

As Reported by the House Criminal Justice Committee

126th General Assembly

Regular Session

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Sub. H. B. No. 461

**Representatives Wolpert, Yuko, Ujvagi, Otterman, Healy, Latta, Evans, D.,
Gilb, Hughes**

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A B I L L

To amend sections 2903.06, 2929.01, 2929.13, 2929.14, 1
2929.18, 2929.19, 2945.75, 2953.08, and 4511.19 2
and to enact section 2929.142 of the Revised Code 3
to increase the prison term for aggravated 4
vehicular homicide when the offender has prior OVI 5
convictions or guilty pleas, to allow a certified 6
copy of a BMV record to be used as proof of a 7
prior conviction, and to expand the circumstances 8
in which evidence on the concentration of alcohol, 9
drugs of abuse, or a combination of them in a 10
person's blood, breath, or urine may be admitted 11
as evidence. 12

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

Section 1. That sections 2903.06, 2929.01, 2929.13, 2929.14, 13
2929.18, 2929.19, 2945,75, 2953.08, and 4511.19 be amended and 14
section 2929.142 of the Revised Code be enacted to read as 15
follows: 16

Sec. 2903.06. (A) No person, while operating or participating 17
in the operation of a motor vehicle, motorcycle, snowmobile, 18
locomotive, watercraft, or aircraft, shall cause the death of 19

another or the unlawful termination of another's pregnancy in any 20
of the following ways: 21

(1)(a) As the proximate result of committing a violation of 22
division (A) of section 4511.19 of the Revised Code or of a 23
substantially equivalent municipal ordinance; 24

(b) As the proximate result of committing a violation of 25
division (A) of section 1547.11 of the Revised Code or of a 26
substantially equivalent municipal ordinance; 27

(c) As the proximate result of committing a violation of 28
division (A)(3) of section 4561.15 of the Revised Code or of a 29
substantially equivalent municipal ordinance. 30

(2) In one of the following ways: 31

(a) Recklessly; 32

(b) As the proximate result of committing, while operating or 33
participating in the operation of a motor vehicle or motorcycle in 34
a construction zone, a reckless operation offense, provided that 35
this division applies only if the person whose death is caused or 36
whose pregnancy is unlawfully terminated is in the construction 37
zone at the time of the offender's commission of the reckless 38
operation offense in the construction zone and does not apply as 39
described in division (F) of this section. 40

(3) In one of the following ways: 41

(a) Negligently; 42

(b) As the proximate result of committing, while operating or 43
participating in the operation of a motor vehicle or motorcycle in 44
a construction zone, a speeding offense, provided that this 45
division applies only if the person whose death is caused or whose 46
pregnancy is unlawfully terminated is in the construction zone at 47
the time of the offender's commission of the speeding offense in 48
the construction zone and does not apply as described in division 49

(F) of this section.

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

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(B)(1) Whoever violates division (A)(1) or (2) of this section is guilty of aggravated vehicular homicide and shall be punished as provided in divisions (B)(2) and (3) of this section.

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(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~~

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(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:

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(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.

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

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

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~~(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

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<u>any of the following apply:</u>	80
<u>(i)</u> 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.	81 82 83 84
(v) <u>(ii)</u> 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 equivalent municipal ordinance within the previous six years.	85 86 87 88
(vi) <u>(iii)</u> 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.	89 90 91 92 93
(vii) <u>(iv)</u> The offender previously has been convicted of or pleaded guilty to three or more violations of any combination of the offenses listed in division (B)(2)(a)(iv), (v), or (vi) of this section.	94 95 96 97
(viii) <u>(v)</u> 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.	98 99 100
(b) <u>(d)</u> In addition to any other sanctions imposed pursuant to division (B)(2)(a), <u>(b), or (c)</u> of this section for aggravated vehicular homicide committed in violation of division (A)(1) of this section, the court shall impose upon the offender a class one suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in division (A)(1) of section 4510.02 of the Revised Code.	101 102 103 104 105 106 107 108
(3) Except as otherwise provided in this division, aggravated vehicular homicide committed in violation of division (A)(2) of	109 110

this section is a felony of the third degree. Aggravated vehicular homicide committed in violation of division (A)(2) of this section is a felony of the second degree if, 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 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

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

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

In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of section 4510.02 of the Revised Code or, if the offender previously has been convicted of or pleaded guilty to a

violation of this section or any traffic-related homicide, 143
manslaughter, or assault offense, a class three suspension of the 144
offender's driver's license, commercial driver's license, 145
temporary instruction permit, probationary license, or nonresident 146
operating privilege from the range specified in division (A)(3) of 147
that section. 148

(D) Whoever violates division (A)(4) of this section is 149
guilty of vehicular manslaughter. Except as otherwise provided in 150
this division, vehicular manslaughter is a misdemeanor of the 151
second degree. Vehicular manslaughter is a misdemeanor of the 152
first degree if, at the time of the offense, the offender was 153
driving under a suspension imposed under Chapter 4510. or any 154
other provision of the Revised Code or if the offender previously 155
has been convicted of or pleaded guilty to a violation of this 156
section or any traffic-related homicide, manslaughter, or assault 157
offense. 158

In addition to any other sanctions imposed pursuant to this 159
division, the court shall impose upon the offender a class six 160
suspension of the offender's driver's license, commercial driver's 161
license, temporary instruction permit, probationary license, or 162
nonresident operating privilege from the range specified in 163
division (A)(6) of section 4510.02 of the Revised Code or, if the 164
offender previously has been convicted of or pleaded guilty to a 165
violation of this section or any traffic-related homicide, 166
manslaughter, or assault offense, a class four suspension of the 167
offender's driver's license, commercial driver's license, 168
temporary instruction permit, probationary license, or nonresident 169
operating privilege from the range specified in division (A)(4) of 170
that section. 171

(E) The court shall impose a mandatory prison term on an 172
offender who is convicted of or pleads guilty to a violation of 173
division (A)(1) of this section. The court shall impose a 174

mandatory jail term of at least fifteen days on an offender who is 175
convicted of or pleads guilty to a misdemeanor violation of 176
division (A)(3)(b) of this section and may impose upon the 177
offender a longer jail term as authorized pursuant to section 178
2929.24 of the Revised Code. The court shall impose a mandatory 179
prison term on an offender who is convicted of or pleads guilty to 180
a violation of division (A)(2) or (3)(a) of this section or a 181
felony violation of division (A)(3)(b) of this section if either 182
of the following applies: 183

(1) The offender previously has been convicted of or pleaded 184
guilty to a violation of this section or section 2903.08 of the 185
Revised Code. 186

(2) At the time of the offense, the offender was driving 187
under suspension under Chapter 4510. or any other provision of the 188
Revised Code. 189

(F) Divisions (A)(2)(b) and (3)(b) of this section do not 190
apply in a particular construction zone unless signs of the type 191
described in section 2903.081 of the Revised Code are erected in 192
that construction zone in accordance with the guidelines and 193
design specifications established by the director of 194
transportation under section 5501.27 of the Revised Code. The 195
failure to erect signs of the type described in section 2903.081 196
of the Revised Code in a particular construction zone in 197
accordance with those guidelines and design specifications does 198
not limit or affect the application of division (A)(1), (A)(2)(a), 199
(A)(3)(a), or (A)(4) of this section in that construction zone or 200
the prosecution of any person who violates any of those divisions 201
in that construction zone. 202

(G)(1) As used in this section: 203

(a) "Mandatory prison term" and "mandatory jail term" have 204
the same meanings as in section 2929.01 of the Revised Code. 205

(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.

(c) "Construction zone" has the same meaning as in section 5501.27 of the Revised Code.

(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.

(e) "Speeding offense" means a violation of section 4511.21 of the Revised Code or a municipal ordinance pertaining to speed.

(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.

Sec. 2929.01. As used in this chapter:

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

(a) It provides programs through which the offender may seek or maintain employment or may receive education, training, treatment, or habilitation.

(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.

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

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

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

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

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

(F) "Community control sanction" means a sanction that is not
a prison term and that is described in section 2929.15, 2929.16,
2929.17, or 2929.18 of the Revised Code or a sanction that is not
a jail term and that is described in section 2929.26, 2929.27, or

2929.28 of the Revised Code. "Community control sanction" includes 267
probation if the sentence involved was imposed for a felony that 268
was committed prior to July 1, 1996, or if the sentence involved 269
was imposed for a misdemeanor that was committed prior to January 270
1, 2004. 271

(G) "Controlled substance," "marihuana," "schedule I," and 272
"schedule II" have the same meanings as in section 3719.01 of the 273
Revised Code. 274

(H) "Curfew" means a requirement that an offender during a 275
specified period of time be at a designated place. 276

(I) "Day reporting" means a sanction pursuant to which an 277
offender is required each day to report to and leave a center or 278
other approved reporting location at specified times in order to 279
participate in work, education or training, treatment, and other 280
approved programs at the center or outside the center. 281

(J) "Deadly weapon" has the same meaning as in section 282
2923.11 of the Revised Code. 283

(K) "Drug and alcohol use monitoring" means a program under 284
which an offender agrees to submit to random chemical analysis of 285
the offender's blood, breath, or urine to determine whether the 286
offender has ingested any alcohol or other drugs. 287

(L) "Drug treatment program" means any program under which a 288
person undergoes assessment and treatment designed to reduce or 289
completely eliminate the person's physical or emotional reliance 290
upon alcohol, another drug, or alcohol and another drug and under 291
which the person may be required to receive assessment and 292
treatment on an outpatient basis or may be required to reside at a 293
facility other than the person's home or residence while 294
undergoing assessment and treatment. 295

(M) "Economic loss" means any economic detriment suffered by 296

a victim as a direct and proximate result of the commission of an 297
offense and includes any loss of income due to lost time at work 298
because of any injury caused to the victim, and any property loss, 299
medical cost, or funeral expense incurred as a result of the 300
commission of the offense. "Economic loss" does not include 301
non-economic loss or any punitive or exemplary damages. 302

(N) "Education or training" includes study at, or in 303
conjunction with a program offered by, a university, college, or 304
technical college or vocational study and also includes the 305
completion of primary school, secondary school, and literacy 306
curricula or their equivalent. 307

(O) "Firearm" has the same meaning as in section 2923.11 of 308
the Revised Code. 309

(P) "Halfway house" means a facility licensed by the division 310
of parole and community services of the department of 311
rehabilitation and correction pursuant to section 2967.14 of the 312
Revised Code as a suitable facility for the care and treatment of 313
adult offenders. 314

(Q) "House arrest" means a period of confinement of an 315
offender that is in the offender's home or in other premises 316
specified by the sentencing court or by the parole board pursuant 317
to section 2967.28 of the Revised Code and during which all of the 318
following apply: 319

(1) The offender is required to remain in the offender's home 320
or other specified premises for the specified period of 321
confinement, except for periods of time during which the offender 322
is at the offender's place of employment or at other premises as 323
authorized by the sentencing court or by the parole board. 324

(2) The offender is required to report periodically to a 325
person designated by the court or parole board. 326

(3) The offender is subject to any other restrictions and 327
requirements that may be imposed by the sentencing court or by the 328
parole board. 329

(R) "Intensive probation supervision" means a requirement 330
that an offender maintain frequent contact with a person appointed 331
by the court, or by the parole board pursuant to section 2967.28 332
of the Revised Code, to supervise the offender while the offender 333
is seeking or maintaining necessary employment and participating 334
in training, education, and treatment programs as required in the 335
court's or parole board's order. "Intensive probation supervision" 336
includes intensive parole supervision and intensive post-release 337
control supervision. 338

(S) "Jail" means a jail, workhouse, minimum security jail, or 339
other residential facility used for the confinement of alleged or 340
convicted offenders that is operated by a political subdivision or 341
a combination of political subdivisions of this state. 342

(T) "Jail term" means the term in a jail that a sentencing 343
court imposes or is authorized to impose pursuant to section 344
2929.24 or 2929.25 of the Revised Code or pursuant to any other 345
provision of the Revised Code that authorizes a term in a jail for 346
a misdemeanor conviction. 347

(U) "Mandatory jail term" means the term in a jail that a 348
sentencing court is required to impose pursuant to division (G) of 349
section 1547.99 of the Revised Code, division (E) of section 350
2903.06 or division (D) of section 2903.08 of the Revised Code, 351
division (E) of section 2929.24 of the Revised Code, division (B) 352
of section 4510.14 of the Revised Code, or division (G) of section 353
4511.19 of the Revised Code or pursuant to any other provision of 354
the Revised Code that requires a term in a jail for a misdemeanor 355
conviction. 356

(V) "Delinquent child" has the same meaning as in section 357

2152.02 of the Revised Code. 358

(W) "License violation report" means a report that is made by 359
a sentencing court, or by the parole board pursuant to section 360
2967.28 of the Revised Code, to the regulatory or licensing board 361
or agency that issued an offender a professional license or a 362
license or permit to do business in this state and that specifies 363
that the offender has been convicted of or pleaded guilty to an 364
offense that may violate the conditions under which the offender's 365
professional license or license or permit to do business in this 366
state was granted or an offense for which the offender's 367
professional license or license or permit to do business in this 368
state may be revoked or suspended. 369

(X) "Major drug offender" means an offender who is convicted 370
of or pleads guilty to the possession of, sale of, or offer to 371
sell any drug, compound, mixture, preparation, or substance that 372
consists of or contains at least one thousand grams of hashish; at 373
least one hundred grams of crack cocaine; at least one thousand 374
grams of cocaine that is not crack cocaine; at least two thousand 375
five hundred unit doses or two hundred fifty grams of heroin; at 376
least five thousand unit doses of L.S.D. or five hundred grams of 377
L.S.D. in a liquid concentrate, liquid extract, or liquid 378
distillate form; or at least one hundred times the amount of any 379
other schedule I or II controlled substance other than marihuana 380
that is necessary to commit a felony of the third degree pursuant 381
to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised 382
Code that is based on the possession of, sale of, or offer to sell 383
the controlled substance. 384

(Y) "Mandatory prison term" means any of the following: 385

(1) Subject to division (Y)(2) of this section, the term in 386
prison that must be imposed for the offenses or circumstances set 387
forth in divisions (F)(1) to (8) or (F)(12) to (14) of section 388

2929.13 and division (D) of section 2929.14 of the Revised Code. 389
Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, 390
and 2925.11 of the Revised Code, unless the maximum or another 391
specific term is required under section 2929.14 or 2929.142 of the 392
Revised Code, a mandatory prison term described in this division 393
may be any prison term authorized for the level of offense. 394

(2) The term of sixty or one hundred twenty days in prison 395
that a sentencing court is required to impose for a third or 396
fourth degree felony OVI offense pursuant to division (G)(2) of 397
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 398
of the Revised Code or the term of one, two, three, four, or five 399
years in prison that a sentencing court is required to impose 400
pursuant to division (G)(2) of section 2929.13 of the Revised 401
Code. 402

(3) The term in prison imposed pursuant to section 2971.03 of 403
the Revised Code for the offenses and in the circumstances 404
described in division (F)(11) of section 2929.13 of the Revised 405
Code and that term as modified or terminated pursuant to section 406
2971.05 of the Revised Code. 407

(Z) "Monitored time" means a period of time during which an 408
offender continues to be under the control of the sentencing court 409
or parole board, subject to no conditions other than leading a 410
law-abiding life. 411

(AA) "Offender" means a person who, in this state, is 412
convicted of or pleads guilty to a felony or a misdemeanor. 413

(BB) "Prison" means a residential facility used for the 414
confinement of convicted felony offenders that is under the 415
control of the department of rehabilitation and correction but 416
does not include a violation sanction center operated under 417
authority of section 2967.141 of the Revised Code. 418

(CC) "Prison term" includes any of the following sanctions 419

for an offender:	420
(1) A stated prison term;	421
(2) A term in a prison shortened by, or with the approval of, the sentencing court pursuant to section 2929.20, 2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code;	422 423 424
(3) A term in prison extended by bad time imposed pursuant to section 2967.11 of the Revised Code or imposed for a violation of post-release control pursuant to section 2967.28 of the Revised Code.	425 426 427 428
(DD) "Repeat violent offender" means a person about whom both of the following apply:	429 430
(1) The person has been convicted of or has pleaded guilty to, and is being sentenced for committing, for complicity in committing, or for an attempt to commit, aggravated murder, murder, involuntary manslaughter, a felony of the first degree other than one set forth in Chapter 2925. of the Revised Code, a felony of the first degree set forth in Chapter 2925. of the Revised Code that involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person, or a felony of the second degree that involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person.	431 432 433 434 435 436 437 438 439 440 441
(2) Either of the following applies:	442
(a) The person previously was convicted of or pleaded guilty to, and previously served or, at the time of the offense was serving, a prison term for, any of the following:	443 444 445
(i) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony of the first or second degree that resulted in the death of a	446 447 448 449

person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;

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

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

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

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

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

(HH) "Victim-offender mediation" means a reconciliation or mediation program that involves an offender and the victim of the

offense committed by the offender and that includes a meeting in 481
which the offender and the victim may discuss the offense, discuss 482
restitution, and consider other sanctions for the offense. 483

(II) "Fourth degree felony OVI offense" means a violation of 484
division (A) of section 4511.19 of the Revised Code that, under 485
division (G) of that section, is a felony of the fourth degree. 486

(JJ) "Mandatory term of local incarceration" means the term 487
of sixty or one hundred twenty days in a jail, a community-based 488
correctional facility, a halfway house, or an alternative 489
residential facility that a sentencing court may impose upon a 490
person who is convicted of or pleads guilty to a fourth degree 491
felony OVI offense pursuant to division (G)(1) of section 2929.13 492
of the Revised Code and division (G)(1)(d) or (e) of section 493
4511.19 of the Revised Code. 494

(KK) "Designated homicide, assault, or kidnapping offense," 495
"violent sex offense," "sexual motivation specification," 496
"sexually violent offense," "sexually violent predator," and 497
"sexually violent predator specification" have the same meanings 498
as in section 2971.01 of the Revised Code. 499

(LL) "Habitual sex offender," "sexually oriented offense," 500
"sexual predator," "registration-exempt sexually oriented 501
offense," "child-victim oriented offense," "habitual child-victim 502
offender," and "child-victim predator" have the same meanings as 503
in section 2950.01 of the Revised Code. 504

(MM) An offense is "committed in the vicinity of a child" if 505
the offender commits the offense within thirty feet of or within 506
the same residential unit as a child who is under eighteen years 507
of age, regardless of whether the offender knows the age of the 508
child or whether the offender knows the offense is being committed 509
within thirty feet of or within the same residential unit as the 510
child and regardless of whether the child actually views the 511

commission of the offense.	512
(NN) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.	513 514
(OO) "Motor vehicle" and "manufactured home" have the same meanings as in section 4501.01 of the Revised Code.	515 516
(PP) "Detention" and "detention facility" have the same meanings as in section 2921.01 of the Revised Code.	517 518
(QQ) "Third degree felony OVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under division (G) of that section, is a felony of the third degree.	519 520 521
(RR) "Random drug testing" has the same meaning as in section 5120.63 of the Revised Code.	522 523
(SS) "Felony sex offense" has the same meaning as in section 2967.28 of the Revised Code.	524 525
(TT) "Body armor" has the same meaning as in section 2941.1411 of the Revised Code.	526 527
(UU) "Electronic monitoring" means monitoring through the use of an electronic monitoring device.	528 529
(VV) "Electronic monitoring device" means any of the following:	530 531
(1) Any device that can be operated by electrical or battery power and that conforms with all of the following:	532 533
(a) The device has a transmitter that can be attached to a person, that will transmit a specified signal to a receiver of the type described in division (VV)(1)(b) of this section if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval in relation to electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an	534 535 536 537 538 539 540

electronic monitoring device for an inmate on transitional control 541
or otherwise is tampered with, that can transmit continuously and 542
periodically a signal to that receiver when the person is within a 543
specified distance from the receiver, and that can transmit an 544
appropriate signal to that receiver if the person to whom it is 545
attached travels a specified distance from that receiver. 546

(b) The device has a receiver that can receive continuously 547
the signals transmitted by a transmitter of the type described in 548
division (VV)(1)(a) of this section, can transmit continuously 549
those signals by telephone to a central monitoring computer of the 550
type described in division (VV)(1)(c) of this section, and can 551
transmit continuously an appropriate signal to that central 552
monitoring computer if the receiver is turned off or altered 553
without prior court approval or otherwise tampered with. 554

(c) The device has a central monitoring computer that can 555
receive continuously the signals transmitted by telephone by a 556
receiver of the type described in division (VV)(1)(b) of this 557
section and can monitor continuously the person to whom an 558
electronic monitoring device of the type described in division 559
(VV)(1)(a) of this section is attached. 560

(2) Any device that is not a device of the type described in 561
division (VV)(1) of this section and that conforms with all of the 562
following: 563

(a) The device includes a transmitter and receiver that can 564
monitor and determine the location of a subject person at any 565
time, or at a designated point in time, through the use of a 566
central monitoring computer or through other electronic means. 567

(b) The device includes a transmitter and receiver that can 568
determine at any time, or at a designated point in time, through 569
the use of a central monitoring computer or other electronic means 570
the fact that the transmitter is turned off or altered in any 571

manner without prior approval of the court in relation to the 572
electronic monitoring or without prior approval of the department 573
of rehabilitation and correction in relation to the use of an 574
electronic monitoring device for an inmate on transitional control 575
or otherwise is tampered with. 576

(3) Any type of technology that can adequately track or 577
determine the location of a subject person at any time and that is 578
approved by the director of rehabilitation and correction, 579
including, but not limited to, any satellite technology, voice 580
tracking system, or retinal scanning system that is so approved. 581

(WW) "Non-economic loss" means nonpecuniary harm suffered by 582
a victim of an offense as a result of or related to the commission 583
of the offense, including, but not limited to, pain and suffering; 584
loss of society, consortium, companionship, care, assistance, 585
attention, protection, advice, guidance, counsel, instruction, 586
training, or education; mental anguish; and any other intangible 587
loss. 588

(XX) "Prosecutor" has the same meaning as in section 2935.01 589
of the Revised Code. 590

(YY) "Continuous alcohol monitoring" means the ability to 591
automatically test and periodically transmit alcohol consumption 592
levels and tamper attempts at least every hour, regardless of the 593
location of the person who is being monitored. 594

(ZZ) A person is "adjudicated a sexually violent predator" if 595
the person is convicted of or pleads guilty to a violent sex 596
offense and also is convicted of or pleads guilty to a sexually 597
violent predator specification that was included in the 598
indictment, count in the indictment, or information charging that 599
violent sex offense or if the person is convicted of or pleads 600
guilty to a designated homicide, assault, or kidnapping offense 601
and also is convicted of or pleads guilty to both a sexual 602

motivation specification and a sexually violent predator 603
specification that were included in the indictment, count in the 604
indictment, or information charging that designated homicide, 605
assault, or kidnapping offense. 606

Sec. 2929.13. (A) Except as provided in division (E), (F), or 607
(G) of this section and unless a specific sanction is required to 608
be imposed or is precluded from being imposed pursuant to law, a 609
court that imposes a sentence upon an offender for a felony may 610
impose any sanction or combination of sanctions on the offender 611
that are provided in sections 2929.14 to 2929.18 of the Revised 612
Code. The sentence shall not impose an unnecessary burden on state 613
or local government resources. 614

If the offender is eligible to be sentenced to community 615
control sanctions, the court shall consider the appropriateness of 616
imposing a financial sanction pursuant to section 2929.18 of the 617
Revised Code or a sanction of community service pursuant to 618
section 2929.17 of the Revised Code as the sole sanction for the 619
offense. Except as otherwise provided in this division, if the 620
court is required to impose a mandatory prison term for the 621
offense for which sentence is being imposed, the court also may 622
impose a financial sanction pursuant to section 2929.18 of the 623
Revised Code but may not impose any additional sanction or 624
combination of sanctions under section 2929.16 or 2929.17 of the 625
Revised Code. 626

If the offender is being sentenced for a fourth degree felony 627
OVI offense or for a third degree felony OVI offense, in addition 628
to the mandatory term of local incarceration or the mandatory 629
prison term required for the offense by division (G)(1) or (2) of 630
this section, the court shall impose upon the offender a mandatory 631
fine in accordance with division (B)(3) of section 2929.18 of the 632
Revised Code and may impose whichever of the following is 633

applicable:

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(1) For a fourth degree felony OVI offense for which sentence
is imposed under division (G)(1) of this section, an additional
community control sanction or combination of community control
sanctions under section 2929.16 or 2929.17 of the Revised Code. If
the court imposes upon the offender a community control sanction
and the offender violates any condition of the community control
sanction, the court may take any action prescribed in division (B)
of section 2929.15 of the Revised Code relative to the offender,
including imposing a prison term on the offender pursuant to that
division.

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

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

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

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

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

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(d) The offender held a public office or position of trust

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and the offense related to that office or position; the offender's
position obliged the offender to prevent the offense or to bring
those committing it to justice; or the offender's professional
reputation or position facilitated the offense or was likely to
influence the future conduct of others.

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

(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
that is a violation of a provision of Chapter 2925. of the Revised
Code and that is specified as being subject to this division for
purposes of sentencing, the sentencing court shall comply with the
purposes and principles of sentencing under section 2929.11 of the
Revised Code and with section 2929.12 of the Revised Code.

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

(1) A community control sanction or a combination of
community control sanctions would adequately punish the offender

and protect the public from future crime, because the applicable 726
factors under section 2929.12 of the Revised Code indicating a 727
lesser likelihood of recidivism outweigh the applicable factors 728
under that section indicating a greater likelihood of recidivism. 729

(2) A community control sanction or a combination of 730
community control sanctions would not demean the seriousness of 731
the offense, because one or more factors under section 2929.12 of 732
the Revised Code that indicate that the offender's conduct was 733
less serious than conduct normally constituting the offense are 734
applicable, and they outweigh the applicable factors under that 735
section that indicate that the offender's conduct was more serious 736
than conduct normally constituting the offense. 737

(E)(1) Except as provided in division (F) of this section, 738
for any drug offense that is a violation of any provision of 739
Chapter 2925. of the Revised Code and that is a felony of the 740
third, fourth, or fifth degree, the applicability of a presumption 741
under division (D) of this section in favor of a prison term or of 742
division (B) or (C) of this section in determining whether to 743
impose a prison term for the offense shall be determined as 744
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 745
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 746
Revised Code, whichever is applicable regarding the violation. 747

(2) If an offender who was convicted of or pleaded guilty to 748
a felony violates the conditions of a community control sanction 749
imposed for the offense solely by reason of producing positive 750
results on a drug test, the court, as punishment for the violation 751
of the sanction, shall not order that the offender be imprisoned 752
unless the court determines on the record either of the following: 753

(a) The offender had been ordered as a sanction for the 754
felony to participate in a drug treatment program, in a drug 755
education program, or in narcotics anonymous or a similar program, 756

and the offender continued to use illegal drugs after a reasonable 757
period of participation in the program. 758

(b) The imprisonment of the offender for the violation is 759
consistent with the purposes and principles of sentencing set 760
forth in section 2929.11 of the Revised Code. 761

(F) Notwithstanding divisions (A) to (E) of this section, the 762
court shall impose a prison term or terms under sections 2929.02 763
to 2929.06, section 2929.14, section 2929.142, or section 2971.03 764
of the Revised Code and except as specifically provided in section 765
2929.20 or 2967.191 of the Revised Code or when parole is 766
authorized for the offense under section 2967.13 of the Revised 767
Code shall not reduce the term or terms pursuant to section 768
2929.20, section 2967.193, or any other provision of Chapter 2967. 769
or Chapter 5120. of the Revised Code for any of the following 770
offenses: 771

(1) Aggravated murder when death is not imposed or murder; 772

(2) Any rape, regardless of whether force was involved and 773
regardless of the age of the victim, or an attempt to commit rape 774
if, had the offender completed the rape that was attempted, the 775
offender would have been subject to a sentence of life 776
imprisonment or life imprisonment without parole for the rape; 777

(3) Gross sexual imposition or sexual battery, if the victim 778
is under thirteen years of age, if the offender previously was 779
convicted of or pleaded guilty to rape, the former offense of 780
felonious sexual penetration, gross sexual imposition, or sexual 781
battery, and if the victim of the previous offense was under 782
thirteen years of age; 783

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 784
2903.11, 2903.12, or 2903.13 of the Revised Code if the section 785
requires the imposition of a prison term; 786

(5) A first, second, or third degree felony drug offense for 787
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 788
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 789
4729.99 of the Revised Code, whichever is applicable regarding the 790
violation, requires the imposition of a mandatory prison term; 791

(6) Any offense that is a first or second degree felony and 792
that is not set forth in division (F)(1), (2), (3), or (4) of this 793
section, if the offender previously was convicted of or pleaded 794
guilty to aggravated murder, murder, any first or second degree 795
felony, or an offense under an existing or former law of this 796
state, another state, or the United States that is or was 797
substantially equivalent to one of those offenses; 798

(7) Any offense that is a third degree felony and that is 799
listed in division (DD)(1) of section 2929.01 of the Revised Code 800
if the offender previously was convicted of or pleaded guilty to 801
any offense that is listed in division (DD)(2)(a)(i) or (ii) of 802
section 2929.01 of the Revised Code; 803

(8) Any offense, other than a violation of section 2923.12 of 804
the Revised Code, that is a felony, if the offender had a firearm 805
on or about the offender's person or under the offender's control 806
while committing the felony, with respect to a portion of the 807
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 808
of the Revised Code for having the firearm; 809

(9) Any offense of violence that is a felony, if the offender 810
wore or carried body armor while committing the felony offense of 811
violence, with respect to the portion of the sentence imposed 812
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 813
Code for wearing or carrying the body armor; 814

(10) Corrupt activity in violation of section 2923.32 of the 815
Revised Code when the most serious offense in the pattern of 816
corrupt activity that is the basis of the offense is a felony of 817

the first degree; 818

(11) Any violent sex offense or designated homicide, assault, 819
or kidnapping offense if, in relation to that offense, the 820
offender is adjudicated a sexually violent predator; 821

(12) A violation of division (A)(1) or (2) of section 2921.36 822
of the Revised Code, or a violation of division (C) of that 823
section involving an item listed in division (A)(1) or (2) of that 824
section, if the offender is an officer or employee of the 825
department of rehabilitation and correction; 826

(13) A violation of division (A)(1) or (2) of section 2903.06 827
of the Revised Code if the victim of the offense is a peace 828
officer, as defined in section 2935.01 of the Revised Code, with 829
respect to the portion of the sentence imposed pursuant to 830
division (D)(5) of section 2929.14 of the Revised Code; 831

(14) A violation of division (A)(1) or (2) of section 2903.06 832
of the Revised Code if the offender has been convicted of or 833
pleaded guilty to three or more violations of division (A) or (B) 834
of section 4511.19 of the Revised Code or an equivalent offense, 835
as defined in section 2941.1415 of the Revised Code, or three or 836
more violations of any combination of those divisions and 837
offenses, with respect to the portion of the sentence imposed 838
pursuant to division (D)(6) of section 2929.14 of the Revised 839
Code. 840

(G) Notwithstanding divisions (A) to (E) of this section, if 841
an offender is being sentenced for a fourth degree felony OVI 842
offense or for a third degree felony OVI offense, the court shall 843
impose upon the offender a mandatory term of local incarceration 844
or a mandatory prison term in accordance with the following: 845

(1) If the offender is being sentenced for a fourth degree 846
felony OVI offense and if the offender has not been convicted of 847
and has not pleaded guilty to a specification of the type 848

described in section 2941.1413 of the Revised Code, the court may
impose upon the offender a mandatory term of local incarceration
of sixty days or one hundred twenty days as specified in division
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall
not reduce the term pursuant to section 2929.20, 2967.193, or any
other provision of the Revised Code. The court that imposes a
mandatory term of local incarceration under this division shall
specify whether the term is to be served in a jail, a
community-based correctional facility, a halfway house, or an
alternative residential facility, and the offender shall serve the
term in the type of facility specified by the court. A mandatory
term of local incarceration imposed under division (G)(1) of this
section is not subject to extension under section 2967.11 of the
Revised Code, to a period of post-release control under section
2967.28 of the Revised Code, or to any other Revised Code
provision that pertains to a prison term 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 881
consecutively to and prior to the prison term imposed for the 882
underlying offense and consecutively to any other mandatory prison 883
term imposed in relation to the offense. In no case shall an 884
offender who once has been sentenced to a mandatory term of local 885
incarceration pursuant to division (G)(1) of this section for a 886
fourth degree felony OVI offense be sentenced to another mandatory 887
term of local incarceration under that division for any violation 888
of division (A) of section 4511.19 of the Revised Code. In 889
addition to the mandatory prison term described in division (G)(2) 890
of this section, the court may sentence the offender to a 891
community control sanction under section 2929.16 or 2929.17 of the 892
Revised Code, but the offender shall serve the prison term prior 893
to serving the community control sanction. The department of 894
rehabilitation and correction may place an offender sentenced to a 895
mandatory prison term under this division in an intensive program 896
prison established pursuant to section 5120.033 of the Revised 897
Code if the department gave the sentencing judge prior notice of 898
its intent to place the offender in an intensive program prison 899
established under that section and if the judge did not notify the 900
department that the judge disapproved the placement. Upon the 901
establishment of the initial intensive program prison pursuant to 902
section 5120.033 of the Revised Code that is privately operated 903
and managed by a contractor pursuant to a contract entered into 904
under section 9.06 of the Revised Code, both of the following 905
apply: 906

(a) The department of rehabilitation and correction shall 907
make a reasonable effort to ensure that a sufficient number of 908
offenders sentenced to a mandatory prison term under this division 909
are placed in the privately operated and managed prison so that 910
the privately operated and managed prison has full occupancy. 911

(b) Unless the privately operated and managed prison has full 912

occupancy, the department of rehabilitation and correction shall 913
not place any offender sentenced to a mandatory prison term under 914
this division in any intensive program prison established pursuant 915
to section 5120.033 of the Revised Code other than the privately 916
operated and managed prison. 917

(H) If an offender is being sentenced for a sexually oriented 918
offense committed on or after January 1, 1997, the judge shall 919
require the offender to submit to a DNA specimen collection 920
procedure pursuant to section 2901.07 of the Revised Code if 921
either of the following applies: 922

(1) The offense was a violent sex offense or a designated 923
homicide, assault, or kidnapping offense and, in relation to that 924
offense, the offender was adjudicated a sexually violent predator. 925

(2) The judge imposing sentence for the sexually oriented 926
offense determines pursuant to division (B) of section 2950.09 of 927
the Revised Code that the offender is a sexual predator. 928

(I) If an offender is being sentenced for a sexually oriented 929
offense that is not a registration-exempt sexually oriented 930
offense or for a child-victim oriented offense committed on or 931
after January 1, 1997, the judge shall include in the sentence a 932
summary of the offender's duties imposed under sections 2950.04, 933
2950.041, 2950.05, and 2950.06 of the Revised Code and the 934
duration of the duties. The judge shall inform the offender, at 935
the time of sentencing, of those duties and of their duration and, 936
if required under division (A)(2) of section 2950.03 of the 937
Revised Code, shall perform the duties specified in that section. 938

(J)(1) Except as provided in division (J)(2) of this section, 939
when considering sentencing factors under this section in relation 940
to an offender who is convicted of or pleads guilty to an attempt 941
to commit an offense in violation of section 2923.02 of the 942
Revised Code, the sentencing court shall consider the factors 943

applicable to the felony category of the violation of section 944
2923.02 of the Revised Code instead of the factors applicable to 945
the felony category of the offense attempted. 946

(2) When considering sentencing factors under this section in 947
relation to an offender who is convicted of or pleads guilty to an 948
attempt to commit a drug abuse offense for which the penalty is 949
determined by the amount or number of unit doses of the controlled 950
substance involved in the drug abuse offense, the sentencing court 951
shall consider the factors applicable to the felony category that 952
the drug abuse offense attempted would be if that drug abuse 953
offense had been committed and had involved an amount or number of 954
unit doses of the controlled substance that is within the next 955
lower range of controlled substance amounts than was involved in 956
the attempt. 957

(K) As used in this section, "drug abuse offense" has the 958
same meaning as in section 2925.01 of the Revised Code. 959

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 960
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), ~~or~~ (G), or (L) of this 961
section and except in relation to an offense for which a sentence 962
of death or life imprisonment is to be imposed, if the court 963
imposing a sentence upon an offender for a felony elects or is 964
required to impose a prison term on the offender pursuant to this 965
chapter, the court shall impose a definite prison term that shall 966
be one of the following: 967

(1) For a felony of the first degree, the prison term shall 968
be three, four, five, six, seven, eight, nine, or ten years. 969

(2) For a felony of the second degree, the prison term shall 970
be two, three, four, five, six, seven, or eight years. 971

(3) For a felony of the third degree, the prison term shall 972
be one, two, three, four, or five years. 973

(4) For a felony of the fourth degree, the prison term shall 974
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 975
fourteen, fifteen, sixteen, seventeen, or eighteen months. 976

(5) For a felony of the fifth degree, the prison term shall 977
be six, seven, eight, nine, ten, eleven, or twelve months. 978

(B) Except as provided in division (C), (D)(1), (D)(2), 979
(D)(3), (D)(5), (D)(6), ~~or (G)~~, or (L) of this section, in section 980
2907.02 of the Revised Code, or in Chapter 2925. of the Revised 981
Code, if the court imposing a sentence upon an offender for a 982
felony elects or is required to impose a prison term on the 983
offender, the court shall impose the shortest prison term 984
authorized for the offense pursuant to division (A) of this 985
section, unless one or more of the following applies: 986

(1) The offender was serving a prison term at the time of the 987
offense, or the offender previously had served a prison term. 988

(2) The court finds on the record that the shortest prison 989
term will demean the seriousness of the offender's conduct or will 990
not adequately protect the public from future crime by the 991
offender or others. 992

(C) Except as provided in division (G) or (L) of this section 993
or in Chapter 2925. of the Revised Code, the court imposing a 994
sentence upon an offender for a felony may impose the longest 995
prison term authorized for the offense pursuant to division (A) of 996
this section only upon offenders who committed the worst forms of 997
the offense, upon offenders who pose the greatest likelihood of 998
committing future crimes, upon certain major drug offenders under 999
division (D)(3) of this section, and upon certain repeat violent 1000
offenders in accordance with division (D)(2) of this section. 1001

(D)(1)(a) Except as provided in division (D)(1)(e) of this 1002
section, if an offender who is convicted of or pleads guilty to a 1003
felony also is convicted of or pleads guilty to a specification of 1004

the type described in section 2941.141, 2941.144, or 2941.145 of
the Revised Code, the court shall impose on the offender one of
the following prison terms:

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

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

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

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

(c) Except as provided in division (D)(1)(e) of this section,
if an offender who is convicted of or pleads guilty to a violation
of section 2923.161 of the Revised Code or to a felony that

includes, as an essential element, purposely or knowingly causing 1036
or attempting to cause the death of or physical harm to another, 1037
also is convicted of or pleads guilty to a specification of the 1038
type described in section 2941.146 of the Revised Code that 1039
charges the offender with committing the offense by discharging a 1040
firearm from a motor vehicle other than a manufactured home, the 1041
court, after imposing a prison term on the offender for the 1042
violation of section 2923.161 of the Revised Code or for the other 1043
felony offense under division (A), (D)(2), or (D)(3) of this 1044
section, shall impose an additional prison term of five years upon 1045
the offender that shall not be reduced pursuant to section 1046
2929.20, section 2967.193, or any other provision of Chapter 2967. 1047
or Chapter 5120. of the Revised Code. A court shall not impose 1048
more than one additional prison term on an offender under division 1049
(D)(1)(c) of this section for felonies committed as part of the 1050
same act or transaction. If a court imposes an additional prison 1051
term on an offender under division (D)(1)(c) of this section 1052
relative to an offense, the court also shall impose a prison term 1053
under division (D)(1)(a) of this section relative to the same 1054
offense, provided the criteria specified in that division for 1055
imposing an additional prison term are satisfied relative to the 1056
offender and the offense. 1057

(d) If an offender who is convicted of or pleads guilty to an 1058
offense of violence that is a felony also is convicted of or 1059
pleads guilty to a specification of the type described in section 1060
2941.1411 of the Revised Code that charges the offender with 1061
wearing or carrying body armor while committing the felony offense 1062
of violence, the court shall impose on the offender a prison term 1063
of two years. The prison term so imposed shall not be reduced 1064
pursuant to section 2929.20, section 2967.193, or any other 1065
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 1066
court shall not impose more than one prison term on an offender 1067

under division (D)(1)(d) of this section for felonies committed as 1068
part of the same act or transaction. If a court imposes an 1069
additional prison term under division (D)(1)(a) or (c) of this 1070
section, the court is not precluded from imposing an additional 1071
prison term under division (D)(1)(d) of this section. 1072

(e) The court shall not impose any of the prison terms 1073
described in division (D)(1)(a) of this section or any of the 1074
additional prison terms described in division (D)(1)(c) of this 1075
section upon an offender for a violation of section 2923.12 or 1076
2923.123 of the Revised Code. The court shall not impose any of 1077
the prison terms described in division (D)(1)(a) of this section 1078
or any of the additional prison terms described in division 1079
(D)(1)(c) of this section upon an offender for a violation of 1080
section 2923.13 of the Revised Code unless all of the following 1081
apply: 1082

(i) The offender previously has been convicted of aggravated 1083
murder, murder, or any felony of the first or second degree. 1084

(ii) Less than five years have passed since the offender was 1085
released from prison or post-release control, whichever is later, 1086
for the prior offense. 1087

(f) If an offender is convicted of or pleads guilty to a 1088
felony that includes, as an essential element, causing or 1089
attempting to cause the death of or physical harm to another and 1090
also is convicted of or pleads guilty to a specification of the 1091
type described in section 2941.1412 of the Revised Code that 1092
charges the offender with committing the offense by discharging a 1093
firearm at a peace officer as defined in section 2935.01 of the 1094
Revised Code or a corrections officer as defined in section 1095
2941.1412 of the Revised Code, the court, after imposing a prison 1096
term on the offender for the felony offense under division (A), 1097
(D)(2), or (D)(3) of this section, shall impose an additional 1098

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

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

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

division (D)(2)(a) of this section and, if applicable, divisions 1131
(D)(1) and (3) of this section: 1132

(i) The terms so imposed are inadequate to punish the 1133
offender and protect the public from future crime, because the 1134
applicable factors under section 2929.12 of the Revised Code 1135
indicating a greater likelihood of recidivism outweigh the 1136
applicable factors under that section indicating a lesser 1137
likelihood of recidivism. 1138

(ii) The terms so imposed are demeaning to the seriousness of 1139
the offense, because one or more of the factors under section 1140
2929.12 of the Revised Code indicating that the offender's conduct 1141
is more serious than conduct normally constituting the offense are 1142
present, and they outweigh the applicable factors under that 1143
section indicating that the offender's conduct is less serious 1144
than conduct normally constituting the offense. 1145

(3)(a) Except when an offender commits a violation of section 1146
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 1147
the violation is life imprisonment or commits a violation of 1148
section 2903.02 of the Revised Code, if the offender commits a 1149
violation of section 2925.03 or 2925.11 of the Revised Code and 1150
that section classifies the offender as a major drug offender and 1151
requires the imposition of a ten-year prison term on the offender, 1152
if the offender commits a felony violation of section 2925.02, 1153
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 1154
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 1155
division (C) of section 4729.51, or division (J) of section 1156
4729.54 of the Revised Code that includes the sale, offer to sell, 1157
or possession of a schedule I or II controlled substance, with the 1158
exception of marihuana, and the court imposing sentence upon the 1159
offender finds that the offender is guilty of a specification of 1160
the type described in section 2941.1410 of the Revised Code 1161
charging that the offender is a major drug offender, if the court 1162

imposing sentence upon an offender for a felony finds that the
offender is guilty of corrupt activity with the most serious
offense in the pattern of corrupt activity being a felony of the
first degree, or if the offender is guilty of an attempted
violation of section 2907.02 of the Revised Code and, had the
offender completed the violation of section 2907.02 of the Revised
Code that was attempted, the offender would have been subject to a
sentence of life imprisonment or life imprisonment without parole
for the violation of section 2907.02 of the Revised Code, the
court shall impose upon the offender for the felony violation a
ten-year prison term that cannot be reduced pursuant to section
2929.20 or Chapter 2967. or 5120. of the Revised Code.

(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.

(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 1195
as the mandatory prison term. The total of the additional prison 1196
term imposed under division (D)(4) of this section plus the sixty 1197
or one hundred twenty days imposed as the mandatory prison term 1198
shall equal a definite term in the range of six months to thirty 1199
months for a fourth degree felony OVI offense and shall equal one 1200
of the authorized prison terms specified in division (A)(3) of 1201
this section for a third degree felony OVI offense. If the court 1202
imposes an additional prison term under division (D)(4) of this 1203
section, the offender shall serve the additional prison term after 1204
the offender has served the mandatory prison term required for the 1205
offense. In addition to the mandatory prison term or mandatory and 1206
additional prison term imposed as described in division (D)(4) of 1207
this section, the court also may sentence the offender to a 1208
community control sanction under section 2929.16 or 2929.17 of the 1209
Revised Code, but the offender shall serve all of the prison terms 1210
so imposed prior to serving the community control sanction. 1211

If the offender is being sentenced for a fourth degree felony 1212
OVI offense under division (G)(1) of section 2929.13 of the 1213
Revised Code and the court imposes a mandatory term of local 1214
incarceration, the court may impose a prison term as described in 1215
division (A)(1) of that section. 1216

(5) If an offender is convicted of or pleads guilty to a 1217
violation of division (A)(1) or (2) of section 2903.06 of the 1218
Revised Code and also is convicted of or pleads guilty to a 1219
specification of the type described in section 2941.1414 of the 1220
Revised Code that charges that the victim of the offense is a 1221
peace officer, as defined in section 2935.01 of the Revised Code, 1222
the court shall impose on the offender a prison term of five 1223
years. If a court imposes a prison term on an offender under 1224
division (D)(5) of this section, the prison term shall not be 1225
reduced pursuant to section 2929.20, section 2967.193, or any 1226

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 1291
violation of section 2921.34 of the Revised Code, any prison term 1292
imposed upon the offender for one of those violations shall be 1293
served by the offender consecutively to the prison term or term of 1294
imprisonment the offender was serving when the offender committed 1295
that offense and to any other prison term previously or 1296
subsequently imposed upon the offender. 1297

(3) If a prison term is imposed for a violation of division 1298
(B) of section 2911.01 of the Revised Code, a violation of 1299
division (A) of section 2913.02 of the Revised Code in which the 1300
stolen property is a firearm or dangerous ordnance, or a felony 1301
violation of division (B) of section 2921.331 of the Revised Code, 1302
the offender shall serve that prison term consecutively to any 1303
other prison term or mandatory prison term previously or 1304
subsequently imposed upon the offender. 1305

(4) If multiple prison terms are imposed on an offender for 1306
convictions of multiple offenses, the court may require the 1307
offender to serve the prison terms consecutively if the court 1308
finds that the consecutive service is necessary to protect the 1309
public from future crime or to punish the offender and that 1310
consecutive sentences are not disproportionate to the seriousness 1311
of the offender's conduct and to the danger the offender poses to 1312
the public, and if the court also finds any of the following: 1313

(a) The offender committed one or more of the multiple 1314
offenses while the offender was awaiting trial or sentencing, was 1315
under a sanction imposed pursuant to section 2929.16, 2929.17, or 1316
2929.18 of the Revised Code, or was under post-release control for 1317
a prior offense. 1318

(b) At least two of the multiple offenses were committed as 1319
part of one or more courses of conduct, and the harm caused by two 1320
or more of the multiple offenses so committed was so great or 1321

unusual that no single prison term for any of the offenses 1322
committed as part of any of the courses of conduct adequately 1323
reflects the seriousness of the offender's conduct. 1324

(c) The offender's history of criminal conduct demonstrates 1325
that consecutive sentences are necessary to protect the public 1326
from future crime by the offender. 1327

(5) If a mandatory prison term is imposed upon an offender 1328
pursuant to division (D)(5) or (6) of this section, the offender 1329
shall serve the mandatory prison term consecutively to and prior 1330
to any prison term imposed for the underlying violation of 1331
division (A)(1) or (2) of section 2903.06 of the Revised Code 1332
pursuant to division (A) of this section or section 2929.142 of 1333
the Revised Code. If a mandatory prison term is imposed upon an 1334
offender pursuant to division (D)(5) of this section, and if a 1335
mandatory prison term also is imposed upon the offender pursuant 1336
to division (D)(6) of this section in relation to the same 1337
violation, the offender shall serve the mandatory prison term 1338
imposed pursuant to division (D)(5) of this section consecutively 1339
to and prior to the mandatory prison term imposed pursuant to 1340
division (D)(6) of this section and consecutively to and prior to 1341
any prison term imposed for the underlying violation of division 1342
(A)(1) or (2) of section 2903.06 of the Revised Code pursuant to 1343
division (A) of this section or section 2929.142 of the Revised 1344
Code. 1345

(6) When consecutive prison terms are imposed pursuant to 1346
division (E)(1), (2), (3), (4), or (5) of this section, the term 1347
to be served is the aggregate of all of the terms so imposed. 1348

(F) If a court imposes a prison term of a type described in 1349
division (B) of section 2967.28 of the Revised Code, it shall 1350
include in the sentence a requirement that the offender be subject 1351
to a period of post-release control after the offender's release 1352

from imprisonment, in accordance with that division. If a court
imposes a prison term of a type described in division (C) of that
section, it shall include in the sentence a requirement that the
offender be subject to a period of post-release control after the
offender's release from imprisonment, in accordance with that
division, if the parole board determines that a period of
post-release control is necessary.

(G) If a person is convicted of or pleads guilty to a violent
sex offense or a designated homicide, assault, or kidnapping
offense and, in relation to that offense, the offender is
adjudicated a sexually violent predator, the court shall impose
sentence upon the offender in accordance with section 2971.03 of
the Revised Code, and Chapter 2971. of the Revised Code applies
regarding the prison term or term of life imprisonment without
parole imposed upon the offender and the service of that term of
imprisonment.

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

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

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

aggravated murder, murder, or a felony of the first, second, or 1384
third degree that is an offense of violence also is convicted of 1385
or pleads guilty to a specification of the type described in 1386
section 2941.143 of the Revised Code that charges the offender 1387
with having committed the offense in a school safety zone or 1388
towards a person in a school safety zone, the court shall impose 1389
upon the offender an additional prison term of two years. The 1390
offender shall serve the additional two years consecutively to and 1391
prior to the prison term imposed for the underlying offense. 1392

(K) At the time of sentencing, the court may recommend the 1393
offender for placement in a program of shock incarceration under 1394
section 5120.031 of the Revised Code or for placement in an 1395
intensive program prison under section 5120.032 of the Revised 1396
Code, disapprove placement of the offender in a program of shock 1397
incarceration or an intensive program prison of that nature, or 1398
make no recommendation on placement of the offender. In no case 1399
shall the department of rehabilitation and correction place the 1400
offender in a program or prison of that nature unless the 1401
department determines as specified in section 5120.031 or 5120.032 1402
of the Revised Code, whichever is applicable, that the offender is 1403
eligible for the placement. 1404

If the court disapproves placement of the offender in a 1405
program or prison of that nature, the department of rehabilitation 1406
and correction shall not place the offender in any program of 1407
shock incarceration or intensive program prison. 1408

If the court recommends placement of the offender in a 1409
program of shock incarceration or in an intensive program prison, 1410
and if the offender is subsequently placed in the recommended 1411
program or prison, the department shall notify the court of the 1412
placement and shall include with the notice a brief description of 1413
the placement. 1414

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

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

Sec. 2929.142. Notwithstanding the definite prison term specified in division (A) of section 2929.14 of the Revised Code for a felony of the first degree, if an offender is convicted of or pleads guilty to aggravated vehicular homicide in violation of division (A)(1) of section 2903.06 of the Revised Code, the court

shall impose upon the offender a mandatory prison term of ten, 1446
eleven, twelve, thirteen, fourteen, or fifteen years if any of the 1447
following apply: 1448

(A) The offender previously has been convicted of or pleaded 1449
guilty to three or more prior violations of section 4511.19 of the 1450
Revised Code or of a substantially equivalent municipal ordinance 1451
within the previous six years. 1452

(B) The offender previously has been convicted of or pleaded 1453
guilty to three or more prior violations of division (A) of 1454
section 1547.11 of the Revised Code or of a substantially 1455
equivalent municipal ordinance within the previous six years. 1456

(C) The offender previously has been convicted of or pleaded 1457
guilty to three or more prior violations of division (A)(3) of 1458
section 4561.15 of the Revised Code or of a substantially 1459
equivalent municipal ordinance within the previous six years. 1460

(D) The offender previously has been convicted of or pleaded 1461
guilty to three or more violations of any combination of the 1462
offenses listed in division (A), (B), or (C) of this section. 1463

(E) The offender previously has been convicted of or pleaded 1464
guilty to a second or subsequent felony violation of division (A) 1465
of section 4511.19 of the Revised Code. 1466

Sec. 2929.18. (A) Except as otherwise provided in this 1467
division and in addition to imposing court costs pursuant to 1468
section 2947.23 of the Revised Code, the court imposing a sentence 1469
upon an offender for a felony may sentence the offender to any 1470
financial sanction or combination of financial sanctions 1471
authorized under this section or, in the circumstances specified 1472
in section 2929.32 of the Revised Code, may impose upon the 1473
offender a fine in accordance with that section. Financial 1474
sanctions that may be imposed pursuant to this section include, 1475

but are not limited to, the following: 1476

(1) Restitution by the offender to the victim of the 1477
offender's crime or any survivor of the victim, in an amount based 1478
on the victim's economic loss. If the court imposes restitution, 1479
the court shall order that the restitution be made to the victim 1480
in open court, to the adult probation department that serves the 1481
county on behalf of the victim, to the clerk of courts, or to 1482
another agency designated by the court. If the court imposes 1483
restitution, at sentencing, the court shall determine the amount 1484
of restitution to be made by the offender. If the court imposes 1485
restitution, the court may base the amount of restitution it 1486
orders on an amount recommended by the victim, the offender, a 1487
presentence investigation report, estimates or receipts indicating 1488
the cost of repairing or replacing property, and other 1489
information, provided that the amount the court orders as 1490
restitution shall not exceed the amount of the economic loss 1491
suffered by the victim as a direct and proximate result of the 1492
commission of the offense. If the court decides to impose 1493
restitution, the court shall hold a hearing on restitution if the 1494
offender, victim, or survivor disputes the amount. All restitution 1495
payments shall be credited against any recovery of economic loss 1496
in a civil action brought by the victim or any survivor of the 1497
victim against the offender. 1498

If the court imposes restitution, the court may order that 1499
the offender pay a surcharge of not more than five per cent of the 1500
amount of the restitution otherwise ordered to the entity 1501
responsible for collecting and processing restitution payments. 1502

The victim or survivor may request that the prosecutor in the 1503
case file a motion, or the offender may file a motion, for 1504
modification of the payment terms of any restitution ordered. If 1505
the court grants the motion, it may modify the payment terms as it 1506

determines appropriate. 1507

(2) Except as provided in division (B)(1), (3), or (4) of 1508
this section, a fine payable by the offender to the state, to a 1509
political subdivision, or as described in division (B)(2) of this 1510
section to one or more law enforcement agencies, with the amount 1511
of the fine based on a standard percentage of the offender's daily 1512
income over a period of time determined by the court and based 1513
upon the seriousness of the offense. A fine ordered under this 1514
division shall not exceed the maximum conventional fine amount 1515
authorized for the level of the offense under division (A)(3) of 1516
this section. 1517

(3) Except as provided in division (B)(1), (3), or (4) of 1518
this section, a fine payable by the offender to the state, to a 1519
political subdivision when appropriate for a felony, or as 1520
described in division (B)(2) of this section to one or more law 1521
enforcement agencies, in the following amount: 1522

(a) For a felony of the first degree, not more than twenty 1523
thousand dollars; 1524

(b) For a felony of the second degree, not more than fifteen 1525
thousand dollars; 1526

(c) For a felony of the third degree, not more than ten 1527
thousand dollars; 1528

(d) For a felony of the fourth degree, not more than five 1529
thousand dollars; 1530

(e) For a felony of the fifth degree, not more than two 1531
thousand five hundred dollars. 1532

(4) A state fine or costs as defined in section 2949.111 of 1533
the Revised Code. 1534

(5)(a) Reimbursement by the offender of any or all of the 1535
costs of sanctions incurred by the government, including the 1536

following:	1537
(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;	1538 1539 1540
(ii) All or part of the costs of confinement under a sanction imposed pursuant to section 2929.14, <u>2929.142</u> , 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.	1541 1542 1543 1544 1545 1546
(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 commissioners, a legislative authority of a municipal corporation, or another local governmental entity, if, pursuant to section 307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, the board, legislative authority, or other local governmental entity requires prisoners to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement, and if the court does not impose a financial sanction under division (A)(5)(a)(ii) of this section, confinement costs may be assessed pursuant to section 2929.37 of the Revised Code. In addition, the offender may be required to pay the fees specified in section 2929.38 of the Revised Code in accordance with that section.	1547 1548 1549 1550 1551 1552 1553 1554 1555 1556 1557 1558 1559 1560 1561 1562
(c) Reimbursement by the offender for costs pursuant to section 2929.71 of the Revised Code.	1563 1564
(B)(1) For a first, second, or third degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code, the sentencing court shall impose upon the offender a	1565 1566 1567

mandatory fine of at least one-half of, but not more than, the
maximum statutory fine amount authorized for the level of the
offense pursuant to division (A)(3) of this section. If an
offender alleges in an affidavit filed with the court prior to
sentencing that the offender is indigent and unable to pay the
mandatory fine and if the court determines the offender is an
indigent person and is unable to pay the mandatory fine described
in this division, the court shall not impose the mandatory fine
upon the offender.

(2) Any mandatory fine imposed upon an offender under
division (B)(1) of this section and any fine imposed upon an
offender under division (A)(2) or (3) of this section for any
fourth or fifth degree felony violation of any provision of
Chapter 2925., 3719., or 4729. of the Revised Code shall be paid
to law enforcement agencies pursuant to division (F) of section
2925.03 of the Revised Code.

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

(4) Notwithstanding any fine otherwise authorized or required
to be imposed under division (A)(2) or (3) or (B)(1) of this
section or section 2929.31 of the Revised Code for a violation of
section 2925.03 of the Revised Code, in addition to any penalty or
sanction imposed for that offense under section 2925.03 or
sections 2929.11 to 2929.18 of the Revised Code and in addition to
the forfeiture of property in connection with the offense as
prescribed in sections 2925.42 to 2925.45 of the Revised Code, the
court that sentences an offender for a violation of section
2925.03 of the Revised Code may impose upon the offender a fine in

addition to any fine imposed under division (A)(2) or (3) of this section and in addition to any mandatory fine imposed under division (B)(1) of this section. The fine imposed under division (B)(4) of this section shall be used as provided in division (H) of section 2925.03 of the Revised Code. A fine imposed under division (B)(4) of this section shall not exceed whichever of the following is applicable:

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

(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 1632
the Revised Code. 1633

(6) If the sum total of a mandatory fine amount imposed for a 1634
first, second, or third degree felony violation of section 2925.03 1635
of the Revised Code under division (B)(1) of this section plus the 1636
amount of any fine imposed under division (B)(4) of this section 1637
does not exceed the maximum statutory fine amount authorized for 1638
the level of the offense under division (A)(3) of this section or 1639
section 2929.31 of the Revised Code, the court may impose a fine 1640
for the offense in addition to the mandatory fine and the fine 1641
imposed under division (B)(4) of this section. The sum total of 1642
the amounts of the mandatory fine, the fine imposed under division 1643
(B)(4) of this section, and the additional fine imposed under 1644
division (B)(6) of this section shall not exceed the maximum 1645
statutory fine amount authorized for the level of the offense 1646
under division (A)(3) of this section or section 2929.31 of the 1647
Revised Code. The clerk of the court shall pay any fine that is 1648
imposed under division (B)(6) of this section to the county, 1649
township, municipal corporation, park district as created pursuant 1650
to section 511.18 or 1545.04 of the Revised Code, or state law 1651
enforcement agencies in this state that primarily were responsible 1652
for or involved in making the arrest of, and in prosecuting, the 1653
offender pursuant to division (F) of section 2925.03 of the 1654
Revised Code. 1655

(7) If the sum total of the amount of a mandatory fine 1656
imposed for a first, second, or third degree felony violation of 1657
section 2925.03 of the Revised Code plus the amount of any fine 1658
imposed under division (B)(4) of this section exceeds the maximum 1659
statutory fine amount authorized for the level of the offense 1660
under division (A)(3) of this section or section 2929.31 of the 1661
Revised Code, the court shall not impose a fine under division 1662
(B)(6) of this section. 1663

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

(2) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by a county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the county treasurer. The county treasurer shall deposit the reimbursements in the sanction cost reimbursement fund that each board of county commissioners shall create in its county treasury. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(3) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the

Revised Code or in operating a facility used to confine offenders 1696
pursuant to a sanction imposed under section 2929.16 of the 1697
Revised Code to the treasurer of the municipal corporation. The 1698
treasurer shall deposit the reimbursements in a special fund that 1699
shall be established in the treasury of each municipal 1700
corporation. The municipal corporation shall use the amounts 1701
deposited in the fund to pay the costs incurred by the municipal 1702
corporation pursuant to any sanction imposed under this section or 1703
section 2929.16 or 2929.17 of the Revised Code or in operating a 1704
facility used to confine offenders pursuant to a sanction imposed 1705
under section 2929.16 of the Revised Code. 1706

(4) Except as provided in section 2951.021 of the Revised 1707
Code, the offender shall pay reimbursements imposed pursuant to 1708
division (A)(5)(a) of this section for the costs incurred by a 1709
private provider pursuant to a sanction imposed under this section 1710
or section 2929.16 or 2929.17 of the Revised Code to the provider. 1711

(D) Except as otherwise provided in this division, a 1712
financial sanction imposed pursuant to division (A) or (B) of this 1713
section is a judgment in favor of the state or a political 1714
subdivision in which the court that imposed the financial sanction 1715
is located, and the offender subject to the financial sanction is 1716
the judgment debtor. A financial sanction of reimbursement imposed 1717
pursuant to division (A)(5)(a)(ii) of this section upon an 1718
offender who is incarcerated in a state facility or a municipal 1719
jail is a judgment in favor of the state or the municipal 1720
corporation, and the offender subject to the financial sanction is 1721
the judgment debtor. A financial sanction of reimbursement imposed 1722
upon an offender pursuant to this section for costs incurred by a 1723
private provider of sanctions is a judgment in favor of the 1724
private provider, and the offender subject to the financial 1725
sanction is the judgment debtor. A financial sanction of 1726
restitution imposed pursuant to this section is an order in favor 1727

of the victim of the offender's criminal act that can be collected 1728
through execution as described in division (D)(1) of this section 1729
or through an order as described in division (D)(2) of this 1730
section, and the offender shall be considered for purposes of the 1731
collection as the judgment debtor. Imposition of a financial 1732
sanction and execution on the judgment does not preclude any other 1733
power of the court to impose or enforce sanctions on the offender. 1734
Once the financial sanction is imposed as a judgment or order 1735
under this division, the victim, private provider, state, or 1736
political subdivision may bring an action to do any of the 1737
following: 1738

(1) Obtain execution of the judgment or order through any 1739
available procedure, including: 1740

(a) An execution against the property of the judgment debtor 1741
under Chapter 2329. of the Revised Code; 1742

(b) An execution against the person of the judgment debtor 1743
under Chapter 2331. of the Revised Code; 1744

(c) A proceeding in aid of execution under Chapter 2333. of 1745
the Revised Code, including: 1746

(i) A proceeding for the examination of the judgment debtor 1747
under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27 1748
of the Revised Code; 1749

(ii) A proceeding for attachment of the person of the 1750
judgment debtor under section 2333.28 of the Revised Code; 1751

(iii) A creditor's suit under section 2333.01 of the Revised 1752
Code. 1753

(d) The attachment of the property of the judgment debtor 1754
under Chapter 2715. of the Revised Code; 1755

(e) The garnishment of the property of the judgment debtor 1756
under Chapter 2716. of the Revised Code. 1757

(2) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code. 1758
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(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. 1760
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(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 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. 1764
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(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. 1777
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(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. 1784
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Sec. 2929.19. (A)(1) The court shall hold a sentencing 1787

hearing before imposing a sentence under this chapter upon an 1788
offender who was convicted of or pleaded guilty to a felony and 1789
before resentencing an offender who was convicted of or pleaded 1790
guilty to a felony and whose case was remanded pursuant to section 1791
2953.07 or 2953.08 of the Revised Code. At the hearing, the 1792
offender, the prosecuting attorney, the victim or the victim's 1793
representative in accordance with section 2930.14 of the Revised 1794
Code, and, with the approval of the court, any other person may 1795
present information relevant to the imposition of sentence in the 1796
case. The court shall inform the offender of the verdict of the 1797
jury or finding of the court and ask the offender whether the 1798
offender has anything to say as to why sentence should not be 1799
imposed upon the offender. 1800

(2) Except as otherwise provided in this division, before 1801
imposing sentence on an offender who is being sentenced on or 1802
after January 1, 1997, for a sexually oriented offense that is not 1803
a registration-exempt sexually oriented offense and who is in any 1804
category of offender described in division (B)(1)(a)(i), (ii), or 1805
(iii) of section 2950.09 of the Revised Code, the court shall 1806
conduct a hearing in accordance with division (B) of section 1807
2950.09 of the Revised Code to determine whether the offender is a 1808
sexual predator. The court shall not conduct a hearing under that 1809
division if the offender is being sentenced for a violent sex 1810
offense or a designated homicide, assault, or kidnapping offense 1811
and, in relation to that offense, the offender was adjudicated a 1812
sexually violent predator. Before imposing sentence on an offender 1813
who is being sentenced for a sexually oriented offense that is not 1814
a registration-exempt sexually oriented offense, the court also 1815
shall comply with division (E) of section 2950.09 of the Revised 1816
Code. 1817

Before imposing sentence on or after July 31, 2003, on an 1818
offender who is being sentenced for a child-victim oriented 1819

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
for imposing the maximum prison term;

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

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

(a) Impose a stated prison term;

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

(c) Notify the offender that the offender will be supervised 1882
under section 2967.28 of the Revised Code after the offender 1883
leaves prison if the offender is being sentenced for a felony of 1884
the first degree or second degree, for a felony sex offense, or 1885
for a felony of the third degree in the commission of which the 1886
offender caused or threatened to cause physical harm to a person; 1887

(d) Notify the offender that the offender may be supervised 1888
under section 2967.28 of the Revised Code after the offender 1889
leaves prison if the offender is being sentenced for a felony of 1890
the third, fourth, or fifth degree that is not subject to division 1891
(B)(3)(c) of this section; 1892

(e) Notify the offender that, if a period of supervision is 1893
imposed following the offender's release from prison, as described 1894
in division (B)(3)(c) or (d) of this section, and if the offender 1895
violates that supervision or a condition of post-release control 1896
imposed under division (B) of section 2967.131 of the Revised 1897
Code, the parole board may impose a prison term, as part of the 1898
sentence, of up to one-half of the stated prison term originally 1899
imposed upon the offender; 1900

(f) Require that the offender not ingest or be injected with 1901
a drug of abuse and submit to random drug testing as provided in 1902
section 341.26, 753.33, or 5120.63 of the Revised Code, whichever 1903
is applicable to the offender who is serving a prison term, and 1904
require that the results of the drug test administered under any 1905
of those sections indicate that the offender did not ingest or was 1906
not injected with a drug of abuse. 1907

(4) If the offender is being sentenced for a violent sex 1908
offense or designated homicide, assault, or kidnapping offense 1909
that the offender committed on or after January 1, 1997, and the 1910
offender is adjudicated a sexually violent predator in relation to 1911
that offense, if the offender is being sentenced for a sexually 1912

oriented offense that is not a registration-exempt sexually 1913
oriented offense and that the offender committed on or after 1914
January 1, 1997, and the court imposing the sentence has 1915
determined pursuant to division (B) of section 2950.09 of the 1916
Revised Code that the offender is a sexual predator, if the 1917
offender is being sentenced on or after July 31, 2003, for a 1918
child-victim oriented offense and the court imposing the sentence 1919
has determined pursuant to division (B) of section 2950.091 of the 1920
Revised Code that the offender is a child-victim predator, or if 1921
the offender is being sentenced for an aggravated sexually 1922
oriented offense as defined in section 2950.01 of the Revised 1923
Code, the court shall include in the offender's sentence a 1924
statement that the offender has been adjudicated a sexual 1925
predator, has been adjudicated a child victim predator, or has 1926
been convicted of or pleaded guilty to an aggravated sexually 1927
oriented offense, whichever is applicable, and shall comply with 1928
the requirements of section 2950.03 of the Revised Code. 1929
Additionally, in the circumstances described in division (G) of 1930
section 2929.14 of the Revised Code, the court shall impose 1931
sentence on the offender as described in that division. 1932

(5) If the sentencing court determines at the sentencing 1933
hearing that a community control sanction should be imposed and 1934
the court is not prohibited from imposing a community control 1935
sanction, the court shall impose a community control sanction. The 1936
court shall notify the offender that, if the conditions of the 1937
sanction are violated, if the offender commits a violation of any 1938
law, or if the offender leaves this state without the permission 1939
of the court or the offender's probation officer, the court may 1940
impose a longer time under the same sanction, may impose a more 1941
restrictive sanction, or may impose a prison term on the offender 1942
and shall indicate the specific prison term that may be imposed as 1943
a sanction for the violation, as selected by the court from the 1944

range of prison terms for the offense pursuant to section 2929.14 1945
of the Revised Code. 1946

(6) Before imposing a financial sanction under section 1947
2929.18 of the Revised Code or a fine under section 2929.32 of the 1948
Revised Code, the court shall consider the offender's present and 1949
future ability to pay the amount of the sanction or fine. 1950

(7) If the sentencing court sentences the offender to a 1951
sanction of confinement pursuant to section 2929.14 or 2929.16 of 1952
the Revised Code that is to be served in a local detention 1953
facility, as defined in section 2929.36 of the Revised Code, and 1954
if the local detention facility is covered by a policy adopted 1955
pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 1956
753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code 1957
and section 2929.37 of the Revised Code, both of the following 1958
apply: 1959

(a) The court shall specify both of the following as part of 1960
the sentence: 1961

(i) If the offender is presented with an itemized bill 1962
pursuant to section 2929.37 of the Revised Code for payment of the 1963
costs of confinement, the offender is required to pay the bill in 1964
accordance with that section. 1965

(ii) If the offender does not dispute the bill described in 1966
division (B)(7)(a)(i) of this section and does not pay the bill by 1967
the times specified in section 2929.37 of the Revised Code, the 1968
clerk of the court may issue a certificate of judgment against the 1969
offender as described in that section. 1970

(b) The sentence automatically includes any certificate of 1971
judgment issued as described in division (B)(7)(a)(ii) of this 1972
section. 1973

(C)(1) If the offender is being sentenced for a fourth degree 1974

felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code, the court shall impose the mandatory term of local incarceration in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose additional sanctions as specified in sections 2929.15, 2929.16, 2929.17, and 2929.18 of the Revised Code. The court shall not impose a prison term on the offender except that the court may impose a prison term upon the offender as provided in division (A)(1) of section 2929.13 of the Revised Code.

(2) 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 court shall impose the mandatory prison term in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose an additional prison term as specified in section 2929.14 of the Revised Code. 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. 2945.75. (A) When the presence of one or more additional 2006
elements makes an offense one of more serious degree: 2007

(1) The affidavit, complaint, indictment, or information 2008
either shall state the degree of the offense which the accused is 2009
alleged to have committed, or shall allege such additional element 2010
or elements. Otherwise, such affidavit, complaint, indictment, or 2011
information is effective to charge only the least degree of the 2012
offense. 2013

(2) A guilty verdict shall state either the degree of the 2014
offense of which the offender is found guilty, or that such 2015
additional element or elements are present. Otherwise, a guilty 2016
verdict constitutes a finding of guilty of the least degree of the 2017
offense charged. 2018

(B)(1) Whenever in any case it is necessary to prove a prior 2019
conviction, a certified copy of the entry of judgment in such 2020
prior conviction together with evidence sufficient to identify the 2021
defendant named in the entry as the offender in the case at bar, 2022
is sufficient to prove such prior conviction. 2023

(2) Whenever in any case it is necessary to prove a prior 2024
conviction of an offense for which the registrar of motor vehicles 2025
maintains a record, a certified copy of the record that shows the 2026
name, date of birth, and social security number of the accused is 2027
prima-facie evidence of the identity of the accused and 2028
prima-facie evidence of all prior convictions shown on the record. 2029
The accused may offer evidence to rebut the prima-facie evidence 2030
of the accused's identity and the evidence of prior convictions. 2031
Proof of a prior conviction of an offense for which the registrar 2032
maintains a record may also be proved as provided in division 2033
(B)(1) of this section. 2034

Sec. 2953.08. (A) In addition to any other right to appeal 2035

and except as provided in division (D) of this section, a 2036
defendant who is convicted of or pleads guilty to a felony may 2037
appeal as a matter of right the sentence imposed upon the 2038
defendant on one of the following grounds: 2039

(1) The sentence consisted of or included the maximum prison 2040
term allowed for the offense by division (A) of section 2929.14 or 2041
section 2929.142 of the Revised Code, the sentence was not imposed 2042
pursuant to division (D)(3)(b) of section 2929.14 of the Revised 2043
Code, the maximum prison term was not required for the offense 2044
pursuant to Chapter 2925. or any other provision of the Revised 2045
Code, and the court imposed the sentence under one of the 2046
following circumstances: 2047

(a) The sentence was imposed for only one offense. 2048

(b) The sentence was imposed for two or more offenses arising 2049
out of a single incident, and the court imposed the maximum prison 2050
term for the offense of the highest degree. 2051

(2) The sentence consisted of or included a prison term, the 2052
offense for which it was imposed is a felony of the fourth or 2053
fifth degree or is a felony drug offense that is a violation of a 2054
provision of Chapter 2925. of the Revised Code and that is 2055
specified as being subject to division (B) of section 2929.13 of 2056
the Revised Code for purposes of sentencing, and the court did not 2057
specify at sentencing that it found one or more factors specified 2058
in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised 2059
Code to apply relative to the defendant. If the court specifies 2060
that it found one or more of those factors to apply relative to 2061
the defendant, the defendant is not entitled under this division 2062
to appeal as a matter of right the sentence imposed upon the 2063
offender. 2064

(3) The person was convicted of or pleaded guilty to a 2065
violent sex offense or a designated homicide, assault, or 2066

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. 2081

(5) The sentence consisted of an additional prison term of
ten years imposed pursuant to division (D)(2)(b) of section
2929.14 of the Revised Code. 2082
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(6) The sentence consisted of an additional prison term of
ten years imposed pursuant to division (D)(3)(b) of section
2929.14 of the Revised Code. 2085
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(B) In addition to any other right to appeal and except as
provided in division (D) of this section, a prosecuting attorney,
a city director of law, village solicitor, or similar chief legal
officer of a municipal corporation, or the attorney general, if
one of those persons prosecuted the case, may appeal as a matter
of right a sentence imposed upon a defendant who is convicted of
or pleads guilty to a felony or, in the circumstances described in
division (B)(3) of this section the modification of a sentence
imposed upon such a defendant, on any of the following grounds: 2088
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(1) The sentence did not include a prison term despite a 2097

presumption favoring a prison term for the offense for which it
was imposed, as set forth in section 2929.13 or Chapter 2925. of
the Revised Code.

(2) The sentence is contrary to law.

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

(C) In addition to the right to appeal a sentence granted
under division (A) or (B) of this section, a defendant who is
convicted of or pleads guilty to a felony may seek leave to appeal
a sentence imposed upon the defendant on the basis that the
sentencing judge has imposed consecutive sentences under division
(E)(3) or (4) of section 2929.14 of the Revised Code and that the
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 2129
rule shall not commence running until the court grants the motion 2130
that makes the sentence modification in question. A sentence 2131
appeal under this section shall be consolidated with any other 2132
appeal in the case. If no other appeal is filed, the court of 2133
appeals may review only the portions of the trial record that 2134
pertain to sentencing. 2135

(F) On the appeal of a sentence under this section, the 2136
record to be reviewed shall include all of the following, as 2137
applicable: 2138

(1) Any presentence, psychiatric, or other investigative 2139
report that was submitted to the court in writing before the 2140
sentence was imposed. An appellate court that reviews a 2141
presentence investigation report prepared pursuant to section 2142
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 2143
connection with the appeal of a sentence under this section shall 2144
comply with division (D)(3) of section 2951.03 of the Revised Code 2145
when the appellate court is not using the presentence 2146
investigation report, and the appellate court's use of a 2147
presentence investigation report of that nature in connection with 2148
the appeal of a sentence under this section does not affect the 2149
otherwise confidential character of the contents of that report as 2150
described in division (D)(1) of section 2951.03 of the Revised 2151
Code and does not cause that report to become a public record, as 2152
defined in section 149.43 of the Revised Code, following the 2153
appellate court's use of the report. 2154

(2) The trial record in the case in which the sentence was 2155
imposed; 2156

(3) Any oral or written statements made to or by the court at 2157
the sentencing hearing at which the sentence was imposed; 2158

(4) Any written findings that the court was required to make 2159

in connection with the modification of the sentence pursuant to a 2160
judicial release under division (H) of section 2929.20 of the 2161
Revised Code. 2162

(G)(1) If the sentencing court was required to make the 2163
findings required by division (B) or (D) of section 2929.13, 2164
division (E)(4) of section 2929.14, or division (H) of section 2165
2929.20 of the Revised Code relative to the imposition or 2166
modification of the sentence, and if the sentencing court failed 2167
to state the required findings on the record, the court hearing an 2168
appeal under division (A), (B), or (C) of this section shall 2169
remand the case to the sentencing court and instruct the 2170
sentencing court to state, on the record, the required findings. 2171

(2) The court hearing an appeal under division (A), (B), or 2172
(C) of this section shall review the record, including the 2173
findings underlying the sentence or modification given by the 2174
sentencing court. 2175

The appellate court may increase, reduce, or otherwise modify 2176
a sentence that is appealed under this section or may vacate the 2177
sentence and remand the matter to the sentencing court for 2178
resentencing. The appellate court's standard for review is not 2179
whether the sentencing court abused its discretion. The appellate 2180
court may take any action authorized by this division if it 2181
clearly and convincingly finds either of the following: 2182

(a) That the record does not support the sentencing court's 2183
findings under division (B) or (D) of section 2929.13, division 2184
(E)(4) of section 2929.14, or division (H) of section 2929.20 of 2185
the Revised Code, whichever, if any, is relevant; 2186

(b) That the sentence is otherwise contrary to law. 2187

(H) A judgment or final order of a court of appeals under 2188
this section may be appealed, by leave of court, to the supreme 2189
court. 2190

(I)(1) There is hereby established the felony sentence appeal 2191
cost oversight committee, consisting of eight members. One member 2192
shall be the chief justice of the supreme court or a 2193
representative of the court designated by the chief justice, one 2194
member shall be a member of the senate appointed by the president 2195
of the senate, one member shall be a member of the house of 2196
representatives appointed by the speaker of the house of 2197
representatives, one member shall be the director of budget and 2198
management or a representative of the office of budget and 2199
management designated by the director, one member shall be a judge 2200
of a court of appeals, court of common pleas, municipal court, or 2201
county court appointed by the chief justice of the supreme court, 2202
one member shall be the state public defender or a representative 2203
of the office of the state public defender designated by the state 2204
public defender, one member shall be a prosecuting attorney 2205
appointed by the Ohio prosecuting attorneys association, and one 2206
member shall be a county commissioner appointed by the county 2207
commissioners association of Ohio. No more than three of the 2208
appointed members of the committee may be members of the same 2209
political party. 2210

The president of the senate, the speaker of the house of 2211
representatives, the chief justice of the supreme court, the Ohio 2212
prosecuting attorneys association, and the county commissioners 2213
association of Ohio shall make the initial appointments to the 2214
committee of the appointed members no later than ninety days after 2215
July 1, 1996. Of those initial appointments to the committee, the 2216
members appointed by the speaker of the house of representatives 2217
and the Ohio prosecuting attorneys association shall serve a term 2218
ending two years after July 1, 1996, the member appointed by the 2219
chief justice of the supreme court shall serve a term ending three 2220
years after July 1, 1996, and the members appointed by the 2221
president of the senate and the county commissioners association 2222

of Ohio shall serve terms ending four years after July 1, 1996. 2223
Thereafter, terms of office of the appointed members shall be for 2224
four years, with each term ending on the same day of the same 2225
month as did the term that it succeeds. Members may be 2226
reappointed. Vacancies shall be filled in the same manner provided 2227
for original appointments. A member appointed to fill a vacancy 2228
occurring prior to the expiration of the term for which that 2229
member's predecessor was appointed shall hold office as a member 2230
for the remainder of the predecessor's term. An appointed member 2231
shall continue in office subsequent to the expiration date of that 2232
member's term until that member's successor takes office or until 2233
a period of sixty days has elapsed, whichever occurs first. 2234

If the chief justice of the supreme court, the director of 2235
the office of budget and management, or the state public defender 2236
serves as a member of the committee, that person's term of office 2237
as a member shall continue for as long as that person holds office 2238
as chief justice, director of the office of budget and management, 2239
or state public defender. If the chief justice of the supreme 2240
court designates a representative of the court to serve as a 2241
member, the director of budget and management designates a 2242
representative of the office of budget and management to serve as 2243
a member, or the state public defender designates a representative 2244
of the office of the state public defender to serve as a member, 2245
the person so designated shall serve as a member of the commission 2246
for as long as the official who made the designation holds office 2247
as chief justice, director of the office of budget and management, 2248
or state public defender or until that official revokes the 2249
designation. 2250

The chief justice of the supreme court or the representative 2251
of the supreme court appointed by the chief justice shall serve as 2252
chairperson of the committee. The committee shall meet within two 2253
weeks after all appointed members have been appointed and shall 2254

organize as necessary. Thereafter, the committee shall meet at 2255
least once every six months or more often upon the call of the 2256
chairperson or the written request of three or more members, 2257
provided that the committee shall not meet unless moneys have been 2258
appropriated to the judiciary budget administered by the supreme 2259
court specifically for the purpose of providing financial 2260
assistance to counties under division (I)(2) of this section and 2261
the moneys so appropriated then are available for that purpose. 2262

The members of the committee shall serve without 2263
compensation, but, if moneys have been appropriated to the 2264
judiciary budget administered by the supreme court specifically 2265
for the purpose of providing financial assistance to counties 2266
under division (I)(2) of this section, each member shall be 2267
reimbursed out of the moneys so appropriated that then are 2268
available for actual and necessary expenses incurred in the 2269
performance of official duties as a committee member. 2270

(2) The state criminal sentencing commission periodically 2271
shall provide to the felony sentence appeal cost oversight 2272
committee all data the commission collects pursuant to division 2273
(A)(5) of section 181.25 of the Revised Code. Upon receipt of the 2274
data from the state criminal sentencing commission, the felony 2275
sentence appeal cost oversight committee periodically shall review 2276
the data; determine whether any money has been appropriated to the 2277
judiciary budget administered by the supreme court specifically 2278
for the purpose of providing state financial assistance to 2279
counties in accordance with this division for the increase in 2280
expenses the counties experience as a result of the felony 2281
sentence appeal provisions set forth in this section or as a 2282
result of a postconviction relief proceeding brought under 2283
division (A)(2) of section 2953.21 of the Revised Code or an 2284
appeal of a judgment in that proceeding; if it determines that any 2285
money has been so appropriated, determine the total amount of 2286

moneys that have been so appropriated specifically for that 2287
purpose and that then are available for that purpose; and develop 2288
a recommended method of distributing those moneys to the counties. 2289
The committee shall send a copy of its recommendation to the 2290
supreme court. Upon receipt of the committee's recommendation, the 2291
supreme court shall distribute to the counties, based upon that 2292
recommendation, the moneys that have been so appropriated 2293
specifically for the purpose of providing state financial 2294
assistance to counties under this division and that then are 2295
available for that purpose. 2296

Sec. 4511.19. (A)(1) No person shall operate any vehicle, 2297
streetcar, or trackless trolley within this state, if, at the time 2298
of the operation, any of the following apply: 2299

(a) The person is under the influence of alcohol, a drug of 2300
abuse, or a combination of them. 2301

(b) The person has a concentration of eight-hundredths of one 2302
per cent or more but less than seventeen-hundredths of one per 2303
cent by weight per unit volume of alcohol in the person's whole 2304
blood. 2305

(c) The person has a concentration of ninety-six-thousandths 2306
of one per cent or more but less than two hundred four-thousandths 2307
of one per cent by weight per unit volume of alcohol in the 2308
person's blood serum or plasma. 2309

(d) The person has a concentration of eight-hundredths of one 2310
gram or more but less than seventeen-hundredths of one gram by 2311
weight of alcohol per two hundred ten liters of the person's 2312
breath. 2313

(e) The person has a concentration of eleven-hundredths of 2314
one gram or more but less than two hundred 2315
thirty-eight-thousandths of one gram by weight of alcohol per one 2316

hundred milliliters of the person's urine. 2317

(f) The person has a concentration of seventeen-hundredths of 2318
one per cent or more by weight per unit volume of alcohol in the 2319
person's whole blood. 2320

(g) The person has a concentration of two hundred 2321
four-thousandths of one per cent or more by weight per unit volume 2322
of alcohol in the person's blood serum or plasma. 2323

(h) The person has a concentration of seventeen-hundredths of 2324
one gram or more by weight of alcohol per two hundred ten liters 2325
of the person's breath. 2326

(i) The person has a concentration of two hundred 2327
thirty-eight-thousandths of one gram or more by weight of alcohol 2328
per one hundred milliliters of the person's urine. 2329

(2) No person who, within twenty years of the conduct 2330
described in division (A)(2)(a) of this section, previously has 2331
been convicted of or pleaded guilty to a violation of this 2332
division, division (A)(1) or (B) of this section, or a municipal 2333
OVI offense shall do both of the following: 2334

(a) Operate any vehicle, streetcar, or trackless trolley 2335
within this state while under the influence of alcohol, a drug of 2336
abuse, or a combination of them; 2337

(b) Subsequent to being arrested for operating the vehicle, 2338
streetcar, or trackless trolley as described in division (A)(2)(a) 2339
of this section, being asked by a law enforcement officer to 2340
submit to a chemical test or tests under section 4511.191 of the 2341
Revised Code, and being advised by the officer in accordance with 2342
section 4511.192 of the Revised Code of the consequences of the 2343
person's refusal or submission to the test or tests, refuse to 2344
submit to the test or tests. 2345

(B) No person under twenty-one years of age shall operate any 2346

vehicle, streetcar, or trackless trolley within this state, if, at 2347
the time of the operation, any of the following apply: 2348

(1) The person has a concentration of at least two-hundredths 2349
of one per cent but less than eight-hundredths of one per cent by 2350
weight per unit volume of alcohol in the person's whole blood. 2351

(2) The person has a concentration of at least 2352
three-hundredths of one per cent but less than 2353
ninety-six-thousandths of one per cent by weight per unit volume 2354
of alcohol in the person's blood serum or plasma. 2355

(3) The person has a concentration of at least two-hundredths 2356
of one gram but less than eight-hundredths of one gram by weight 2357
of alcohol per two hundred ten liters of the person's breath. 2358

(4) The person has a concentration of at least twenty-eight 2359
one-thousandths of one gram but less than eleven-hundredths of one 2360
gram by weight of alcohol per one hundred milliliters of the 2361
person's urine. 2362

(C) In any proceeding arising out of one incident, a person 2363
may be charged with a violation of division (A)(1)(a) or (A)(2) 2364
and a violation of division (B)(1), (2), or (3) of this section, 2365
but the person may not be convicted of more than one violation of 2366
these divisions. 2367

(D)(1) In any criminal prosecution or juvenile court 2368
proceeding for a violation of division (A) or (B) of this section 2369
or for an equivalent offense, the court may admit evidence on the 2370
concentration of alcohol, drugs of abuse, or a combination of them 2371
in the defendant's whole blood, blood serum or plasma, breath, 2372
urine, or other bodily substance at the time of the alleged 2373
violation as shown by chemical analysis of the substance withdrawn 2374
within two hours of the time of the alleged violation when either 2375
of the following apply: 2376

(a) A law enforcement officer has obtained from a health care provider a laboratory report containing the results of any test administered by the health care provider on its own initiative and not at the request of a law enforcement officer to determine the presence or concentration of alcohol, a drug of abuse, or combination of them in the person's whole blood, blood serum or plasma, breath, urine, or other bodily substance pursuant to section 2317.022 of the Revised Code.

~~When a~~ (b) A person submits to a blood, breath, urine, or other bodily substance test at the request of a law enforcement officer under section 4511.191 of the Revised Code, only or if a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, or alcohol and drug content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn under division (D)(1)(b) of this section shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director pursuant to section 3701.143 of the Revised Code.

(2) In a criminal prosecution or juvenile court proceeding for a violation of division (A) of this section or for an equivalent offense, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in divisions (A)(1)(b), (c), (d), and (e) of this section, that fact may be considered with

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

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

The If the chemical test was obtained pursuant to division
(D)(1)(b) of this section, the person tested may have a physician,
a registered nurse, or a qualified technician, chemist, or
phlebotomist of the person's own choosing administer a chemical
test or tests, at the person's expense, in addition to any
administered at the request of a law enforcement officer. The form
to be read to the person to be tested, as required under section
4511.192 of the Revised Code, shall state that the person may have
an independent test performed at the person's expense. The failure
or inability to obtain an additional chemical test by a person
shall not preclude the admission of evidence relating to the
chemical test or tests taken at the request of a law enforcement
officer.

(4)(a) As used in divisions (D)(4)(b) and (c) of this
section, "national highway traffic safety administration" means
the national highway traffic safety administration established as
an administration of the United States department of
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

(b) In any criminal prosecution or juvenile court proceeding
for a violation of division (A) or (B) of this section, of a
municipal ordinance relating to operating a vehicle while under
the influence of alcohol, a drug of abuse, or alcohol and a drug

of abuse, or of a municipal ordinance relating to operating a 2440
vehicle with a prohibited concentration of alcohol in the blood, 2441
breath, or urine, if a law enforcement officer has administered a 2442
field sobriety test to the operator of the vehicle involved in the 2443
violation and if it is shown by clear and convincing evidence that 2444
the officer administered the test in substantial compliance with 2445
the testing standards for any reliable, credible, and generally 2446
accepted field sobriety tests that were in effect at the time the 2447
tests were administered, including, but not limited to, any 2448
testing standards then in effect that were set by the national 2449
highway traffic safety administration, all of the following apply: 2450

(i) The officer may testify concerning the results of the 2451
field sobriety test so administered. 2452

(ii) The prosecution may introduce the results of the field 2453
sobriety test so administered as evidence in any proceedings in 2454
the criminal prosecution or juvenile court proceeding. 2455

(iii) If testimony is presented or evidence is introduced 2456
under division (D)(4)(b)(i) or (ii) of this section and if the 2457
testimony or evidence is admissible under the Rules of Evidence, 2458
the court shall admit the testimony or evidence and the trier of 2459
fact shall give it whatever weight the trier of fact considers to 2460
be appropriate. 2461

(c) Division (D)(4)(b) of this section does not limit or 2462
preclude a court, in its determination of whether the arrest of a 2463
person was supported by probable cause or its determination of any 2464
other matter in a criminal prosecution or juvenile court 2465
proceeding of a type described in that division, from considering 2466
evidence or testimony that is not otherwise disallowed by division 2467
(D)(4)(b) of this section. 2468

(E)(1) Subject to division (E)(3) of this section, in any 2469
criminal prosecution or juvenile court proceeding for a violation 2470

of division (A)(1)(b), (c), (d), (e), (f), (g), (h), or (i) or 2471
(B)(1), (2), (3), or (4) of this section or for an equivalent 2472
offense that is substantially equivalent to any of those 2473
divisions, a laboratory report obtained pursuant to section 2474
2317.022 of the Revised Code or from any forensic laboratory 2475
certified by the department of health that contains an analysis of 2476
the whole blood, blood serum or plasma, breath, urine, or other 2477
bodily substance tested and that contains all of the information 2478
specified in this division shall be admitted as prima-facie 2479
evidence of the information and statements that the report 2480
contains. The laboratory report shall contain all of the 2481
following: 2482

(a) The signature, under oath, of any person who performed 2483
the analysis; 2484

(b) Any findings as to the identity and quantity of alcohol, 2485
a drug of abuse, or a combination of them that was found; 2486

(c) A copy of a notarized statement by the laboratory 2487
director or a designee of the director that contains the name of 2488
each ~~certified~~ analyst or test performer involved with the report, 2489
the analyst's or test performer's employment relationship with the 2490
laboratory that issued the report, and a notation that performing 2491
an analysis of the type involved is part of the analyst's or test 2492
performer's regular duties; 2493

(d) An outline of the analyst's or test performer's 2494
education, training, and experience in performing the type of 2495
analysis involved and a certification that the laboratory 2496
satisfies appropriate quality control standards ~~in general and, in~~ 2497
~~this particular analysis, under rules of the department of health.~~ 2498

(2) Notwithstanding any other provision of law regarding the 2499
admission of evidence, a report of the type described in division 2500
(E)(1) of this section is not admissible against the defendant to 2501

whom it pertains in any proceeding, other than a preliminary 2502
hearing or a grand jury proceeding, unless the prosecutor has 2503
served a copy of the report on the defendant's attorney or, if the 2504
defendant has no attorney, on the defendant. 2505

(3) A report of the type described in division (E)(1) of this 2506
section shall not be prima-facie evidence of the contents, 2507
identity, or amount of any substance if, within seven days after 2508
the defendant to whom the report pertains or the defendant's 2509
attorney receives a copy of the report, the defendant or the 2510
defendant's attorney demands the testimony of the person who 2511
signed the report. The judge in the case may extend the seven-day 2512
time limit in the interest of justice. 2513

(F) Except as otherwise provided in this division, any 2514
physician, registered nurse, or qualified technician, chemist, or 2515
phlebotomist who withdraws blood from a person pursuant to this 2516
section, and any hospital, first-aid station, or clinic at which 2517
blood is withdrawn from a person pursuant to this section, is 2518
immune from criminal liability and civil liability based upon a 2519
claim of assault and battery or any other claim that is not a 2520
claim of malpractice, for any act performed in withdrawing blood 2521
from the person. The immunity provided in this division is not 2522
available to a person who withdraws blood if the person engages in 2523
willful or wanton misconduct. 2524

(G)(1) Whoever violates any provision of divisions (A)(1)(a) 2525
to (i) or (A)(2) of this section is guilty of operating a vehicle 2526
under the influence of alcohol, a drug of abuse, or a combination 2527
of them. The court shall sentence the offender under Chapter 2929. 2528
of the Revised Code, except as otherwise authorized or required by 2529
divisions (G)(1)(a) to (e) of this section: 2530

(a) Except as otherwise provided in division (G)(1)(b), (c), 2531
(d), or (e) of this section, the offender is guilty of a 2532

misdemeanor of the first degree, and the court shall sentence the
offender to all of the following:

(i) If the sentence is being imposed for a violation of
division (A)(1)(a), (b), (c), (d), or (e) of this section, a
mandatory jail term of three consecutive days. As used in this
division, three consecutive days means seventy-two consecutive
hours. The court may sentence an offender to both an intervention
program and a jail term. The court may impose a jail term in
addition to the three-day mandatory jail term or intervention
program. However, in no case shall the cumulative jail term
imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail
term under this division if the court, in lieu of that suspended
term, places the offender under a community control sanction
pursuant to section 2929.25 of the Revised Code and requires the
offender to attend, for three consecutive days, a drivers'
intervention program certified under section 3793.10 of the
Revised Code. The court also may suspend the execution of any part
of the three-day jail term under this division if it places the
offender under a community control sanction pursuant to section
2929.25 of the Revised Code for part of the three days, requires
the offender to attend for the suspended part of the term a
drivers' intervention program so certified, and sentences the
offender to a jail term equal to the remainder of the three
consecutive days that the offender does not spend attending the
program. The court may require the offender, as a condition of
community control and in addition to the required attendance at a
drivers' intervention program, to attend and satisfactorily
complete any treatment or education programs that comply with the
minimum standards adopted pursuant to Chapter 3793. of the Revised
Code by the director of alcohol and drug addiction services that
the operators of the drivers' intervention program determine that

the offender should attend and to report periodically to the court 2565
on the offender's progress in the programs. The court also may 2566
impose on the offender any other conditions of community control 2567
that it considers necessary. 2568

(ii) If the sentence is being imposed for a violation of 2569
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 2570
section, except as otherwise provided in this division, a 2571
mandatory jail term of at least three consecutive days and a 2572
requirement that the offender attend, for three consecutive days, 2573
a drivers' intervention program that is certified pursuant to 2574
section 3793.10 of the Revised Code. As used in this division, 2575
three consecutive days means seventy-two consecutive hours. If the 2576
court determines that the offender is not conducive to treatment 2577
in a drivers' intervention program, if the offender refuses to 2578
attend a drivers' intervention program, or if the jail at which 2579
the offender is to serve the jail term imposed can provide a 2580
driver's intervention program, the court shall sentence the 2581
offender to a mandatory jail term of at least six consecutive 2582
days. 2583

The court may require the offender, under a community control 2584
sanction imposed under section 2929.25 of the Revised Code, to 2585
attend and satisfactorily complete any treatment or education 2586
programs that comply with the minimum standards adopted pursuant 2587
to Chapter 3793. of the Revised Code by the director of alcohol 2588
and drug addiction services, in addition to the required 2589
attendance at drivers' intervention program, that the operators of 2590
the drivers' intervention program determine that the offender 2591
should attend and to report periodically to the court on the 2592
offender's progress in the programs. The court also may impose any 2593
other conditions of community control on the offender that it 2594
considers necessary. 2595

(iii) In all cases, a fine of not less than two hundred fifty 2596

and not more than one thousand dollars;

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

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

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(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), or (e) of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

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In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. If the operator of the program determines that the offender is alcohol dependent, the program shall notify the court, and, subject to

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division (I) of this section, the court shall order the offender 2628
to obtain treatment through an alcohol and drug addiction program 2629
authorized by section 3793.02 of the Revised Code. 2630

(ii) If the sentence is being imposed for a violation of 2631
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 2632
section, except as otherwise provided in this division, a 2633
mandatory jail term of twenty consecutive days. The court shall 2634
impose the twenty-day mandatory jail term under this division 2635
unless, subject to division (G)(3) of this section, it instead 2636
imposes a sentence under that division consisting of both a jail 2637
term and a term of house arrest with electronic monitoring, with 2638
continuous alcohol monitoring, or with both electronic monitoring 2639
and continuous alcohol monitoring. The court may impose a jail 2640
term in addition to the twenty-day mandatory jail term. The 2641
cumulative jail term imposed for the offense shall not exceed six 2642
months. 2643

In addition to the jail term or the term of house arrest with 2644
electronic monitoring or continuous alcohol monitoring or both 2645
types of monitoring and jail term, the court may require the 2646
offender to attend a driver's intervention program that is 2647
certified pursuant to section 3793.10 of the Revised Code. If the 2648
operator of the program determines that the offender is alcohol 2649
dependent, the program shall notify the court, and, subject to 2650
division (I) of this section, the court shall order the offender 2651
to obtain treatment through an alcohol and drug addiction program 2652
authorized by section 3793.02 of the Revised Code. 2653

(iii) In all cases, notwithstanding the fines set forth in 2654
Chapter 2929. of the Revised Code, a fine of not less than three 2655
hundred fifty and not more than one thousand five hundred dollars; 2656

(iv) In all cases, a class four license suspension of the 2657
offender's driver's license, commercial driver's license, 2658

temporary instruction permit, probationary license, or nonresident
operating privilege from the range specified in division (A)(4) of
section 4510.02 of the Revised Code. The court may grant limited
driving privileges relative to the suspension under sections
4510.021 and 4510.13 of the Revised Code.

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

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

(i) If the sentence is being imposed for a violation of
division (A)(1)(a), (b), (c), (d), or (e) of this section, a
mandatory jail term of thirty consecutive days. The court shall
impose the thirty-day mandatory jail term under this division
unless, subject to division (G)(3) of this section, it instead
imposes a sentence under that division consisting of both a jail
term and a term of house arrest with electronic monitoring, with
continuous alcohol monitoring, or with both electronic monitoring
and continuous alcohol monitoring. The court may impose a jail
term in addition to the thirty-day mandatory jail term.
Notwithstanding the jail terms set forth in sections 2929.21 to
2929.28 of the Revised Code, the additional jail term shall not
exceed one year, and the cumulative jail term imposed for the
offense shall not exceed one year.

(ii) If the sentence is being imposed for a violation of

division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 2690
section, a mandatory jail term of sixty consecutive days. The 2691
court shall impose the sixty-day mandatory jail term under this 2692
division unless, subject to division (G)(3) of this section, it 2693
instead imposes a sentence under that division consisting of both 2694
a jail term and a term of house arrest with electronic monitoring, 2695
with continuous alcohol monitoring, or with both electronic 2696
monitoring and continuous alcohol monitoring. The court may impose 2697
a jail term in addition to the sixty-day mandatory jail term. 2698
Notwithstanding the jail terms set forth in sections 2929.21 to 2699
2929.28 of the Revised Code, the additional jail term shall not 2700
exceed one year, and the cumulative jail term imposed for the 2701
offense shall not exceed one year. 2702

(iii) In all cases, notwithstanding the fines set forth in 2703
Chapter 2929. of the Revised Code, a fine of not less than five 2704
hundred fifty and not more than two thousand five hundred dollars; 2705

(iv) In all cases, a class three license suspension of the 2706
offender's driver's license, commercial driver's license, 2707
temporary instruction permit, probationary license, or nonresident 2708
operating privilege from the range specified in division (A)(3) of 2709
section 4510.02 of the Revised Code. The court may grant limited 2710
driving privileges relative to the suspension under sections 2711
4510.021 and 4510.13 of the Revised Code. 2712

(v) In all cases, if the vehicle is registered in the 2713
offender's name, criminal forfeiture of the vehicle involved in 2714
the offense in accordance with section 4503.234 of the Revised 2715
Code. Division (G)(6) of this section applies regarding any 2716
vehicle that is subject to an order of criminal forfeiture under 2717
this division. 2718

(vi) In all cases, participation in an alcohol and drug 2719
addiction program authorized by section 3793.02 of the Revised 2720

Code, subject to division (I) of this section. 2721

(d) Except as otherwise provided in division (G)(1)(e) of 2722
this section, an offender who, within six years of the offense, 2723
previously has been convicted of or pleaded guilty to three or 2724
four violations of division (A) or (B) of this section or other 2725
equivalent offenses or an offender who, within twenty years of the 2726
offense, previously has been convicted of or pleaded guilty to 2727
five or more violations of that nature is guilty of a felony of 2728
the fourth degree. The court shall sentence the offender to all of 2729
the following: 2730

(i) If the sentence is being imposed for a violation of 2731
division (A)(1)(a), (b), (c), (d), or (e) of this section, a 2732
mandatory prison term of one, two, three, four, or five years as 2733
required by and in accordance with division (G)(2) of section 2734
2929.13 of the Revised Code if the offender also is convicted of 2735
or also pleads guilty to a specification of the type described in 2736
section 2941.1413 of the Revised Code or, in the discretion of the 2737
court, either a mandatory term of local incarceration of sixty 2738
consecutive days in accordance with division (G)(1) of section 2739
2929.13 of the Revised Code or a mandatory prison term of sixty 2740
consecutive days in accordance with division (G)(2) of that 2741
section if the offender is not convicted of and does not plead 2742
guilty to a specification of that type. If the court imposes a 2743
mandatory term of local incarceration, it may impose a jail term 2744
in addition to the sixty-day mandatory term, the cumulative total 2745
of the mandatory term and the jail term for the offense shall not 2746
exceed one year, and, except as provided in division (A)(1) of 2747
section 2929.13 of the Revised Code, no prison term is authorized 2748
for the offense. If the court imposes a mandatory prison term, 2749
notwithstanding division (A)(4) of section 2929.14 of the Revised 2750
Code, it also may sentence the offender to a definite prison term 2751
that shall be not less than six months and not more than thirty 2752

months and the prison terms shall be imposed as described in 2753
division (G)(2) of section 2929.13 of the Revised Code. If the 2754
court imposes a mandatory prison term or mandatory prison term and 2755
additional prison term, in addition to the term or terms so 2756
imposed, the court also may sentence the offender to a community 2757
control sanction for the offense, but the offender shall serve all 2758
of the prison terms so imposed prior to serving the community 2759
control sanction. 2760

(ii) If the sentence is being imposed for a violation of 2761
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 2762
section, a mandatory prison term of one, two, three, four, or five 2763
years as required by and in accordance with division (G)(2) of 2764
section 2929.13 of the Revised Code if the offender also is 2765
convicted of or also pleads guilty to a specification of the type 2766
described in section 2941.1413 of the Revised Code or, in the 2767
discretion of the court, either a mandatory term of local 2768
incarceration of one hundred twenty consecutive days in accordance 2769
with division (G)(1) of section 2929.13 of the Revised Code or a 2770
mandatory prison term of one hundred twenty consecutive days in 2771
accordance with division (G)(2) of that section if the offender is 2772
not convicted of and does not plead guilty to a specification of 2773
that type. If the court imposes a mandatory term of local 2774
incarceration, it may impose a jail term in addition to the one 2775
hundred twenty-day mandatory term, the cumulative total of the 2776
mandatory term and the jail term for the offense shall not exceed 2777
one year, and, except as provided in division (A)(1) of section 2778
2929.13 of the Revised Code, no prison term is authorized for the 2779
offense. If the court imposes a mandatory prison term, 2780
notwithstanding division (A)(4) of section 2929.14 of the Revised 2781
Code, it also may sentence the offender to a definite prison term 2782
that shall be not less than six months and not more than thirty 2783
months and the prison terms shall be imposed as described in 2784

division (G)(2) of section 2929.13 of the Revised Code. If the
court imposes a mandatory prison term or mandatory prison term and
additional prison term, in addition to the term or terms so
imposed, the court also may sentence the offender to a community
control sanction for the offense, but the offender shall serve all
of the prison terms so imposed prior to serving the community
control sanction.

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

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

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

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

(vii) In all cases, if the court sentences the offender to a
mandatory term of local incarceration, in addition to the
mandatory term, the court, pursuant to section 2929.17 of the
Revised Code, may impose a term of house arrest with electronic
monitoring. The term shall not commence until after the offender

has served the mandatory term of local incarceration.

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(e) An offender who previously has been convicted of or pleaded guilty to a violation of division (A) of this section that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree. The court shall sentence the offender to all of the following:

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(i) If the offender is being sentenced for a violation of division (A)(1)(a), (b), (c), (d), or (e) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code 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 a mandatory prison term of sixty consecutive days in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender is not convicted of and does not plead guilty to a specification of that type. The court may impose a prison term in addition to the mandatory prison term. The cumulative total of a sixty-day mandatory prison term and the additional prison term for the offense shall not exceed five years. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

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(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type

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described in section 2941.1413 of the Revised Code or a mandatory
prison term of one hundred twenty consecutive days in accordance
with division (G)(2) of section 2929.13 of the Revised Code if the
offender is not convicted of and does not plead guilty to a
specification of that type. The court may impose a prison term in
addition to the mandatory prison term. The cumulative total of a
one hundred twenty-day mandatory prison term and the additional
prison term for the offense shall not exceed five years. In
addition to the mandatory prison term or mandatory prison term and
additional prison term the court imposes, the court also may
sentence the offender to a community control sanction for the
offense, but the offender shall serve all of the prison terms so
imposed prior to serving the community control sanction.

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

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

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

(vi) In all cases, participation in an alcohol and drug
addiction program authorized by section 3793.02 of the Revised

Code, subject to division (I) of this section. 2879

(2) An offender who is convicted of or pleads guilty to a 2880
violation of division (A) of this section and who subsequently 2881
seeks reinstatement of the driver's or occupational driver's 2882
license or permit or nonresident operating privilege suspended 2883
under this section as a result of the conviction or guilty plea 2884
shall pay a reinstatement fee as provided in division (F)(2) of 2885
section 4511.191 of the Revised Code. 2886

(3) If an offender is sentenced to a jail term under division 2887
(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) of this section and 2888
if, within sixty days of sentencing of the offender, the court 2889
issues a written finding on the record that, due to the 2890
unavailability of space at the jail where the offender is required 2891
to serve the term, the offender will not be able to begin serving 2892
that term within the sixty-day period following the date of 2893
sentencing, the court may impose an alternative sentence under 2894
this division that includes a term of house arrest with electronic 2895
monitoring, with continuous alcohol monitoring, or with both 2896
electronic monitoring and continuous alcohol monitoring. 2897

As an alternative to a mandatory jail term of ten consecutive 2898
days required by division (G)(1)(b)(i) of this section, the court, 2899
under this division, may sentence the offender to five consecutive 2900
days in jail and not less than eighteen consecutive days of house 2901
arrest with electronic monitoring, with continuous alcohol 2902
monitoring, or with both electronic monitoring and continuous 2903
alcohol monitoring. The cumulative total of the five consecutive 2904
days in jail and the period of house arrest with electronic 2905
monitoring, continuous alcohol monitoring, or both types of 2906
monitoring shall not exceed six months. The five consecutive days 2907
in jail do not have to be served prior to or consecutively to the 2908
period of house arrest. 2909

As an alternative to the mandatory jail term of twenty consecutive days required by division (G)(1)(b)(ii) of this section, the court, under this division, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty consecutive days required by division (G)(1)(c)(i) of this section, the court, under this division, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by division (G)(1)(c)(ii) of this section, the court, under this division, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous ~~electronic~~ alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the

period of house arrest with electronic monitoring, continuous 2942
alcohol monitoring, or both types of monitoring shall not exceed 2943
one year. The thirty consecutive days in jail do not have to be 2944
served prior to or consecutively to the period of house arrest. 2945

(4) If an offender's driver's or occupational driver's 2946
license or permit or nonresident operating privilege is suspended 2947
under division (G) of this section and if section 4510.13 of the 2948
Revised Code permits the court to grant limited driving 2949
privileges, the court may grant the limited driving privileges in 2950
accordance with that section. If division (A)(7) of that section 2951
requires that the court impose as a condition of the privileges 2952
that the offender must display on the vehicle that is driven 2953
subject to the privileges restricted license plates that are 2954
issued under section 4503.231 of the Revised Code, except as 2955
provided in division (B) of that section, the court shall impose 2956
that condition as one of the conditions of the limited driving 2957
privileges granted to the offender, except as provided in division 2958
(B) of section 4503.231 of the Revised Code. 2959

(5) Fines imposed under this section for a violation of 2960
division (A) of this section shall be distributed as follows: 2961

(a) Twenty-five dollars of the fine imposed under division 2962
(G)(1)(a)(iii), thirty-five dollars of the fine imposed under 2963
division (G)(1)(b)(iii), one hundred twenty-three dollars of the 2964
fine imposed under division (G)(1)(c)(iii), and two hundred ten 2965
dollars of the fine imposed under division (G)(1)(d)(iii) or 2966
(e)(iii) of this section shall be paid to an enforcement and 2967
education fund established by the legislative authority of the law 2968
enforcement agency in this state that primarily was responsible 2969
for the arrest of the offender, as determined by the court that 2970
imposes the fine. The agency shall use this share to pay only 2971
those costs it incurs in enforcing this section or a municipal OVI 2972
ordinance and in informing the public of the laws governing the 2973

operation of a vehicle while under the influence of alcohol, the dangers of the operation of a vehicle under the influence of alcohol, and other information relating to the operation of a vehicle under the influence of alcohol and the consumption of alcoholic beverages.

(b) Fifty dollars of the fine imposed under division (G)(1)(a)(iii) of this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. If the offender is being sentenced for a violation of division (A)(1)(a), (b), (c), (d), or (e) of this section and was confined as a result of the offense prior to being sentenced for the offense but is not sentenced to a term of incarceration, the fifty dollars shall be paid to the political subdivision that paid the cost of housing the offender during that period of confinement. The political subdivision shall use the share under this division to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate this section or a municipal OVI ordinance, costs of any immobilizing or disabling device used on the offender's vehicle, and costs of electronic house arrest equipment needed for persons who violate this section.

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

(d) One hundred fifteen dollars of the fine imposed under division (G)(1)(b)(iii), two hundred seventy-seven dollars of the fine imposed under division (G)(1)(c)(iii), and four hundred forty

dollars of the fine imposed under division (G)(1)(d)(iii) or 3006
(e)(iii) of this section shall be paid to the political 3007
subdivision that pays the cost of housing the offender during the 3008
offender's term of incarceration. The political subdivision shall 3009
use this share to pay or reimburse incarceration or treatment 3010
costs it incurs in housing or providing drug and alcohol treatment 3011
to persons who violate this section or a municipal OVI ordinance, 3012
costs for any immobilizing or disabling device used on the 3013
offender's vehicle, and costs of electronic house arrest equipment 3014
needed for persons who violate this section. 3015

(e) The balance of the fine imposed under division 3016
(G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), or (e)(iii) of this 3017
section shall be disbursed as otherwise provided by law. 3018

(6) If title to a motor vehicle that is subject to an order 3019
of criminal forfeiture under division (G)(1)(c), (d), or (e) of 3020
this section is assigned or transferred and division (B)(2) or (3) 3021
of section 4503.234 of the Revised Code applies, in addition to or 3022
independent of any other penalty established by law, the court may 3023
fine the offender the value of the vehicle as determined by 3024
publications of the national auto dealers association. The 3025
proceeds of any fine so imposed shall be distributed in accordance 3026
with division (C)(2) of that section. 3027

(7) As used in division (G) of this section, "electronic 3028
monitoring," "mandatory prison term," and "mandatory term of local 3029
incarceration" have the same meanings as in section 2929.01 of the 3030
Revised Code. 3031

(H) Whoever violates division (B) of this section is guilty 3032
of operating a vehicle after underage alcohol consumption and 3033
shall be punished as follows: 3034

(1) Except as otherwise provided in division (H)(2) of this 3035
section, the offender is guilty of a misdemeanor of the fourth 3036

degree. In addition to any other sanction imposed for the offense, 3037
the court shall impose a class six suspension of the offender's 3038
driver's license, commercial driver's license, temporary 3039
instruction permit, probationary license, or nonresident operating 3040
privilege from the range specified in division (A)(6) of section 3041
4510.02 of the Revised Code. 3042

(2) If, within one year of the offense, the offender 3043
previously has been convicted of or pleaded guilty to one or more 3044
violations of division (A) or (B) of this section or other 3045
equivalent ~~offense~~ offenses, the offender is guilty of a 3046
misdemeanor of the third degree. In addition to any other sanction 3047
imposed for the offense, the court shall impose a class four 3048
suspension of the offender's driver's license, commercial driver's 3049
license, temporary instruction permit, probationary license, or 3050
nonresident operating privilege from the range specified in 3051
division (A)(4) of section 4510.02 of the Revised Code. 3052

(3) If the offender also is convicted of or also pleads 3053
guilty to a specification of the type described in section 3054
2941.1416 of the Revised Code and if the court imposes a jail term 3055
for the violation of division (B) of this section, the court shall 3056
impose upon the offender an additional definite jail term pursuant 3057
to division (E) of section 2929.24 of the Revised Code. 3058

(I)(1) No court shall sentence an offender to an alcohol 3059
treatment program under this section unless the treatment program 3060
complies with the minimum standards for alcohol treatment programs 3061
adopted under Chapter 3793. of the Revised Code by the director of 3062
alcohol and drug addiction services. 3063

(2) An offender who stays in a drivers' intervention program 3064
or in an alcohol treatment program under an order issued under 3065
this section shall pay the cost of the stay in the program. 3066
However, if the court determines that an offender who stays in an 3067

alcohol treatment program under an order issued under this section 3068
is unable to pay the cost of the stay in the program, the court 3069
may order that the cost be paid from the court's indigent drivers' 3070
alcohol treatment fund. 3071

(J) If a person whose driver's or commercial driver's license 3072
or permit or nonresident operating privilege is suspended under 3073
this section files an appeal regarding any aspect of the person's 3074
trial or sentence, the appeal itself does not stay the operation 3075
of the suspension. 3076

(K) All terms defined in section 4510.01 of the Revised Code 3077
apply to this section. If the meaning of a term defined in section 3078
4510.01 of the Revised Code conflicts with the meaning of the same 3079
term as defined in section 4501.01 or 4511.01 of the Revised Code, 3080
the term as defined in section 4510.01 of the Revised Code applies 3081
to this section. 3082

(L)(1) The Ohio Traffic Rules in effect on January 1, 2004, 3083
as adopted by the supreme court under authority of section 2937.46 3084
of the Revised Code, do not apply to felony violations of this 3085
section. Subject to division (L)(2) of this section, the Rules of 3086
Criminal Procedure apply to felony violations of this section. 3087

(2) If, on or after January 1, 2004, the supreme court 3088
modifies the Ohio Traffic Rules to provide procedures to govern 3089
felony violations of this section, the modified rules shall apply 3090
to felony violations of this section. 3091

Section 2. That existing sections 2903.06, 2929.01, 2929.13, 3092
2929.14, 2929.18, 2929.19, 2945.75, 2953.08, and 4511.19 of the 3093
Revised Code are hereby repealed. 3094