination of another's pregnancy in any 13
of the following ways: 14

(1)(a) As the proximate result of committing a violation of 15
division (A) of section 4511.19 of the Revised Code or of a 16
substantially equivalent municipal ordinance; 17

(b) As the proximate result of committing a violation of 18
division (A) of section 1547.11 of the Revised Code or of a 19
substantially equivalent municipal ordinance; 20

(c) As the proximate result of committing a violation of 21
division (A)(3) of section 4561.15 of the Revised Code or of a 22
substantially equivalent municipal ordinance. 23

(2) In one of the following ways: 24

(a) Recklessly; 25

(b) As the proximate result of committing, while operating or 26
participating in the operation of a motor vehicle or motorcycle in 27
a construction zone, a reckless operation offense, provided that 28
this division applies only if the person whose death is caused or 29
whose pregnancy is unlawfully terminated is in the construction 30
zone at the time of the offender's commission of the reckless 31
operation offense in the construction zone and does not apply as 32
described in division (F) of this section. 33

(3) In one of the following ways: 34

(a) Negligently; 35

(b) As the proximate result of committing, while operating or 36
participating in the operation of a motor vehicle or motorcycle in 37
a construction zone, a speeding offense, provided that this 38
division applies only if the person whose death is caused or whose 39
pregnancy is unlawfully terminated is in the construction zone at 40
the time of the offender's commission of the speeding offense in 41
the construction zone and does not apply as described in division 42
(F) of this section. 43

(4) As the proximate result of committing a violation of any 44
provision of any section contained in Title XLV of the Revised 45
Code that is a minor misdemeanor or of a municipal ordinance that, 46
regardless of the penalty set by ordinance for the violation, is 47
substantially equivalent to any provision of any section contained 48
in Title XLV of the Revised Code that is a minor misdemeanor. 49

(B)(1) Whoever violates division (A)(1) or (2) of this 50

section is guilty of aggravated vehicular homicide and shall be
punished as provided in divisions (B)(2) and (3) of this section.

(2)(a) Except as otherwise provided in ~~this~~ division
(B)(2)(b) or (c) of this section, aggravated vehicular homicide
committed in violation of division (A)(1) of this section is a
felony of the second degree. ~~Aggravated~~

(b) Except as otherwise provided in division (B)(2)(c) of
this section, ~~aggravated~~ vehicular homicide committed in violation
of division (A)(1) of this section is a felony of the first degree
if any of the following apply:

(i) At the time of the offense, the offender was driving
under a suspension imposed under Chapter 4510. or any other
provision of the Revised Code.

(ii) The offender previously has been convicted of or pleaded
guilty to a violation of this section.

(iii) The offender previously has been convicted of or
pleaded guilty to any traffic-related homicide, manslaughter, or
assault offense.

~~(iv)~~(c) Aggravated vehicular homicide committed in violation
of division (A)(1) of this section is a felony of the first
degree, and the court shall sentence the offender to a mandatory
prison term as provided in section 2929.142 of the Revised Code if
any of the following apply:

(i) The offender previously has been convicted of or pleaded
guilty to three or more prior violations of section 4511.19 of the
Revised Code or of a substantially equivalent municipal ordinance
within the previous six years.

~~(v)~~(ii) The offender previously has been convicted of or
pleaded guilty to three or more prior violations of division (A)
of section 1547.11 of the Revised Code or of a substantially

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equivalent municipal ordinance within the previous six years. 81

~~(vi)~~(iii) The offender previously has been convicted of or 82
pleaded guilty to three or more prior violations of division 83
(A)(3) of section 4561.15 of the Revised Code or of a 84
substantially equivalent municipal ordinance within the previous 85
six years. 86

~~(vii)~~(iv) The offender previously has been convicted of or 87
pleaded guilty to three or more violations of any combination of 88
the offenses listed in division (B)(2)(a)(iv), (v), or (vi) of 89
this section. 90

~~(viii)~~(v) The offender previously has been convicted of or 91
pleaded guilty to a second or subsequent felony violation of 92
division (A) of section 4511.19 of the Revised Code. 93

~~(b)~~(d) In addition to any other sanctions imposed pursuant to 94
division (B)(2)(a), (b), or (c) of this section for aggravated 95
vehicular homicide committed in violation of division (A)(1) of 96
this section, the court shall impose upon the offender a class one 97
suspension of the offender's driver's license, commercial driver's 98
license, temporary instruction permit, probationary license, or 99
nonresident operating privilege as specified in division (A)(1) of 100
section 4510.02 of the Revised Code. 101

(3) Except as otherwise provided in this division, aggravated 102
vehicular homicide committed in violation of division (A)(2) of 103
this section is a felony of the third degree. Aggravated vehicular 104
homicide committed in violation of division (A)(2) of this section 105
is a felony of the second degree if, at the time of the offense, 106
the offender was driving under a suspension imposed under Chapter 107
4510. or any other provision of the Revised Code or if the 108
offender previously has been convicted of or pleaded guilty to a 109
violation of this section or any traffic-related homicide, 110
manslaughter, or assault offense. 111

In addition to any other sanctions imposed pursuant to this 112
division for a violation of division (A)(2) of this section, the 113
court shall impose upon the offender a class two suspension of the 114
offender's driver's license, commercial driver's license, 115
temporary instruction permit, probationary license, or nonresident 116
operating privilege from the range specified in division (A)(2) of 117
section 4510.02 of the Revised Code. 118

(C) Whoever violates division (A)(3) of this section is 119
guilty of vehicular homicide. Except as otherwise provided in this 120
division, vehicular homicide is a misdemeanor of the first degree. 121
Vehicular homicide committed in violation of division (A)(3) of 122
this section is a felony of the fourth degree if, at the time of 123
the offense, the offender was driving under a suspension or 124
revocation imposed under Chapter 4507. or any other provision of 125
the Revised Code or if the offender previously has been convicted 126
of or pleaded guilty to a violation of this section or any 127
traffic-related homicide, manslaughter, or assault offense. 128

In addition to any other sanctions imposed pursuant to this 129
division, the court shall impose upon the offender a class four 130
suspension of the offender's driver's license, commercial driver's 131
license, temporary instruction permit, probationary license, or 132
nonresident operating privilege from the range specified in 133
division (A)(4) of section 4510.02 of the Revised Code or, if the 134
offender previously has been convicted of or pleaded guilty to a 135
violation of this section or any traffic-related homicide, 136
manslaughter, or assault offense, a class three suspension of the 137
offender's driver's license, commercial driver's license, 138
temporary instruction permit, probationary license, or nonresident 139
operating privilege from the range specified in division (A)(3) of 140
that section. 141

(D) Whoever violates division (A)(4) of this section is 142
guilty of vehicular manslaughter. Except as otherwise provided in 143

this division, vehicular manslaughter is a misdemeanor of the 144
second degree. Vehicular manslaughter is a misdemeanor of the 145
first degree if, at the time of the offense, the offender was 146
driving under a suspension imposed under Chapter 4510. or any 147
other provision of the Revised Code or if the offender previously 148
has been convicted of or pleaded guilty to a violation of this 149
section or any traffic-related homicide, manslaughter, or assault 150
offense. 151

In addition to any other sanctions imposed pursuant to this 152
division, the court shall impose upon the offender a class six 153
suspension of the offender's driver's license, commercial driver's 154
license, temporary instruction permit, probationary license, or 155
nonresident operating privilege from the range specified in 156
division (A)(6) of section 4510.02 of the Revised Code or, if the 157
offender previously has been convicted of or pleaded guilty to a 158
violation of this section or any traffic-related homicide, 159
manslaughter, or assault offense, a class four suspension of the 160
offender's driver's license, commercial driver's license, 161
temporary instruction permit, probationary license, or nonresident 162
operating privilege from the range specified in division (A)(4) of 163
that section. 164

(E) The court shall impose a mandatory prison term on an 165
offender who is convicted of or pleads guilty to a violation of 166
division (A)(1) of this section. The court shall impose a 167
mandatory jail term of at least fifteen days on an offender who is 168
convicted of or pleads guilty to a misdemeanor violation of 169
division (A)(3)(b) of this section and may impose upon the 170
offender a longer jail term as authorized pursuant to section 171
2929.24 of the Revised Code. The court shall impose a mandatory 172
prison term on an offender who is convicted of or pleads guilty to 173
a violation of division (A)(2) or (3)(a) of this section or a 174
felony violation of division (A)(3)(b) of this section if either 175

of the following applies:

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(1) The offender previously has been convicted of or pleaded guilty to a violation of this section or section 2903.08 of the Revised Code.

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(2) At the time of the offense, the offender was driving under suspension under Chapter 4510. or any other provision of the Revised Code.

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(F) Divisions (A)(2)(b) and (3)(b) of this section do not apply in a particular construction zone unless signs of the type described in section 2903.081 of the Revised Code are erected in that construction zone in accordance with the guidelines and design specifications established by the director of transportation under section 5501.27 of the Revised Code. The failure to erect signs of the type described in section 2903.081 of the Revised Code in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of division (A)(1), (A)(2)(a), (A)(3)(a), or (A)(4) of this section in that construction zone or the prosecution of any person who violates any of those divisions in that construction zone.

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(G)(1) As used in this section:

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(a) "Mandatory prison term" and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

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(b) "Traffic-related homicide, manslaughter, or assault offense" means a violation of section 2903.04 of the Revised Code in circumstances in which division (D) of that section applies, a violation of section 2903.06 or 2903.08 of the Revised Code, or a violation of section 2903.06, 2903.07, or 2903.08 of the Revised Code as they existed prior to March 23, 2000.

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(c) "Construction zone" has the same meaning as in section

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5501.27 of the Revised Code.	206
(d) "Reckless operation offense" means a violation of section 4511.20 of the Revised Code or a municipal ordinance substantially equivalent to section 4511.20 of the Revised Code.	207 208 209
(e) "Speeding offense" means a violation of section 4511.21 of the Revised Code or a municipal ordinance pertaining to speed.	210 211
(2) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this state, or current or former law of another state or the United States.	212 213 214 215 216 217 218
Sec. 2929.01. As used in this chapter:	219
(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:	220 221 222 223
(a) It provides programs through which the offender may seek or maintain employment or may receive education, training, treatment, or habilitation.	224 225 226
(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.	227 228 229 230 231
(2) "Alternative residential facility" does not include a community-based correctional facility, jail, halfway house, or prison.	232 233 234

(B) "Bad time" means the time by which the parole board 235
administratively extends an offender's stated prison term or terms 236
pursuant to section 2967.11 of the Revised Code because the parole 237
board finds by clear and convincing evidence that the offender, 238
while serving the prison term or terms, committed an act that is a 239
criminal offense under the law of this state or the United States, 240
whether or not the offender is prosecuted for the commission of 241
that act. 242

(C) "Basic probation supervision" means a requirement that 243
the offender maintain contact with a person appointed to supervise 244
the offender in accordance with sanctions imposed by the court or 245
imposed by the parole board pursuant to section 2967.28 of the 246
Revised Code. "Basic probation supervision" includes basic parole 247
supervision and basic post-release control supervision. 248

(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and 249
"unit dose" have the same meanings as in section 2925.01 of the 250
Revised Code. 251

(E) "Community-based correctional facility" means a 252
community-based correctional facility and program or district 253
community-based correctional facility and program developed 254
pursuant to sections 2301.51 to 2301.56 of the Revised Code. 255

(F) "Community control sanction" means a sanction that is not 256
a prison term and that is described in section 2929.15, 2929.16, 257
2929.17, or 2929.18 of the Revised Code or a sanction that is not 258
a jail term and that is described in section 2929.26, 2929.27, or 259
2929.28 of the Revised Code. "Community control sanction" includes 260
probation if the sentence involved was imposed for a felony that 261
was committed prior to July 1, 1996, or if the sentence involved 262
was imposed for a misdemeanor that was committed prior to January 263
1, 2004. 264

(G) "Controlled substance," "marihuana," "schedule I," and 265

"schedule II" have the same meanings as in section 3719.01 of the Revised Code. 266
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(H) "Curfew" means a requirement that an offender during a specified period of time be at a designated place. 268
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(I) "Day reporting" means a sanction pursuant to which an offender is required each day to report to and leave a center or other approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center. 270
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(J) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code. 275
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(K) "Drug and alcohol use monitoring" means a program under which an offender agrees to submit to random chemical analysis of the offender's blood, breath, or urine to determine whether the offender has ingested any alcohol or other drugs. 277
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(L) "Drug treatment program" means any program under which a person undergoes assessment and treatment designed to reduce or completely eliminate the person's physical or emotional reliance upon alcohol, another drug, or alcohol and another drug and under which the person may be required to receive assessment and treatment on an outpatient basis or may be required to reside at a facility other than the person's home or residence while undergoing assessment and treatment. 281
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(M) "Economic loss" means any economic detriment suffered by a victim as a direct and proximate result of the commission of an offense and includes any loss of income due to lost time at work because of any injury caused to the victim, and any property loss, medical cost, or funeral expense incurred as a result of the commission of the offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages. 289
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(N) "Education or training" includes study at, or in 296
conjunction with a program offered by, a university, college, or 297
technical college or vocational study and also includes the 298
completion of primary school, secondary school, and literacy 299
curricula or their equivalent. 300

(O) "Firearm" has the same meaning as in section 2923.11 of 301
the Revised Code. 302

(P) "Halfway house" means a facility licensed by the division 303
of parole and community services of the department of 304
rehabilitation and correction pursuant to section 2967.14 of the 305
Revised Code as a suitable facility for the care and treatment of 306
adult offenders. 307

(Q) "House arrest" means a period of confinement of an 308
offender that is in the offender's home or in other premises 309
specified by the sentencing court or by the parole board pursuant 310
to section 2967.28 of the Revised Code and during which all of the 311
following apply: 312

(1) The offender is required to remain in the offender's home 313
or other specified premises for the specified period of 314
confinement, except for periods of time during which the offender 315
is at the offender's place of employment or at other premises as 316
authorized by the sentencing court or by the parole board. 317

(2) The offender is required to report periodically to a 318
person designated by the court or parole board. 319

(3) The offender is subject to any other restrictions and 320
requirements that may be imposed by the sentencing court or by the 321
parole board. 322

(R) "Intensive probation supervision" means a requirement 323
that an offender maintain frequent contact with a person appointed 324
by the court, or by the parole board pursuant to section 2967.28 325

of the Revised Code, to supervise the offender while the offender
is seeking or maintaining necessary employment and participating
in training, education, and treatment programs as required in the
court's or parole board's order. "Intensive probation supervision"
includes intensive parole supervision and intensive post-release
control supervision.

(S) "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.

(T) "Jail term" means the term in a jail that a sentencing
court imposes or is authorized to impose pursuant to section
2929.24 or 2929.25 of the Revised Code or pursuant to any other
provision of the Revised Code that authorizes a term in a jail for
a misdemeanor conviction.

(U) "Mandatory jail term" means the term in a jail that a
sentencing court is required to impose pursuant to division (G) of
section 1547.99 of the Revised Code, division (E) of section
2903.06 or division (D) of section 2903.08 of the Revised Code,
division (E) of section 2929.24 of the Revised Code, division (B)
of section 4510.14 of the Revised Code, or division (G) of section
4511.19 of the Revised Code or pursuant to any other provision of
the Revised Code that requires a term in a jail for a misdemeanor
conviction.

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

(W) "License violation report" means a report that is made by
a sentencing court, or by the parole board pursuant to section
2967.28 of the Revised Code, to the regulatory or licensing board
or agency that issued an offender a professional license or a
license or permit to do business in this state and that specifies

that the offender has been convicted of or pleaded guilty to an offense that may violate the conditions under which the offender's professional license or license or permit to do business in this state was granted or an offense for which the offender's professional license or license or permit to do business in this state may be revoked or suspended.

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

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

(1) Subject to division (Y)(2) of this section, the term in prison that must be imposed for the offenses or circumstances set forth in divisions (F)(1) to (8) or (F)(12) to (14) 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 or 2929.142 of the Revised Code, a mandatory prison term described in this division may be any prison term authorized for the level of offense.

(2) The term of sixty or one hundred twenty days in prison 388
that a sentencing court is required to impose for a third or 389
fourth degree felony OVI offense pursuant to division (G)(2) of 390
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 391
of the Revised Code or the term of one, two, three, four, or five 392
years in prison that a sentencing court is required to impose 393
pursuant to division (G)(2) of section 2929.13 of the Revised 394
Code. 395

(3) The term in prison imposed pursuant to section 2971.03 of 396
the Revised Code for the offenses and in the circumstances 397
described in division (F)(11) of section 2929.13 of the Revised 398
Code and that term as modified or terminated pursuant to section 399
2971.05 of the Revised Code. 400

(Z) "Monitored time" means a period of time during which an 401
offender continues to be under the control of the sentencing court 402
or parole board, subject to no conditions other than leading a 403
law-abiding life. 404

(AA) "Offender" means a person who, in this state, is 405
convicted of or pleads guilty to a felony or a misdemeanor. 406

(BB) "Prison" means a residential facility used for the 407
confinement of convicted felony offenders that is under the 408
control of the department of rehabilitation and correction but 409
does not include a violation sanction center operated under 410
authority of section 2967.141 of the Revised Code. 411

(CC) "Prison term" includes any of the following sanctions 412
for an offender: 413

(1) A stated prison term; 414

(2) A term in a prison shortened by, or with the approval of, 415
the sentencing court pursuant to section 2929.20, 2967.26, 416
5120.031, 5120.032, or 5120.073 of the Revised Code; 417

(3) A term in prison extended by bad time imposed pursuant to 418
section 2967.11 of the Revised Code or imposed for a violation of 419
post-release control pursuant to section 2967.28 of the Revised 420
Code. 421

(DD) "Repeat violent offender" means a person about whom both 422
of the following apply: 423

(1) The person has been convicted of or has pleaded guilty 424
to, and is being sentenced for committing, for complicity in 425
committing, or for an attempt to commit, aggravated murder, 426
murder, involuntary manslaughter, a felony of the first degree 427
other than one set forth in Chapter 2925. of the Revised Code, a 428
felony of the first degree set forth in Chapter 2925. of the 429
Revised Code that involved an attempt to cause serious physical 430
harm to a person or that resulted in serious physical harm to a 431
person, or a felony of the second degree that involved an attempt 432
to cause serious physical harm to a person or that resulted in 433
serious physical harm to a person. 434

(2) Either of the following applies: 435

(a) The person previously was convicted of or pleaded guilty 436
to, and previously served or, at the time of the offense was 437
serving, a prison term for, any of the following: 438

(i) Aggravated murder, murder, involuntary manslaughter, 439
rape, felonious sexual penetration as it existed under section 440
2907.12 of the Revised Code prior to September 3, 1996, a felony 441
of the first or second degree that resulted in the death of a 442
person or in physical harm to a person, or complicity in or an 443
attempt to commit any of those offenses; 444

(ii) An offense under an existing or former law of this 445
state, another state, or the United States that is or was 446
substantially equivalent to an offense listed under division 447
(DD)(2)(a)(i) of this section and that resulted in the death of a 448

person or in physical harm to a person. 449

(b) The person previously was adjudicated a delinquent child 450
for committing an act that if committed by an adult would have 451
been an offense listed in division (DD)(2)(a)(i) or (ii) of this 452
section, the person was committed to the department of youth 453
services for that delinquent act. 454

(EE) "Sanction" means any penalty imposed upon an offender 455
who is convicted of or pleads guilty to an offense, as punishment 456
for the offense. "Sanction" includes any sanction imposed pursuant 457
to any provision of sections 2929.14 to 2929.18 or 2929.24 to 458
2929.28 of the Revised Code. 459

(FF) "Sentence" means the sanction or combination of 460
sanctions imposed by the sentencing court on an offender who is 461
convicted of or pleads guilty to an offense. 462

(GG) "Stated prison term" means the prison term, mandatory 463
prison term, or combination of all prison terms and mandatory 464
prison terms imposed by the sentencing court pursuant to section 465
2929.14, 2929.142, or 2971.03 of the Revised Code. "Stated prison 466
term" includes any credit received by the offender for time spent 467
in jail awaiting trial, sentencing, or transfer to prison for the 468
offense and any time spent under house arrest or house arrest with 469
electronic monitoring imposed after earning credits pursuant to 470
section 2967.193 of the Revised Code. 471

(HH) "Victim-offender mediation" means a reconciliation or 472
mediation program that involves an offender and the victim of the 473
offense committed by the offender and that includes a meeting in 474
which the offender and the victim may discuss the offense, discuss 475
restitution, and consider other sanctions for the offense. 476

(II) "Fourth degree felony OVI offense" means a violation of 477
division (A) of section 4511.19 of the Revised Code that, under 478
division (G) of that section, is a felony of the fourth degree. 479

(JJ) "Mandatory term of local incarceration" means the term 480
of sixty or one hundred twenty days in a jail, a community-based 481
correctional facility, a halfway house, or an alternative 482
residential facility that a sentencing court may impose upon a 483
person who is convicted of or pleads guilty to a fourth degree 484
felony OVI offense pursuant to division (G)(1) of section 2929.13 485
of the Revised Code and division (G)(1)(d) or (e) of section 486
4511.19 of the Revised Code. 487

(KK) "Designated homicide, assault, or kidnapping offense," 488
"violent sex offense," "sexual motivation specification," 489
"sexually violent offense," "sexually violent predator," and 490
"sexually violent predator specification" have the same meanings 491
as in section 2971.01 of the Revised Code. 492

(LL) "Habitual sex offender," "sexually oriented offense," 493
"sexual predator," "registration-exempt sexually oriented 494
offense," "child-victim oriented offense," "habitual child-victim 495
offender," and "child-victim predator" have the same meanings as 496
in section 2950.01 of the Revised Code. 497

(MM) An offense is "committed in the vicinity of a child" if 498
the offender commits the offense within thirty feet of or within 499
the same residential unit as a child who is under eighteen years 500
of age, regardless of whether the offender knows the age of the 501
child or whether the offender knows the offense is being committed 502
within thirty feet of or within the same residential unit as the 503
child and regardless of whether the child actually views the 504
commission of the offense. 505

(NN) "Family or household member" has the same meaning as in 506
section 2919.25 of the Revised Code. 507

(OO) "Motor vehicle" and "manufactured home" have the same 508
meanings as in section 4501.01 of the Revised Code. 509

(PP) "Detention" and "detention facility" have the same 510

meanings as in section 2921.01 of the Revised Code. 511

(QQ) "Third degree felony OVI offense" means a violation of 512
division (A) of section 4511.19 of the Revised Code that, under 513
division (G) of that section, is a felony of the third degree. 514

(RR) "Random drug testing" has the same meaning as in section 515
5120.63 of the Revised Code. 516

(SS) "Felony sex offense" has the same meaning as in section 517
2967.28 of the Revised Code. 518

(TT) "Body armor" has the same meaning as in section 519
2941.1411 of the Revised Code. 520

(UU) "Electronic monitoring" means monitoring through the use 521
of an electronic monitoring device. 522

(VV) "Electronic monitoring device" means any of the 523
following: 524

(1) Any device that can be operated by electrical or battery 525
power and that conforms with all of the following: 526

(a) The device has a transmitter that can be attached to a 527
person, that will transmit a specified signal to a receiver of the 528
type described in division (VV)(1)(b) of this section if the 529
transmitter is removed from the person, turned off, or altered in 530
any manner without prior court approval in relation to electronic 531
monitoring or without prior approval of the department of 532
rehabilitation and correction in relation to the use of an 533
electronic monitoring device for an inmate on transitional control 534
or otherwise is tampered with, that can transmit continuously and 535
periodically a signal to that receiver when the person is within a 536
specified distance from the receiver, and that can transmit an 537
appropriate signal to that receiver if the person to whom it is 538
attached travels a specified distance from that receiver. 539

(b) The device has a receiver that can receive continuously 540

the signals transmitted by a transmitter of the type described in 541
division (VV)(1)(a) of this section, can transmit continuously 542
those signals by telephone to a central monitoring computer of the 543
type described in division (VV)(1)(c) of this section, and can 544
transmit continuously an appropriate signal to that central 545
monitoring computer if the receiver is turned off or altered 546
without prior court approval or otherwise tampered with. 547

(c) The device has a central monitoring computer that can 548
receive continuously the signals transmitted by telephone by a 549
receiver of the type described in division (VV)(1)(b) of this 550
section and can monitor continuously the person to whom an 551
electronic monitoring device of the type described in division 552
(VV)(1)(a) of this section is attached. 553

(2) Any device that is not a device of the type described in 554
division (VV)(1) of this section and that conforms with all of the 555
following: 556

(a) The device includes a transmitter and receiver that can 557
monitor and determine the location of a subject person at any 558
time, or at a designated point in time, through the use of a 559
central monitoring computer or through other electronic means. 560

(b) The device includes a transmitter and receiver that can 561
determine at any time, or at a designated point in time, through 562
the use of a central monitoring computer or other electronic means 563
the fact that the transmitter is turned off or altered in any 564
manner without prior approval of the court in relation to the 565
electronic monitoring or without prior approval of the department 566
of rehabilitation and correction in relation to the use of an 567
electronic monitoring device for an inmate on transitional control 568
or otherwise is tampered with. 569

(3) Any type of technology that can adequately track or 570
determine the location of a subject person at any time and that is 571

approved by the director of rehabilitation and correction, 572
including, but not limited to, any satellite technology, voice 573
tracking system, or retinal scanning system that is so approved. 574

(WW) "Non-economic loss" means nonpecuniary harm suffered by 575
a victim of an offense as a result of or related to the commission 576
of the offense, including, but not limited to, pain and suffering; 577
loss of society, consortium, companionship, care, assistance, 578
attention, protection, advice, guidance, counsel, instruction, 579
training, or education; mental anguish; and any other intangible 580
loss. 581

(XX) "Prosecutor" has the same meaning as in section 2935.01 582
of the Revised Code. 583

(YY) "Continuous alcohol monitoring" means the ability to 584
automatically test and periodically transmit alcohol consumption 585
levels and tamper attempts at least every hour, regardless of the 586
location of the person who is being monitored. 587

(ZZ) A person is "adjudicated a sexually violent predator" if 588
the person is convicted of or pleads guilty to a violent sex 589
offense and also is convicted of or pleads guilty to a sexually 590
violent predator specification that was included in the 591
indictment, count in the indictment, or information charging that 592
violent sex offense or if the person is convicted of or pleads 593
guilty to a designated homicide, assault, or kidnapping offense 594
and also is convicted of or pleads guilty to both a sexual 595
motivation specification and a sexually violent predator 596
specification that were included in the indictment, count in the 597
indictment, or information charging that designated homicide, 598
assault, or kidnapping offense. 599

Sec. 2929.13. (A) Except as provided in division (E), (F), or 600
(G) of this section and unless a specific sanction is required to 601

be imposed or is precluded from being imposed pursuant to law, a 602
court that imposes a sentence upon an offender for a felony may 603
impose any sanction or combination of sanctions on the offender 604
that are provided in sections 2929.14 to 2929.18 of the Revised 605
Code. The sentence shall not impose an unnecessary burden on state 606
or local government resources. 607

If the offender is eligible to be sentenced to community 608
control sanctions, the court shall consider the appropriateness of 609
imposing a financial sanction pursuant to section 2929.18 of the 610
Revised Code or a sanction of community service pursuant to 611
section 2929.17 of the Revised Code as the sole sanction for the 612
offense. Except as otherwise provided in this division, if the 613
court is required to impose a mandatory prison term for the 614
offense for which sentence is being imposed, the court also may 615
impose a financial sanction pursuant to section 2929.18 of the 616
Revised Code but may not impose any additional sanction or 617
combination of sanctions under section 2929.16 or 2929.17 of the 618
Revised Code. 619

If the offender is being sentenced for a fourth degree felony 620
OVI offense or for a third degree felony OVI offense, in addition 621
to the mandatory term of local incarceration or the mandatory 622
prison term required for the offense by division (G)(1) or (2) of 623
this section, the court shall impose upon the offender a mandatory 624
fine in accordance with division (B)(3) of section 2929.18 of the 625
Revised Code and may impose whichever of the following is 626
applicable: 627

(1) For a fourth degree felony OVI offense for which sentence 628
is imposed under division (G)(1) of this section, an additional 629
community control sanction or combination of community control 630
sanctions under section 2929.16 or 2929.17 of the Revised Code. If 631
the court imposes upon the offender a community control sanction 632
and the offender violates any condition of the community control 633

sanction, the court may take any action prescribed in division (B) 634
of section 2929.15 of the Revised Code relative to the offender, 635
including imposing a prison term on the offender pursuant to that 636
division. 637

(2) For a third or fourth degree felony OVI offense for which 638
sentence is imposed under division (G)(2) of this section, an 639
additional prison term as described in division (D)(4) of section 640
2929.14 of the Revised Code or a community control sanction as 641
described in division (G)(2) of this section. 642

(B)(1) Except as provided in division (B)(2), (E), (F), or 643
(G) of this section, in sentencing an offender for a felony of the 644
fourth or fifth degree, the sentencing court shall determine 645
whether any of the following apply: 646

(a) In committing the offense, the offender caused physical 647
harm to a person. 648

(b) In committing the offense, the offender attempted to 649
cause or made an actual threat of physical harm to a person with a 650
deadly weapon. 651

(c) In committing the offense, the offender attempted to 652
cause or made an actual threat of physical harm to a person, and 653
the offender previously was convicted of an offense that caused 654
physical harm to a person. 655

(d) The offender held a public office or position of trust 656
and the offense related to that office or position; the offender's 657
position obliged the offender to prevent the offense or to bring 658
those committing it to justice; or the offender's professional 659
reputation or position facilitated the offense or was likely to 660
influence the future conduct of others. 661

(e) The offender committed the offense for hire or as part of 662
an organized criminal activity. 663

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

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

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

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

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

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

(C) Except as provided in division (E), (F), or (G) of this section, in determining whether to impose a prison term as a

sanction for a felony of the third degree or a felony drug offense 695
that is a violation of a provision of Chapter 2925. of the Revised 696
Code and that is specified as being subject to this division for 697
purposes of sentencing, the sentencing court shall comply with the 698
purposes and principles of sentencing under section 2929.11 of the 699
Revised Code and with section 2929.12 of the Revised Code. 700

(D) Except as provided in division (E) or (F) of this 701
section, for a felony of the first or second degree and for a 702
felony drug offense that is a violation of any provision of 703
Chapter 2925., 3719., or 4729. of the Revised Code for which a 704
presumption in favor of a prison term is specified as being 705
applicable, it is presumed that a prison term is necessary in 706
order to comply with the purposes and principles of sentencing 707
under section 2929.11 of the Revised Code. Notwithstanding the 708
presumption established under this division, the sentencing court 709
may impose a community control sanction or a combination of 710
community control sanctions instead of a prison term on an 711
offender for a felony of the first or second degree or for a 712
felony drug offense that is a violation of any provision of 713
Chapter 2925., 3719., or 4729. of the Revised Code for which a 714
presumption in favor of a prison term is specified as being 715
applicable if it makes both of the following findings: 716

(1) A community control sanction or a combination of 717
community control sanctions would adequately punish the offender 718
and protect the public from future crime, because the applicable 719
factors under section 2929.12 of the Revised Code indicating a 720
lesser likelihood of recidivism outweigh the applicable factors 721
under that section indicating a greater likelihood of recidivism. 722

(2) A community control sanction or a combination of 723
community control sanctions would not demean the seriousness of 724
the offense, because one or more factors under section 2929.12 of 725
the Revised Code that indicate that the offender's conduct was 726

less serious than conduct normally constituting the offense are 727
applicable, and they outweigh the applicable factors under that 728
section that indicate that the offender's conduct was more serious 729
than conduct normally constituting the offense. 730

(E)(1) Except as provided in division (F) of this section, 731
for any drug offense that is a violation of any provision of 732
Chapter 2925. of the Revised Code and that is a felony of the 733
third, fourth, or fifth degree, the applicability of a presumption 734
under division (D) of this section in favor of a prison term or of 735
division (B) or (C) of this section in determining whether to 736
impose a prison term for the offense shall be determined as 737
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 738
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 739
Revised Code, whichever is applicable regarding the violation. 740

(2) If an offender who was convicted of or pleaded guilty to 741
a felony violates the conditions of a community control sanction 742
imposed for the offense solely by reason of producing positive 743
results on a drug test, the court, as punishment for the violation 744
of the sanction, shall not order that the offender be imprisoned 745
unless the court determines on the record either of the following: 746

(a) The offender had been ordered as a sanction for the 747
felony to participate in a drug treatment program, in a drug 748
education program, or in narcotics anonymous or a similar program, 749
and the offender continued to use illegal drugs after a reasonable 750
period of participation in the program. 751

(b) The imprisonment of the offender for the violation is 752
consistent with the purposes and principles of sentencing set 753
forth in section 2929.11 of the Revised Code. 754

(F) Notwithstanding divisions (A) to (E) of this section, the 755
court shall impose a prison term or terms under sections 2929.02 756
to 2929.06, section 2929.14, section 2929.142, or section 2971.03 757

of the Revised Code and except as specifically provided in section 758
2929.20 or 2967.191 of the Revised Code or when parole is 759
authorized for the offense under section 2967.13 of the Revised 760
Code shall not reduce the term or terms pursuant to section 761
2929.20, section 2967.193, or any other provision of Chapter 2967. 762
or Chapter 5120. of the Revised Code for any of the following 763
offenses: 764

(1) Aggravated murder when death is not imposed or murder; 765

(2) Any rape, regardless of whether force was involved and 766
regardless of the age of the victim, or an attempt to commit rape 767
if, had the offender completed the rape that was attempted, the 768
offender would have been subject to a sentence of life 769
imprisonment or life imprisonment without parole for the rape; 770

(3) Gross sexual imposition or sexual battery, if the victim 771
is under thirteen years of age, if the offender previously was 772
convicted of or pleaded guilty to rape, the former offense of 773
felonious sexual penetration, gross sexual imposition, or sexual 774
battery, and if the victim of the previous offense was under 775
thirteen years of age; 776

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 777
2903.11, 2903.12, or 2903.13 of the Revised Code if the section 778
requires the imposition of a prison term; 779

(5) A first, second, or third degree felony drug offense for 780
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 781
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 782
4729.99 of the Revised Code, whichever is applicable regarding the 783
violation, requires the imposition of a mandatory prison term; 784

(6) Any offense that is a first or second degree felony and 785
that is not set forth in division (F)(1), (2), (3), or (4) of this 786
section, if the offender previously was convicted of or pleaded 787
guilty to aggravated murder, murder, any first or second degree 788

felony, or an offense under an existing or former law of this 789
state, another state, or the United States that is or was 790
substantially equivalent to one of those offenses; 791

(7) Any offense that is a third degree felony and that is 792
listed in division (DD)(1) of section 2929.01 of the Revised Code 793
if the offender previously was convicted of or pleaded guilty to 794
any offense that is listed in division (DD)(2)(a)(i) or (ii) of 795
section 2929.01 of the Revised Code; 796

(8) Any offense, other than a violation of section 2923.12 of 797
the Revised Code, that is a felony, if the offender had a firearm 798
on or about the offender's person or under the offender's control 799
while committing the felony, with respect to a portion of the 800
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 801
of the Revised Code for having the firearm; 802

(9) Any offense of violence that is a felony, if the offender 803
wore or carried body armor while committing the felony offense of 804
violence, with respect to the portion of the sentence imposed 805
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 806
Code for wearing or carrying the body armor; 807

(10) Corrupt activity in violation of section 2923.32 of the 808
Revised Code when the most serious offense in the pattern of 809
corrupt activity that is the basis of the offense is a felony of 810
the first degree; 811

(11) Any violent sex offense or designated homicide, assault, 812
or kidnapping offense if, in relation to that offense, the 813
offender is adjudicated a sexually violent predator; 814

(12) A violation of division (A)(1) or (2) of section 2921.36 815
of the Revised Code, or a violation of division (C) of that 816
section involving an item listed in division (A)(1) or (2) of that 817
section, if the offender is an officer or employee of the 818
department of rehabilitation and correction; 819

(13) A violation of division (A)(1) or (2) of section 2903.06 820
of the Revised Code if the victim of the offense is a peace 821
officer, as defined in section 2935.01 of the Revised Code, with 822
respect to the portion of the sentence imposed pursuant to 823
division (D)(5) of section 2929.14 of the Revised Code; 824

(14) A violation of division (A)(1) or (2) of section 2903.06 825
of the Revised Code if the offender has been convicted of or 826
pleaded guilty to three or more violations of division (A) or (B) 827
of section 4511.19 of the Revised Code or an equivalent offense, 828
as defined in section 2941.1415 of the Revised Code, or three or 829
more violations of any combination of those divisions and 830
offenses, with respect to the portion of the sentence imposed 831
pursuant to division (D)(6) of section 2929.14 of the Revised 832
Code. 833

(G) Notwithstanding divisions (A) to (E) of this section, if 834
an offender is being sentenced for a fourth degree felony OVI 835
offense or for a third degree felony OVI offense, the court shall 836
impose upon the offender a mandatory term of local incarceration 837
or a mandatory prison term in accordance with the following: 838

(1) If the offender is being sentenced for a fourth degree 839
felony OVI offense and if the offender has not been convicted of 840
and has not pleaded guilty to a specification of the type 841
described in section 2941.1413 of the Revised Code, the court may 842
impose upon the offender a mandatory term of local incarceration 843
of sixty days or one hundred twenty days as specified in division 844
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 845
not reduce the term pursuant to section 2929.20, 2967.193, or any 846
other provision of the Revised Code. The court that imposes a 847
mandatory term of local incarceration under this division shall 848
specify whether the term is to be served in a jail, a 849
community-based correctional facility, a halfway house, or an 850
alternative residential facility, and the offender shall serve the 851

term in the type of facility specified by the court. A mandatory
term of local incarceration imposed under division (G)(1) of this
section is not subject to extension under section 2967.11 of the
Revised Code, to a period of post-release control under section
2967.28 of the Revised Code, or to any other Revised Code
provision that pertains to a prison term except as provided in
division (A)(1) of this section.

(2) If the offender is being sentenced for a third degree
felony OVI offense, or if the offender is being sentenced for a
fourth degree felony OVI offense and the court does not impose a
mandatory term of local incarceration under division (G)(1) of
this section, the court shall impose upon the offender a mandatory
prison term of one, two, three, four, or five years if the
offender also is convicted of or also pleads guilty to a
specification of the type described in section 2941.1413 of the
Revised Code or shall impose upon the offender a mandatory prison
term of sixty days or one hundred twenty days as specified in
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code
if the offender has not been convicted of and has not pleaded
guilty to a specification of that type. The court shall not reduce
the term pursuant to section 2929.20, 2967.193, or any other
provision of the Revised Code. The offender shall serve the one-,
two-, three-, four-, or five-year mandatory prison term
consecutively to and prior to the prison term imposed for the
underlying offense and consecutively to any other mandatory prison
term imposed in relation to the offense. In no case shall an
offender who once has been sentenced to a mandatory term of local
incarceration pursuant to division (G)(1) of this section for a
fourth degree felony OVI offense be sentenced to another mandatory
term of local incarceration under that division for any violation
of division (A) of section 4511.19 of the Revised Code. In
addition to the mandatory prison term described in division (G)(2)

of this section, the court may sentence the offender to a
community control sanction under section 2929.16 or 2929.17 of the
Revised Code, but the offender shall serve the prison term prior
to serving the community control sanction. The department of
rehabilitation and correction may place an offender sentenced to a
mandatory prison term under this division in an intensive program
prison established pursuant to section 5120.033 of the Revised
Code if the department gave the sentencing judge prior notice of
its intent to place the offender in an intensive program prison
established under that section and if the judge did not notify the
department that the judge disapproved the placement. Upon the
establishment of the initial intensive program prison pursuant to
section 5120.033 of the Revised Code that is privately operated
and managed by a contractor pursuant to a contract entered into
under section 9.06 of the Revised Code, both of the following
apply:

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

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

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

(1) The offense was a violent sex offense or a designated homicide, assault, or kidnapping offense and, in relation to that offense, the offender was adjudicated a sexually violent predator.

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

(I) If an offender is being sentenced for a sexually oriented offense that is not a registration-exempt sexually oriented offense or for a child-victim oriented offense committed on or after January 1, 1997, the judge shall include in the sentence a summary of the offender's duties imposed under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code and the duration of the duties. The judge shall inform the offender, at the time of sentencing, of those duties and of their duration and, if required under division (A)(2) of section 2950.03 of the Revised Code, shall perform the duties specified in that section.

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

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

offense had been committed and had involved an amount or number of 947
unit doses of the controlled substance that is within the next 948
lower range of controlled substance amounts than was involved in 949
the attempt. 950

(K) As used in this section, "drug abuse offense" has the 951
same meaning as in section 2925.01 of the Revised Code. 952

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 953
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), ~~or (G)~~, or (L) of this 954
section and except in relation to an offense for which a sentence 955
of death or life imprisonment is to be imposed, if the court 956
imposing a sentence upon an offender for a felony elects or is 957
required to impose a prison term on the offender pursuant to this 958
chapter, the court shall impose a definite prison term that shall 959
be one of the following: 960

(1) For a felony of the first degree, the prison term shall 961
be three, four, five, six, seven, eight, nine, or ten years. 962

(2) For a felony of the second degree, the prison term shall 963
be two, three, four, five, six, seven, or eight years. 964

(3) For a felony of the third degree, the prison term shall 965
be one, two, three, four, or five years. 966

(4) For a felony of the fourth degree, the prison term shall 967
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 968
fourteen, fifteen, sixteen, seventeen, or eighteen months. 969

(5) For a felony of the fifth degree, the prison term shall 970
be six, seven, eight, nine, ten, eleven, or twelve months. 971

(B) Except as provided in division (C), (D)(1), (D)(2), 972
(D)(3), (D)(5), (D)(6), ~~or (G)~~, or (L) of this section, in section 973
2907.02 of the Revised Code, or in Chapter 2925. of the Revised 974
Code, if the court imposing a sentence upon an offender for a 975
felony elects or is required to impose a prison term on the 976

offender, the court shall impose the shortest prison term 977
authorized for the offense pursuant to division (A) of this 978
section, unless one or more of the following applies: 979

(1) The offender was serving a prison term at the time of the 980
offense, or the offender previously had served a prison term. 981

(2) The court finds on the record that the shortest prison 982
term will demean the seriousness of the offender's conduct or will 983
not adequately protect the public from future crime by the 984
offender or others. 985

(C) Except as provided in division (G) or (L) of this section 986
or in Chapter 2925. of the Revised Code, the court imposing a 987
sentence upon an offender for a felony may impose the longest 988
prison term authorized for the offense pursuant to division (A) of 989
this section only upon offenders who committed the worst forms of 990
the offense, upon offenders who pose the greatest likelihood of 991
committing future crimes, upon certain major drug offenders under 992
division (D)(3) of this section, and upon certain repeat violent 993
offenders in accordance with division (D)(2) of this section. 994

(D)(1)(a) Except as provided in division (D)(1)(e) of this 995
section, if an offender who is convicted of or pleads guilty to a 996
felony also is convicted of or pleads guilty to a specification of 997
the type described in section 2941.141, 2941.144, or 2941.145 of 998
the Revised Code, the court shall impose on the offender one of 999
the following prison terms: 1000

(i) A prison term of six years if the specification is of the 1001
type described in section 2941.144 of the Revised Code that 1002
charges the offender with having a firearm that is an automatic 1003
firearm or that was equipped with a firearm muffler or silencer on 1004
or about the offender's person or under the offender's control 1005
while committing the felony; 1006

(ii) A prison term of three years if the specification is of 1007

the type described in section 2941.145 of the Revised Code that 1008
charges the offender with having a firearm on or about the 1009
offender's person or under the offender's control while committing 1010
the offense and displaying the firearm, brandishing the firearm, 1011
indicating that the offender possessed the firearm, or using it to 1012
facilitate the offense; 1013

(iii) A prison term of one year if the specification is of 1014
the type described in section 2941.141 of the Revised Code that 1015
charges the offender with having a firearm on or about the 1016
offender's person or under the offender's control while committing 1017
the felony. 1018

(b) If a court imposes a prison term on an offender under 1019
division (D)(1)(a) of this section, the prison term shall not be 1020
reduced pursuant to section 2929.20, section 2967.193, or any 1021
other provision of Chapter 2967. or Chapter 5120. of the Revised 1022
Code. A court shall not impose more than one prison term on an 1023
offender under division (D)(1)(a) of this section for felonies 1024
committed as part of the same act or transaction. 1025

(c) Except as provided in division (D)(1)(e) of this section, 1026
if an offender who is convicted of or pleads guilty to a violation 1027
of section 2923.161 of the Revised Code or to a felony that 1028
includes, as an essential element, purposely or knowingly causing 1029
or attempting to cause the death of or physical harm to another, 1030
also is convicted of or pleads guilty to a specification of the 1031
type described in section 2941.146 of the Revised Code that 1032
charges the offender with committing the offense by discharging a 1033
firearm from a motor vehicle other than a manufactured home, the 1034
court, after imposing a prison term on the offender for the 1035
violation of section 2923.161 of the Revised Code or for the other 1036
felony offense under division (A), (D)(2), or (D)(3) of this 1037
section, shall impose an additional prison term of five years upon 1038
the offender that shall not be reduced pursuant to section 1039

2929.20, section 2967.193, or any other provision of Chapter 2967. 1040
or Chapter 5120. of the Revised Code. A court shall not impose 1041
more than one additional prison term on an offender under division 1042
(D)(1)(c) of this section for felonies committed as part of the 1043
same act or transaction. If a court imposes an additional prison 1044
term on an offender under division (D)(1)(c) of this section 1045
relative to an offense, the court also shall impose a prison term 1046
under division (D)(1)(a) of this section relative to the same 1047
offense, provided the criteria specified in that division for 1048
imposing an additional prison term are satisfied relative to the 1049
offender and the offense. 1050

(d) If an offender who is convicted of or pleads guilty to an 1051
offense of violence that is a felony also is convicted of or 1052
pleads guilty to a specification of the type described in section 1053
2941.1411 of the Revised Code that charges the offender with 1054
wearing or carrying body armor while committing the felony offense 1055
of violence, the court shall impose on the offender a prison term 1056
of two years. The prison term so imposed shall not be reduced 1057
pursuant to section 2929.20, section 2967.193, or any other 1058
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 1059
court shall not impose more than one prison term on an offender 1060
under division (D)(1)(d) of this section for felonies committed as 1061
part of the same act or transaction. If a court imposes an 1062
additional prison term under division (D)(1)(a) or (c) of this 1063
section, the court is not precluded from imposing an additional 1064
prison term under division (D)(1)(d) of this section. 1065

(e) The court shall not impose any of the prison terms 1066
described in division (D)(1)(a) of this section or any of the 1067
additional prison terms described in division (D)(1)(c) of this 1068
section upon an offender for a violation of section 2923.12 or 1069
2923.123 of the Revised Code. The court shall not impose any of 1070
the prison terms described in division (D)(1)(a) of this section 1071

or any of the additional prison terms described in division 1072
(D)(1)(c) of this section upon an offender for a violation of 1073
section 2923.13 of the Revised Code unless all of the following 1074
apply: 1075

(i) The offender previously has been convicted of aggravated 1076
murder, murder, or any felony of the first or second degree. 1077

(ii) Less than five years have passed since the offender was 1078
released from prison or post-release control, whichever is later, 1079
for the prior offense. 1080

(f) If an offender is convicted of or pleads guilty to a 1081
felony that includes, as an essential element, causing or 1082
attempting to cause the death of or physical harm to another and 1083
also is convicted of or pleads guilty to a specification of the 1084
type described in section 2941.1412 of the Revised Code that 1085
charges the offender with committing the offense by discharging a 1086
firearm at a peace officer as defined in section 2935.01 of the 1087
Revised Code or a corrections officer as defined in section 1088
2941.1412 of the Revised Code, the court, after imposing a prison 1089
term on the offender for the felony offense under division (A), 1090
(D)(2), or (D)(3) of this section, shall impose an additional 1091
prison term of seven years upon the offender that shall not be 1092
reduced pursuant to section 2929.20, section 2967.193, or any 1093
other provision of Chapter 2967. or Chapter 5120. of the Revised 1094
Code. A court shall not impose more than one additional prison 1095
term on an offender under division (D)(1)(f) of this section for 1096
felonies committed as part of the same act or transaction. If a 1097
court imposes an additional prison term on an offender under 1098
division (D)(1)(f) of this section relative to an offense, the 1099
court shall not impose a prison term under division (D)(1)(a) or 1100
(c) of this section relative to the same offense. 1101

(2)(a) If an offender who is convicted of or pleads guilty to 1102

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

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

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

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

is more serious than conduct normally constituting the offense are 1135
present, and they outweigh the applicable factors under that 1136
section indicating that the offender's conduct is less serious 1137
than conduct normally constituting the offense. 1138

(3)(a) Except when an offender commits a violation of section 1139
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 1140
the violation is life imprisonment or commits a violation of 1141
section 2903.02 of the Revised Code, if the offender commits a 1142
violation of section 2925.03 or 2925.11 of the Revised Code and 1143
that section classifies the offender as a major drug offender and 1144
requires the imposition of a ten-year prison term on the offender, 1145
if the offender commits a felony violation of section 2925.02, 1146
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 1147
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 1148
division (C) of section 4729.51, or division (J) of section 1149
4729.54 of the Revised Code that includes the sale, offer to sell, 1150
or possession of a schedule I or II controlled substance, with the 1151
exception of marihuana, and the court imposing sentence upon the 1152
offender finds that the offender is guilty of a specification of 1153
the type described in section 2941.1410 of the Revised Code 1154
charging that the offender is a major drug offender, if the court 1155
imposing sentence upon an offender for a felony finds that the 1156
offender is guilty of corrupt activity with the most serious 1157
offense in the pattern of corrupt activity being a felony of the 1158
first degree, or if the offender is guilty of an attempted 1159
violation of section 2907.02 of the Revised Code and, had the 1160
offender completed the violation of section 2907.02 of the Revised 1161
Code that was attempted, the offender would have been subject to a 1162
sentence of life imprisonment or life imprisonment without parole 1163
for the violation of section 2907.02 of the Revised Code, the 1164
court shall impose upon the offender for the felony violation a 1165
ten-year prison term that cannot be reduced pursuant to section 1166

2929.20 or Chapter 2967. or 5120. of the Revised Code.

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

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(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (D)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty months for a fourth degree felony OVI offense and shall equal one of the authorized prison terms specified in division (A)(3) of this section for a third degree felony OVI offense. If the court imposes an additional prison term under division (D)(4) of this section, the offender shall serve the additional prison term after the offender has served the mandatory prison term required for the

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offense. In addition to the mandatory prison term or mandatory and
additional prison term imposed as described in division (D)(4) of
this section, the court also may sentence the offender to a
community control sanction under section 2929.16 or 2929.17 of the
Revised Code, but the offender shall serve all of the prison terms
so imposed prior to serving the community control sanction.

If the offender is being sentenced for a fourth degree felony
OVI offense under division (G)(1) of section 2929.13 of the
Revised Code and the court imposes a mandatory term of local
incarceration, the court may impose a prison term as described in
division (A)(1) of that section.

(5) If an offender is convicted of or pleads guilty to a
violation of division (A)(1) or (2) of section 2903.06 of the
Revised Code and also is convicted of or pleads guilty to a
specification of the type described in section 2941.1414 of the
Revised Code that charges that the victim of the offense is a
peace officer, as defined in section 2935.01 of the Revised Code,
the court shall impose on the offender a prison term of five
years. If a court imposes a prison term on an offender under
division (D)(5) of this section, the prison term shall not be
reduced pursuant to section 2929.20, section 2967.193, or any
other provision of Chapter 2967. or Chapter 5120. of the Revised
Code. A court shall not impose more than one prison term on an
offender under division (D)(5) of this section for felonies
committed as part of the same act.

(6) If an offender is convicted of or pleads guilty to a
violation of division (A)(1) or (2) of section 2903.06 of the
Revised Code and also is convicted of or pleads guilty to a
specification of the type described in section 2941.1415 of the
Revised Code that charges that the offender previously has been
convicted of or pleaded guilty to three or more violations of
division (A) or (B) of section 4511.19 of the Revised Code or an

equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (D)(6) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(6) of this section for felonies committed as part of the same act.

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

(b) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(d) of this section for wearing or carrying body armor while committing an offense of violence that is a felony, the offender shall serve the mandatory term so imposed consecutively to any other mandatory prison term imposed

under that division or under division (D)(1)(a) or (c) of this section, consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(c) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(f) of this section, the offender shall serve the mandatory prison term so imposed consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

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

(3) If a prison term is imposed for a violation of division (B) of section 2911.01 of the Revised Code, a violation of division (A) of section 2913.02 of the Revised Code in which the stolen property is a firearm or dangerous ordnance, or a felony

violation of division (B) of section 2921.331 of the Revised Code, 1295
the offender shall serve that prison term consecutively to any 1296
other prison term or mandatory prison term previously or 1297
subsequently imposed upon the offender. 1298

(4) If multiple prison terms are imposed on an offender for 1299
convictions of multiple offenses, the court may require the 1300
offender to serve the prison terms consecutively if the court 1301
finds that the consecutive service is necessary to protect the 1302
public from future crime or to punish the offender and that 1303
consecutive sentences are not disproportionate to the seriousness 1304
of the offender's conduct and to the danger the offender poses to 1305
the public, and if the court also finds any of the following: 1306

(a) The offender committed one or more of the multiple 1307
offenses while the offender was awaiting trial or sentencing, was 1308
under a sanction imposed pursuant to section 2929.16, 2929.17, or 1309
2929.18 of the Revised Code, or was under post-release control for 1310
a prior offense. 1311

(b) At least two of the multiple offenses were committed as 1312
part of one or more courses of conduct, and the harm caused by two 1313
or more of the multiple offenses so committed was so great or 1314
unusual that no single prison term for any of the offenses 1315
committed as part of any of the courses of conduct adequately 1316
reflects the seriousness of the offender's conduct. 1317

(c) The offender's history of criminal conduct demonstrates 1318
that consecutive sentences are necessary to protect the public 1319
from future crime by the offender. 1320

(5) If a mandatory prison term is imposed upon an offender 1321
pursuant to division (D)(5) or (6) of this section, the offender 1322
shall serve the mandatory prison term consecutively to and prior 1323
to any prison term imposed for the underlying violation of 1324
division (A)(1) or (2) of section 2903.06 of the Revised Code 1325

pursuant to division (A) of this section or section 2929.142 of 1326
the Revised Code. If a mandatory prison term is imposed upon an 1327
offender pursuant to division (D)(5) of this section, and if a 1328
mandatory prison term also is imposed upon the offender pursuant 1329
to division (D)(6) of this section in relation to the same 1330
violation, the offender shall serve the mandatory prison term 1331
imposed pursuant to division (D)(5) of this section consecutively 1332
to and prior to the mandatory prison term imposed pursuant to 1333
division (D)(6) of this section and consecutively to and prior to 1334
any prison term imposed for the underlying violation of division 1335
(A)(1) or (2) of section 2903.06 of the Revised Code pursuant to 1336
division (A) of this section or section 2929.142 of the Revised 1337
Code. 1338

(6) When consecutive prison terms are imposed pursuant to 1339
division (E)(1), (2), (3), (4), or (5) of this section, the term 1340
to be served is the aggregate of all of the terms so imposed. 1341

(F) If a court imposes a prison term of a type described in 1342
division (B) of section 2967.28 of the Revised Code, it shall 1343
include in the sentence a requirement that the offender be subject 1344
to a period of post-release control after the offender's release 1345
from imprisonment, in accordance with that division. If a court 1346
imposes a prison term of a type described in division (C) of that 1347
section, it shall include in the sentence a requirement that the 1348
offender be subject to a period of post-release control after the 1349
offender's release from imprisonment, in accordance with that 1350
division, if the parole board determines that a period of 1351
post-release control is necessary. 1352

(G) If a person is convicted of or pleads guilty to a violent 1353
sex offense or a designated homicide, assault, or kidnapping 1354
offense and, in relation to that offense, the offender is 1355
adjudicated a sexually violent predator, the court shall impose 1356
sentence upon the offender in accordance with section 2971.03 of 1357

the Revised Code, and Chapter 2971. of the Revised Code applies 1358
regarding the prison term or term of life imprisonment without 1359
parole imposed upon the offender and the service of that term of 1360
imprisonment. 1361

(H) If a person who has been convicted of or pleaded guilty 1362
to a felony is sentenced to a prison term or term of imprisonment 1363
under this section, sections 2929.02 to 2929.06 of the Revised 1364
Code, section 2929.142, section 2971.03 of the Revised Code, or 1365
any other provision of law, section 5120.163 of the Revised Code 1366
applies regarding the person while the person is confined in a 1367
state correctional institution. 1368

(I) If an offender who is convicted of or pleads guilty to a 1369
felony that is an offense of violence also is convicted of or 1370
pleads guilty to a specification of the type described in section 1371
2941.142 of the Revised Code that charges the offender with having 1372
committed the felony while participating in a criminal gang, the 1373
court shall impose upon the offender an additional prison term of 1374
one, two, or three years. 1375

(J) If an offender who is convicted of or pleads guilty to 1376
aggravated murder, murder, or a felony of the first, second, or 1377
third degree that is an offense of violence also is convicted of 1378
or pleads guilty to a specification of the type described in 1379
section 2941.143 of the Revised Code that charges the offender 1380
with having committed the offense in a school safety zone or 1381
towards a person in a school safety zone, the court shall impose 1382
upon the offender an additional prison term of two years. The 1383
offender shall serve the additional two years consecutively to and 1384
prior to the prison term imposed for the underlying offense. 1385

(K) At the time of sentencing, the court may recommend the 1386
offender for placement in a program of shock incarceration under 1387
section 5120.031 of the Revised Code or for placement in an 1388

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

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

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

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

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

available program of shock incarceration or an intensive program 1420
prison for which the offender is suited. If there is an available 1421
program of shock incarceration or an intensive program prison for 1422
which the offender is suited, the department shall notify the 1423
court of the proposed placement of the offender as specified in 1424
section 5120.031 or 5120.032 of the Revised Code and shall include 1425
with the notice a brief description of the placement. The court 1426
shall have ten days from receipt of the notice to disapprove the 1427
placement. 1428

(L) If a person is convicted of or pleads guilty to 1429
aggravated vehicular homicide in violation of division (A)(1) of 1430
section 2903.06 of the Revised Code and division (B)(2)(c) of that 1431
section applies, the person shall be sentenced pursuant to section 1432
2929.142 of the Revised Code. 1433

Sec. 2929.142. Notwithstanding the definite prison term 1434
specified in division (A) of section 2929.14 of the Revised Code 1435
for a felony of the first degree, if an offender is convicted of 1436
or pleads guilty to aggravated vehicular homicide in violation of 1437
division (A)(1) of section 2903.06 of the Revised Code, the court 1438
shall impose upon the offender a mandatory prison term of ten, 1439
eleven, twelve, thirteen, fourteen, or fifteen years if any of the 1440
following apply: 1441

(A) The offender previously has been convicted of or pleaded 1442
guilty to three or more prior violations of section 4511.19 of the 1443
Revised Code or of a substantially equivalent municipal ordinance 1444
within the previous six years. 1445

(B) The offender previously has been convicted of or pleaded 1446
guilty to three or more prior violations of division (A) of 1447
section 1547.11 of the Revised Code or of a substantially 1448
equivalent municipal ordinance within the previous six years. 1449

(C) The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A)(3) of section 4561.15 of the Revised Code or of a substantially equivalent municipal ordinance within the previous six years. 1450
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(D) The offender previously has been convicted of or pleaded guilty to three or more violations of any combination of the offenses listed in division (A), (B), or (C) of this section. 1454
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(E) The offender previously has been convicted of or pleaded guilty to a second or subsequent felony violation of division (A) of section 4511.19 of the Revised Code. 1457
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Sec. 2929.18. (A) Except as otherwise provided in this 1460
division and in addition to imposing court costs pursuant to 1461
section 2947.23 of the Revised Code, the court imposing a sentence 1462
upon an offender for a felony may sentence the offender to any 1463
financial sanction or combination of financial sanctions 1464
authorized under this section or, in the circumstances specified 1465
in section 2929.32 of the Revised Code, may impose upon the 1466
offender a fine in accordance with that section. Financial 1467
sanctions that may be imposed pursuant to this section include, 1468
but are not limited to, the following: 1469

(1) Restitution by the offender to the victim of the 1470
offender's crime or any survivor of the victim, in an amount based 1471
on the victim's economic loss. If the court imposes restitution, 1472
the court shall order that the restitution be made to the victim 1473
in open court, to the adult probation department that serves the 1474
county on behalf of the victim, to the clerk of courts, or to 1475
another agency designated by the court. If the court imposes 1476
restitution, at sentencing, the court shall determine the amount 1477
of restitution to be made by the offender. If the court imposes 1478
restitution, the court may base the amount of restitution it 1479
orders on an amount recommended by the victim, the offender, a 1480

presentence investigation report, estimates or receipts indicating 1481
the cost of repairing or replacing property, and other 1482
information, provided that the amount the court orders as 1483
restitution shall not exceed the amount of the economic loss 1484
suffered by the victim as a direct and proximate result of the 1485
commission of the offense. If the court decides to impose 1486
restitution, the court shall hold a hearing on restitution if the 1487
offender, victim, or survivor disputes the amount. All restitution 1488
payments shall be credited against any recovery of economic loss 1489
in a civil action brought by the victim or any survivor of the 1490
victim against the offender. 1491

If the court imposes restitution, the court may order that 1492
the offender pay a surcharge of not more than five per cent of the 1493
amount of the restitution otherwise ordered to the entity 1494
responsible for collecting and processing restitution payments. 1495

The victim or survivor may request that the prosecutor in the 1496
case file a motion, or the offender may file a motion, for 1497
modification of the payment terms of any restitution ordered. If 1498
the court grants the motion, it may modify the payment terms as it 1499
determines appropriate. 1500

(2) Except as provided in division (B)(1), (3), or (4) of 1501
this section, a fine payable by the offender to the state, to a 1502
political subdivision, or as described in division (B)(2) of this 1503
section to one or more law enforcement agencies, with the amount 1504
of the fine based on a standard percentage of the offender's daily 1505
income over a period of time determined by the court and based 1506
upon the seriousness of the offense. A fine ordered under this 1507
division shall not exceed the maximum conventional fine amount 1508
authorized for the level of the offense under division (A)(3) of 1509
this section. 1510

(3) Except as provided in division (B)(1), (3), or (4) of 1511

this section, a fine payable by the offender to the state, to a political subdivision when appropriate for a felony, or as described in division (B)(2) of this section to one or more law enforcement agencies, in the following amount:

(a) For a felony of the first degree, not more than twenty thousand dollars;

(b) For a felony of the second degree, not more than fifteen thousand dollars;

(c) For a felony of the third degree, not more than ten thousand dollars;

(d) For a felony of the fourth degree, not more than five thousand dollars;

(e) For a felony of the fifth degree, not more than two thousand five hundred dollars.

(4) A state fine or costs as defined in section 2949.111 of the Revised Code.

(5)(a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including the following:

(i) All or part of the costs of implementing any community control sanction, including a supervision fee under section 2951.021 of the Revised Code;

(ii) All or part of the costs of confinement under a sanction imposed pursuant to section 2929.14, 2929.142, or 2929.16 of the Revised Code, provided that the amount of reimbursement ordered under this division shall not exceed the total amount of reimbursement the offender is able to pay as determined at a hearing and shall not exceed the actual cost of the confinement.

(b) If the offender is sentenced to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is

to be served in a facility operated by a board of county 1542
commissioners, a legislative authority of a municipal corporation, 1543
or another local governmental entity, if, pursuant to section 1544
307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, 1545
or 2947.19 of the Revised Code and section 2929.37 of the Revised 1546
Code, the board, legislative authority, or other local 1547
governmental entity requires prisoners to reimburse the county, 1548
municipal corporation, or other entity for its expenses incurred 1549
by reason of the prisoner's confinement, and if the court does not 1550
impose a financial sanction under division (A)(5)(a)(ii) of this 1551
section, confinement costs may be assessed pursuant to section 1552
2929.37 of the Revised Code. In addition, the offender may be 1553
required to pay the fees specified in section 2929.38 of the 1554
Revised Code in accordance with that section. 1555

(c) Reimbursement by the offender for costs pursuant to 1556
section 2929.71 of the Revised Code. 1557

(B)(1) For a first, second, or third degree felony violation 1558
of any provision of Chapter 2925., 3719., or 4729. of the Revised 1559
Code, the sentencing court shall impose upon the offender a 1560
mandatory fine of at least one-half of, but not more than, the 1561
maximum statutory fine amount authorized for the level of the 1562
offense pursuant to division (A)(3) of this section. If an 1563
offender alleges in an affidavit filed with the court prior to 1564
sentencing that the offender is indigent and unable to pay the 1565
mandatory fine and if the court determines the offender is an 1566
indigent person and is unable to pay the mandatory fine described 1567
in this division, the court shall not impose the mandatory fine 1568
upon the offender. 1569

(2) Any mandatory fine imposed upon an offender under 1570
division (B)(1) of this section and any fine imposed upon an 1571
offender under division (A)(2) or (3) of this section for any 1572
fourth or fifth degree felony violation of any provision of 1573

Chapter 2925., 3719., or 4729. of the Revised Code shall be paid 1574
to law enforcement agencies pursuant to division (F) of section 1575
2925.03 of the Revised Code. 1576

(3) For a fourth degree felony OVI offense and for a third 1577
degree felony OVI offense, the sentencing court shall impose upon 1578
the offender a mandatory fine in the amount specified in division 1579
(G)(1)(d) or (e) of section 4511.19 of the Revised Code, whichever 1580
is applicable. The mandatory fine so imposed shall be disbursed as 1581
provided in the division pursuant to which it is imposed. 1582

(4) Notwithstanding any fine otherwise authorized or required 1583
to be imposed under division (A)(2) or (3) or (B)(1) of this 1584
section or section 2929.31 of the Revised Code for a violation of 1585
section 2925.03 of the Revised Code, in addition to any penalty or 1586
sanction imposed for that offense under section 2925.03 or 1587
sections 2929.11 to 2929.18 of the Revised Code and in addition to 1588
the forfeiture of property in connection with the offense as 1589
prescribed in sections 2925.42 to 2925.45 of the Revised Code, the 1590
court that sentences an offender for a violation of section 1591
2925.03 of the Revised Code may impose upon the offender a fine in 1592
addition to any fine imposed under division (A)(2) or (3) of this 1593
section and in addition to any mandatory fine imposed under 1594
division (B)(1) of this section. The fine imposed under division 1595
(B)(4) of this section shall be used as provided in division (H) 1596
of section 2925.03 of the Revised Code. A fine imposed under 1597
division (B)(4) of this section shall not exceed whichever of the 1598
following is applicable: 1599

(a) The total value of any personal or real property in which 1600
the offender has an interest and that was used in the course of, 1601
intended for use in the course of, derived from, or realized 1602
through conduct in violation of section 2925.03 of the Revised 1603
Code, including any property that constitutes proceeds derived 1604
from that offense; 1605

(b) If the offender has no interest in any property of the type described in division (B)(4)(a) of this section or if it is not possible to ascertain whether the offender has an interest in any property of that type in which the offender may have an interest, the amount of the mandatory fine for the offense imposed under division (B)(1) of this section or, if no mandatory fine is imposed under division (B)(1) of this section, the amount of the fine authorized for the level of the offense imposed under division (A)(3) of this section.

(5) Prior to imposing a fine under division (B)(4) of this section, the court shall determine whether the offender has an interest in any property of the type described in division (B)(4)(a) of this section. Except as provided in division (B)(6) or (7) of this section, a fine that is authorized and imposed under division (B)(4) of this section does not limit or affect the imposition of the penalties and sanctions for a violation of section 2925.03 of the Revised Code prescribed under those sections or sections 2929.11 to 2929.18 of the Revised Code and does not limit or affect a forfeiture of property in connection with the offense as prescribed in sections 2925.42 to 2925.45 of the Revised Code.

(6) If the sum total of a mandatory fine amount imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code under division (B)(1) of this section plus the amount of any fine imposed under division (B)(4) of this section does not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court may impose a fine for the offense in addition to the mandatory fine and the fine imposed under division (B)(4) of this section. The sum total of the amounts of the mandatory fine, the fine imposed under division (B)(4) of this section, and the additional fine imposed under

division (B)(6) of this section shall not exceed the maximum 1638
statutory fine amount authorized for the level of the offense 1639
under division (A)(3) of this section or section 2929.31 of the 1640
Revised Code. The clerk of the court shall pay any fine that is 1641
imposed under division (B)(6) of this section to the county, 1642
township, municipal corporation, park district as created pursuant 1643
to section 511.18 or 1545.04 of the Revised Code, or state law 1644
enforcement agencies in this state that primarily were responsible 1645
for or involved in making the arrest of, and in prosecuting, the 1646
offender pursuant to division (F) of section 2925.03 of the 1647
Revised Code. 1648

(7) If the sum total of the amount of a mandatory fine 1649
imposed for a first, second, or third degree felony violation of 1650
section 2925.03 of the Revised Code plus the amount of any fine 1651
imposed under division (B)(4) of this section exceeds the maximum 1652
statutory fine amount authorized for the level of the offense 1653
under division (A)(3) of this section or section 2929.31 of the 1654
Revised Code, the court shall not impose a fine under division 1655
(B)(6) of this section. 1656

(C)(1) The offender shall pay reimbursements imposed upon the 1657
offender pursuant to division (A)(5)(a) of this section to pay the 1658
costs incurred by the department of rehabilitation and correction 1659
in operating a prison or other facility used to confine offenders 1660
pursuant to sanctions imposed under section 2929.14, 2929.142, or 1661
2929.16 of the Revised Code to the treasurer of state. The 1662
treasurer of state shall deposit the reimbursements in the 1663
confinement cost reimbursement fund that is hereby created in the 1664
state treasury. The department of rehabilitation and correction 1665
shall use the amounts deposited in the fund to fund the operation 1666
of facilities used to confine offenders pursuant to sections 1667
2929.14, 2929.142, and 2929.16 of the Revised Code. 1668

(2) Except as provided in section 2951.021 of the Revised 1669

Code, the offender shall pay reimbursements imposed upon the 1670
offender pursuant to division (A)(5)(a) of this section to pay the 1671
costs incurred by a county pursuant to any sanction imposed under 1672
this section or section 2929.16 or 2929.17 of the Revised Code or 1673
in operating a facility used to confine offenders pursuant to a 1674
sanction imposed under section 2929.16 of the Revised Code to the 1675
county treasurer. The county treasurer shall deposit the 1676
reimbursements in the sanction cost reimbursement fund that each 1677
board of county commissioners shall create in its county treasury. 1678
The county shall use the amounts deposited in the fund to pay the 1679
costs incurred by the county pursuant to any sanction imposed 1680
under this section or section 2929.16 or 2929.17 of the Revised 1681
Code or in operating a facility used to confine offenders pursuant 1682
to a sanction imposed under section 2929.16 of the Revised Code. 1683

(3) Except as provided in section 2951.021 of the Revised 1684
Code, the offender shall pay reimbursements imposed upon the 1685
offender pursuant to division (A)(5)(a) of this section to pay the 1686
costs incurred by a municipal corporation pursuant to any sanction 1687
imposed under this section or section 2929.16 or 2929.17 of the 1688
Revised Code or in operating a facility used to confine offenders 1689
pursuant to a sanction imposed under section 2929.16 of the 1690
Revised Code to the treasurer of the municipal corporation. The 1691
treasurer shall deposit the reimbursements in a special fund that 1692
shall be established in the treasury of each municipal 1693
corporation. The municipal corporation shall use the amounts 1694
deposited in the fund to pay the costs incurred by the municipal 1695
corporation pursuant to any sanction imposed under this section or 1696
section 2929.16 or 2929.17 of the Revised Code or in operating a 1697
facility used to confine offenders pursuant to a sanction imposed 1698
under section 2929.16 of the Revised Code. 1699

(4) Except as provided in section 2951.021 of the Revised 1700
Code, the offender shall pay reimbursements imposed pursuant to 1701

division (A)(5)(a) of this section for the costs incurred by a 1702
private provider pursuant to a sanction imposed under this section 1703
or section 2929.16 or 2929.17 of the Revised Code to the provider. 1704

(D) Except as otherwise provided in this division, a 1705
financial sanction imposed pursuant to division (A) or (B) of this 1706
section is a judgment in favor of the state or a political 1707
subdivision in which the court that imposed the financial sanction 1708
is located, and the offender subject to the financial sanction is 1709
the judgment debtor. A financial sanction of reimbursement imposed 1710
pursuant to division (A)(5)(a)(ii) of this section upon an 1711
offender who is incarcerated in a state facility or a municipal 1712
jail is a judgment in favor of the state or the municipal 1713
corporation, and the offender subject to the financial sanction is 1714
the judgment debtor. A financial sanction of reimbursement imposed 1715
upon an offender pursuant to this section for costs incurred by a 1716
private provider of sanctions is a judgment in favor of the 1717
private provider, and the offender subject to the financial 1718
sanction is the judgment debtor. A financial sanction of 1719
restitution imposed pursuant to this section is an order in favor 1720
of the victim of the offender's criminal act that can be collected 1721
through execution as described in division (D)(1) of this section 1722
or through an order as described in division (D)(2) of this 1723
section, and the offender shall be considered for purposes of the 1724
collection as the judgment debtor. Imposition of a financial 1725
sanction and execution on the judgment does not preclude any other 1726
power of the court to impose or enforce sanctions on the offender. 1727
Once the financial sanction is imposed as a judgment or order 1728
under this division, the victim, private provider, state, or 1729
political subdivision may bring an action to do any of the 1730
following: 1731

(1) Obtain execution of the judgment or order through any 1732
available procedure, including: 1733

(a) An execution against the property of the judgment debtor under Chapter 2329. of the Revised Code;	1734 1735
(b) An execution against the person of the judgment debtor under Chapter 2331. of the Revised Code;	1736 1737
(c) A proceeding in aid of execution under Chapter 2333. of the Revised Code, including:	1738 1739
(i) A proceeding for the examination of the judgment debtor under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27 of the Revised Code;	1740 1741 1742
(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;	1743 1744
(iii) A creditor's suit under section 2333.01 of the Revised Code.	1745 1746
(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;	1747 1748
(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.	1749 1750
(2) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.	1751 1752
(E) A court that imposes a financial sanction upon an offender may hold a hearing if necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it.	1753 1754 1755 1756
(F) Each court imposing a financial sanction upon an offender under this section or under section 2929.32 of the Revised Code may designate the clerk of the court or another person to collect the financial sanction. The clerk or other person authorized by law or the court to collect the financial sanction may enter into contracts with one or more public agencies or private vendors for the collection of, amounts due under the financial sanction	1757 1758 1759 1760 1761 1762 1763

imposed pursuant to this section or section 2929.32 of the Revised Code. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code, a court shall comply with sections 307.86 to 307.92 of the Revised Code.

(G) If a court that imposes a financial sanction under division (A) or (B) of this section finds that an offender satisfactorily has completed all other sanctions imposed upon the offender and that all restitution that has been ordered has been paid as ordered, the court may suspend any financial sanctions imposed pursuant to this section or section 2929.32 of the Revised Code that have not been paid.

(H) No financial sanction imposed under this section or section 2929.32 of the Revised Code shall preclude a victim from bringing a civil action against the offender.

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

(2) Except as otherwise provided in this division, before

imposing sentence on an offender who is being sentenced on or
after January 1, 1997, for a sexually oriented offense that is not
a registration-exempt sexually oriented offense and who is in any
category of offender described in division (B)(1)(a)(i), (ii), or
(iii) of section 2950.09 of the Revised Code, the court shall
conduct a hearing in accordance with division (B) of section
2950.09 of the Revised Code to determine whether the offender is a
sexual predator. The court shall not conduct a hearing under that
division if the offender is being sentenced for a violent sex
offense or a designated homicide, assault, or kidnapping offense
and, in relation to that offense, the offender was adjudicated a
sexually violent predator. Before imposing sentence on an offender
who is being sentenced for a sexually oriented offense that is not
a registration-exempt sexually oriented offense, the court also
shall comply with division (E) of section 2950.09 of the Revised
Code.

Before imposing sentence on or after July 31, 2003, on an
offender who is being sentenced for a child-victim oriented
offense, regardless of when the offense was committed, the court
shall conduct a hearing in accordance with division (B) of section
2950.091 of the Revised Code to determine whether the offender is
a child-victim predator. Before imposing sentence on an offender
who is being sentenced for a child-victim oriented offense, the
court also shall comply with division (E) of section 2950.091 of
the Revised Code.

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

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

(a) Unless the offense is a violent sex offense or designated homicide, assault, or kidnapping offense for which the court is required to impose sentence pursuant to division (G) of section 2929.14 of the Revised Code, if it imposes a prison term for a felony of the fourth or fifth degree or for a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to division (B) of section 2929.13 of the Revised Code for purposes of sentencing, its reasons for imposing the prison term, based upon the overriding purposes and principles of felony sentencing set forth in section 2929.11 of the Revised Code, and any factors listed in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised Code that it found to apply relative to the offender.

(b) If it does not impose a prison term for a felony of the first or second degree or for a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and for which a presumption in favor of a prison term is specified as being applicable, its reasons for not imposing the prison term and for overriding the presumption, based upon the overriding purposes and principles of felony sentencing set forth in section 2929.11 of the Revised Code, and the basis of the findings it made under divisions (D)(1) and (2) of section 2929.13 of the Revised Code.

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

(d) If the sentence is for one offense and it imposes a prison term for the offense that is the maximum prison term allowed for that offense by division (A) of section 2929.14 of the

Revised Code or section 2929.142 of the Revised Code, its reasons 1858
for imposing the maximum prison term; 1859

(e) If the sentence is for two or more offenses arising out 1860
of a single incident and it imposes a prison term for those 1861
offenses that is the maximum prison term allowed for the offense 1862
of the highest degree by division (A) of section 2929.14 of the 1863
Revised Code or section 2929.142 of the Revised Code, its reasons 1864
for imposing the maximum prison term. 1865

(3) Subject to division (B)(4) of this section, if the 1866
sentencing court determines at the sentencing hearing that a 1867
prison term is necessary or required, the court shall do all of 1868
the following: 1869

(a) Impose a stated prison term; 1870

(b) Notify the offender that, as part of the sentence, the 1871
parole board may extend the stated prison term for certain 1872
violations of prison rules for up to one-half of the stated prison 1873
term; 1874

(c) Notify the offender that the offender will be supervised 1875
under section 2967.28 of the Revised Code after the offender 1876
leaves prison if the offender is being sentenced for a felony of 1877
the first degree or second degree, for a felony sex offense, or 1878
for a felony of the third degree in the commission of which the 1879
offender caused or threatened to cause physical harm to a person; 1880

(d) Notify the offender that the offender may be supervised 1881
under section 2967.28 of the Revised Code after the offender 1882
leaves prison if the offender is being sentenced for a felony of 1883
the third, fourth, or fifth degree that is not subject to division 1884
(B)(3)(c) of this section; 1885

(e) Notify the offender that, if a period of supervision is 1886
imposed following the offender's release from prison, as described 1887

in division (B)(3)(c) or (d) of this section, and if the offender
violates that supervision or a condition of post-release control
imposed under division (B) of section 2967.131 of the Revised
Code, the parole board may impose a prison term, as part of the
sentence, of up to one-half of the stated prison term originally
imposed upon the offender;

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

(4) If the offender is being sentenced for a violent sex
offense or designated homicide, assault, or kidnapping offense
that the offender committed on or after January 1, 1997, and the
offender is adjudicated a sexually violent predator in relation to
that offense, if the offender is being sentenced for a sexually
oriented offense that is not a registration-exempt sexually
oriented offense and that the offender committed on or after
January 1, 1997, and the court imposing the sentence has
determined pursuant to division (B) of section 2950.09 of the
Revised Code that the offender is a sexual predator, if the
offender is being sentenced on or after July 31, 2003, for a
child-victim oriented offense and the court imposing the sentence
has determined pursuant to division (B) of section 2950.091 of the
Revised Code that the offender is a child-victim predator, or if
the offender is being sentenced for an aggravated sexually
oriented offense as defined in section 2950.01 of the Revised
Code, the court shall include in the offender's sentence a
statement that the offender has been adjudicated a sexual
predator, has been adjudicated a child victim predator, or has

been convicted of or pleaded guilty to an aggravated sexually 1920
oriented offense, whichever is applicable, and shall comply with 1921
the requirements of section 2950.03 of the Revised Code. 1922
Additionally, in the circumstances described in division (G) of 1923
section 2929.14 of the Revised Code, the court shall impose 1924
sentence on the offender as described in that division. 1925

(5) If the sentencing court determines at the sentencing 1926
hearing that a community control sanction should be imposed and 1927
the court is not prohibited from imposing a community control 1928
sanction, the court shall impose a community control sanction. The 1929
court shall notify the offender that, if the conditions of the 1930
sanction are violated, if the offender commits a violation of any 1931
law, or if the offender leaves this state without the permission 1932
of the court or the offender's probation officer, the court may 1933
impose a longer time under the same sanction, may impose a more 1934
restrictive sanction, or may impose a prison term on the offender 1935
and shall indicate the specific prison term that may be imposed as 1936
a sanction for the violation, as selected by the court from the 1937
range of prison terms for the offense pursuant to section 2929.14 1938
of the Revised Code. 1939

(6) Before imposing a financial sanction under section 1940
2929.18 of the Revised Code or a fine under section 2929.32 of the 1941
Revised Code, the court shall consider the offender's present and 1942
future ability to pay the amount of the sanction or fine. 1943

(7) If the sentencing court sentences the offender to a 1944
sanction of confinement pursuant to section 2929.14 or 2929.16 of 1945
the Revised Code that is to be served in a local detention 1946
facility, as defined in section 2929.36 of the Revised Code, and 1947
if the local detention facility is covered by a policy adopted 1948
pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 1949
753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code 1950
and section 2929.37 of the Revised Code, both of the following 1951

apply: 1952

(a) The court shall specify both of the following as part of 1953
the sentence: 1954

(i) If the offender is presented with an itemized bill 1955
pursuant to section 2929.37 of the Revised Code for payment of the 1956
costs of confinement, the offender is required to pay the bill in 1957
accordance with that section. 1958

(ii) If the offender does not dispute the bill described in 1959
division (B)(7)(a)(i) of this section and does not pay the bill by 1960
the times specified in section 2929.37 of the Revised Code, the 1961
clerk of the court may issue a certificate of judgment against the 1962
offender as described in that section. 1963

(b) The sentence automatically includes any certificate of 1964
judgment issued as described in division (B)(7)(a)(ii) of this 1965
section. 1966

(C)(1) If the offender is being sentenced for a fourth degree 1967
felony OVI offense under division (G)(1) of section 2929.13 of the 1968
Revised Code, the court shall impose the mandatory term of local 1969
incarceration in accordance with that division, shall impose a 1970
mandatory fine in accordance with division (B)(3) of section 1971
2929.18 of the Revised Code, and, in addition, may impose 1972
additional sanctions as specified in sections 2929.15, 2929.16, 1973
2929.17, and 2929.18 of the Revised Code. The court shall not 1974
impose a prison term on the offender except that the court may 1975
impose a prison term upon the offender as provided in division 1976
(A)(1) of section 2929.13 of the Revised Code. 1977

(2) If the offender is being sentenced for a third or fourth 1978
degree felony OVI offense under division (G)(2) of section 2929.13 1979
of the Revised Code, the court shall impose the mandatory prison 1980
term in accordance with that division, shall impose a mandatory 1981
fine in accordance with division (B)(3) of section 2929.18 of the 1982

Revised Code, and, in addition, may impose an additional prison term as specified in section 2929.14 of the Revised Code. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may impose a community control sanction on the offender, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(D) The sentencing court, pursuant to division (K) of section 2929.14 of the Revised Code, may recommend placement of the offender in a program of shock incarceration under section 5120.031 of the Revised Code or an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program or prison of that nature, or make no recommendation. If the court recommends or disapproves placement, it shall make a finding that gives its reasons for its recommendation or disapproval.

Sec. 2953.08. (A) In addition to any other right to appeal and except as provided in division (D) of this section, a defendant who is convicted of or pleads guilty to a felony may appeal as a matter of right the sentence imposed upon the defendant on one of the following grounds:

(1) The sentence consisted of or included the maximum prison term allowed for the offense by division (A) of section 2929.14 or section 2929.142 of the Revised Code, the sentence was not imposed pursuant to division (D)(3)(b) of section 2929.14 of the Revised Code, the maximum prison term was not required for the offense pursuant to Chapter 2925. or any other provision of the Revised Code, and the court imposed the sentence under one of the following circumstances:

(a) The sentence was imposed for only one offense.

(b) The sentence was imposed for two or more offenses arising out of a single incident, and the court imposed the maximum prison term for the offense of the highest degree.

(2) The sentence consisted of or included a prison term, the offense for which it was imposed is a felony of the fourth or fifth degree or is a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to division (B) of section 2929.13 of the Revised Code for purposes of sentencing, and the court did not specify at sentencing that it found one or more factors specified in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised Code to apply relative to the defendant. If the court specifies that it found one or more of those factors to apply relative to the defendant, the defendant is not entitled under this division to appeal as a matter of right the sentence imposed upon the offender.

(3) The person was convicted of or pleaded guilty to a violent sex offense or a designated homicide, assault, or kidnapping offense, was adjudicated a sexually violent predator in relation to that offense, and was sentenced pursuant to division (A)(3) of section 2971.03 of the Revised Code, if the minimum term of the indefinite term imposed pursuant to division (A)(3) of section 2971.03 of the Revised Code is the longest term available for the offense from among the range of terms listed in section 2929.14 of the Revised Code. As used in this division, "designated homicide, assault, or kidnapping offense" and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code. As used in this division, "adjudicated a sexually violent predator" has the same meaning as in section 2929.01 of the Revised Code, and a person is "adjudicated a sexually violent predator" in the same manner and the same circumstances as are described in that section.

(4) The sentence is contrary to law. 2045

(5) The sentence consisted of an additional prison term of 2046
ten years imposed pursuant to division (D)(2)(b) of section 2047
2929.14 of the Revised Code. 2048

(6) The sentence consisted of an additional prison term of 2049
ten years imposed pursuant to division (D)(3)(b) of section 2050
2929.14 of the Revised Code. 2051

(B) In addition to any other right to appeal and except as 2052
provided in division (D) of this section, a prosecuting attorney, 2053
a city director of law, village solicitor, or similar chief legal 2054
officer of a municipal corporation, or the attorney general, if 2055
one of those persons prosecuted the case, may appeal as a matter 2056
of right a sentence imposed upon a defendant who is convicted of 2057
or pleads guilty to a felony or, in the circumstances described in 2058
division (B)(3) of this section the modification of a sentence 2059
imposed upon such a defendant, on any of the following grounds: 2060

(1) The sentence did not include a prison term despite a 2061
presumption favoring a prison term for the offense for which it 2062
was imposed, as set forth in section 2929.13 or Chapter 2925. of 2063
the Revised Code. 2064

(2) The sentence is contrary to law. 2065

(3) The sentence is a modification under section 2929.20 of 2066
the Revised Code of a sentence that was imposed for a felony of 2067
the first or second degree. 2068

(C) In addition to the right to appeal a sentence granted 2069
under division (A) or (B) of this section, a defendant who is 2070
convicted of or pleads guilty to a felony may seek leave to appeal 2071
a sentence imposed upon the defendant on the basis that the 2072
sentencing judge has imposed consecutive sentences under division 2073
(E)(3) or (4) of section 2929.14 of the Revised Code and that the 2074

consecutive sentences exceed the maximum prison term allowed by
division (A) of that section for the most serious offense of which
the defendant was convicted. Upon the filing of a motion under
this division, the court of appeals may grant leave to appeal the
sentence if the court determines that the allegation included as
the basis of the motion is true.

(D) A sentence imposed upon a defendant is not subject to
review under this section if the sentence is authorized by law,
has been recommended jointly by the defendant and the prosecution
in the case, and is imposed by a sentencing judge. A sentence
imposed for aggravated murder or murder pursuant to sections
2929.02 to 2929.06 of the Revised Code is not subject to review
under this section.

(E) A defendant, prosecuting attorney, city director of law,
village solicitor, or chief municipal legal officer shall file an
appeal of a sentence under this section to a court of appeals
within the time limits specified in Rule 4(B) of the Rules of
Appellate Procedure, provided that if the appeal is pursuant to
division (B)(3) of this section, the time limits specified in that
rule shall not commence running until the court grants the motion
that makes the sentence modification in question. A sentence
appeal under this section shall be consolidated with any other
appeal in the case. If no other appeal is filed, the court of
appeals may review only the portions of the trial record that
pertain to sentencing.

(F) On the appeal of a sentence under this section, the
record to be reviewed shall include all of the following, as
applicable:

(1) Any presentence, psychiatric, or other investigative
report that was submitted to the court in writing before the
sentence was imposed. An appellate court that reviews a

presentence investigation report prepared pursuant to section 2106
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 2107
connection with the appeal of a sentence under this section shall 2108
comply with division (D)(3) of section 2951.03 of the Revised Code 2109
when the appellate court is not using the presentence 2110
investigation report, and the appellate court's use of a 2111
presentence investigation report of that nature in connection with 2112
the appeal of a sentence under this section does not affect the 2113
otherwise confidential character of the contents of that report as 2114
described in division (D)(1) of section 2951.03 of the Revised 2115
Code and does not cause that report to become a public record, as 2116
defined in section 149.43 of the Revised Code, following the 2117
appellate court's use of the report. 2118

(2) The trial record in the case in which the sentence was 2119
imposed; 2120

(3) Any oral or written statements made to or by the court at 2121
the sentencing hearing at which the sentence was imposed; 2122

(4) Any written findings that the court was required to make 2123
in connection with the modification of the sentence pursuant to a 2124
judicial release under division (H) of section 2929.20 of the 2125
Revised Code. 2126

(G)(1) If the sentencing court was required to make the 2127
findings required by division (B) or (D) of section 2929.13, 2128
division (E)(4) of section 2929.14, or division (H) of section 2129
2929.20 of the Revised Code relative to the imposition or 2130
modification of the sentence, and if the sentencing court failed 2131
to state the required findings on the record, the court hearing an 2132
appeal under division (A), (B), or (C) of this section shall 2133
remand the case to the sentencing court and instruct the 2134
sentencing court to state, on the record, the required findings. 2135

(2) The court hearing an appeal under division (A), (B), or 2136

(C) of this section shall review the record, including the 2137
findings underlying the sentence or modification given by the 2138
sentencing court. 2139

The appellate court may increase, reduce, or otherwise modify 2140
a sentence that is appealed under this section or may vacate the 2141
sentence and remand the matter to the sentencing court for 2142
resentencing. The appellate court's standard for review is not 2143
whether the sentencing court abused its discretion. The appellate 2144
court may take any action authorized by this division if it 2145
clearly and convincingly finds either of the following: 2146

(a) That the record does not support the sentencing court's 2147
findings under division (B) or (D) of section 2929.13, division 2148
(E)(4) of section 2929.14, or division (H) of section 2929.20 of 2149
the Revised Code, whichever, if any, is relevant; 2150

(b) That the sentence is otherwise contrary to law. 2151

(H) A judgment or final order of a court of appeals under 2152
this section may be appealed, by leave of court, to the supreme 2153
court. 2154

(I)(1) There is hereby established the felony sentence appeal 2155
cost oversight committee, consisting of eight members. One member 2156
shall be the chief justice of the supreme court or a 2157
representative of the court designated by the chief justice, one 2158
member shall be a member of the senate appointed by the president 2159
of the senate, one member shall be a member of the house of 2160
representatives appointed by the speaker of the house of 2161
representatives, one member shall be the director of budget and 2162
management or a representative of the office of budget and 2163
management designated by the director, one member shall be a judge 2164
of a court of appeals, court of common pleas, municipal court, or 2165
county court appointed by the chief justice of the supreme court, 2166
one member shall be the state public defender or a representative 2167

of the office of the state public defender designated by the state 2168
public defender, one member shall be a prosecuting attorney 2169
appointed by the Ohio prosecuting attorneys association, and one 2170
member shall be a county commissioner appointed by the county 2171
commissioners association of Ohio. No more than three of the 2172
appointed members of the committee may be members of the same 2173
political party. 2174

The president of the senate, the speaker of the house of 2175
representatives, the chief justice of the supreme court, the Ohio 2176
prosecuting attorneys association, and the county commissioners 2177
association of Ohio shall make the initial appointments to the 2178
committee of the appointed members no later than ninety days after 2179
July 1, 1996. Of those initial appointments to the committee, the 2180
members appointed by the speaker of the house of representatives 2181
and the Ohio prosecuting attorneys association shall serve a term 2182
ending two years after July 1, 1996, the member appointed by the 2183
chief justice of the supreme court shall serve a term ending three 2184
years after July 1, 1996, and the members appointed by the 2185
president of the senate and the county commissioners association 2186
of Ohio shall serve terms ending four years after July 1, 1996. 2187
Thereafter, terms of office of the appointed members shall be for 2188
four years, with each term ending on the same day of the same 2189
month as did the term that it succeeds. Members may be 2190
reappointed. Vacancies shall be filled in the same manner provided 2191
for original appointments. A member appointed to fill a vacancy 2192
occurring prior to the expiration of the term for which that 2193
member's predecessor was appointed shall hold office as a member 2194
for the remainder of the predecessor's term. An appointed member 2195
shall continue in office subsequent to the expiration date of that 2196
member's term until that member's successor takes office or until 2197
a period of sixty days has elapsed, whichever occurs first. 2198

If the chief justice of the supreme court, the director of 2199

the office of budget and management, or the state public defender 2200
serves as a member of the committee, that person's term of office 2201
as a member shall continue for as long as that person holds office 2202
as chief justice, director of the office of budget and management, 2203
or state public defender. If the chief justice of the supreme 2204
court designates a representative of the court to serve as a 2205
member, the director of budget and management designates a 2206
representative of the office of budget and management to serve as 2207
a member, or the state public defender designates a representative 2208
of the office of the state public defender to serve as a member, 2209
the person so designated shall serve as a member of the commission 2210
for as long as the official who made the designation holds office 2211
as chief justice, director of the office of budget and management, 2212
or state public defender or until that official revokes the 2213
designation. 2214

The chief justice of the supreme court or the representative 2215
of the supreme court appointed by the chief justice shall serve as 2216
chairperson of the committee. The committee shall meet within two 2217
weeks after all appointed members have been appointed and shall 2218
organize as necessary. Thereafter, the committee shall meet at 2219
least once every six months or more often upon the call of the 2220
chairperson or the written request of three or more members, 2221
provided that the committee shall not meet unless moneys have been 2222
appropriated to the judiciary budget administered by the supreme 2223
court specifically for the purpose of providing financial 2224
assistance to counties under division (I)(2) of this section and 2225
the moneys so appropriated then are available for that purpose. 2226

The members of the committee shall serve without 2227
compensation, but, if moneys have been appropriated to the 2228
judiciary budget administered by the supreme court specifically 2229
for the purpose of providing financial assistance to counties 2230
under division (I)(2) of this section, each member shall be 2231

reimbursed out of the moneys so appropriated that then are 2232
available for actual and necessary expenses incurred in the 2233
performance of official duties as a committee member. 2234

(2) The state criminal sentencing commission periodically 2235
shall provide to the felony sentence appeal cost oversight 2236
committee all data the commission collects pursuant to division 2237
(A)(5) of section 181.25 of the Revised Code. Upon receipt of the 2238
data from the state criminal sentencing commission, the felony 2239
sentence appeal cost oversight committee periodically shall review 2240
the data; determine whether any money has been appropriated to the 2241
judiciary budget administered by the supreme court specifically 2242
for the purpose of providing state financial assistance to 2243
counties in accordance with this division for the increase in 2244
expenses the counties experience as a result of the felony 2245
sentence appeal provisions set forth in this section or as a 2246
result of a postconviction relief proceeding brought under 2247
division (A)(2) of section 2953.21 of the Revised Code or an 2248
appeal of a judgment in that proceeding; if it determines that any 2249
money has been so appropriated, determine the total amount of 2250
moneys that have been so appropriated specifically for that 2251
purpose and that then are available for that purpose; and develop 2252
a recommended method of distributing those moneys to the counties. 2253
The committee shall send a copy of its recommendation to the 2254
supreme court. Upon receipt of the committee's recommendation, the 2255
supreme court shall distribute to the counties, based upon that 2256
recommendation, the moneys that have been so appropriated 2257
specifically for the purpose of providing state financial 2258
assistance to counties under this division and that then are 2259
available for that purpose. 2260

Section 2. That existing sections 2903.06, 2929.01, 2929.13, 2261
2929.14, 2929.18, 2929.19, and 2953.08 of the Revised Code are 2262
hereby repealed. 2263