

As Introduced

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H. B. No. 95

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A B I L L

To amend sections 2929.01, 2929.13, 2929.14, 1
2941.149, and 2953.08 of the Revised Code relative 2
to the sentences imposed on repeat violent 3
offenders and the appeal of repeat violent 4
offender sentences. 5

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

Section 1. That sections 2929.01, 2929.13, 2929.14, 2941.149, 6
and 2953.08 of the Revised Code be amended to read as follows: 7

Sec. 2929.01. As used in this chapter: 8

(A)(1) "Alternative residential facility" means, subject to 9
division (A)(2) of this section, any facility other than an 10
offender's home or residence in which an offender is assigned to 11
live and that satisfies all of the following criteria: 12

(a) It provides programs through which the offender may seek 13
or maintain employment or may receive education, training, 14
treatment, or habilitation. 15

(b) It has received the appropriate license or certificate 16
for any specialized education, training, treatment, habilitation, 17
or other service that it provides from the government agency that 18
is responsible for licensing or certifying that type of education, 19
training, treatment, habilitation, or service. 20

(2) "Alternative residential facility" does not include a 21
community-based correctional facility, jail, halfway house, or 22
prison. 23

(B) "Bad time" means the time by which the parole board 24
administratively extends an offender's stated prison term or terms 25
pursuant to section 2967.11 of the Revised Code because the parole 26
board finds by clear and convincing evidence that the offender, 27
while serving the prison term or terms, committed an act that is a 28
criminal offense under the law of this state or the United States, 29
whether or not the offender is prosecuted for the commission of 30
that act. 31

(C) "Basic probation supervision" means a requirement that 32
the offender maintain contact with a person appointed to supervise 33
the offender in accordance with sanctions imposed by the court or 34
imposed by the parole board pursuant to section 2967.28 of the 35
Revised Code. "Basic probation supervision" includes basic parole 36
supervision and basic post-release control supervision. 37

(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and 38
"unit dose" have the same meanings as in section 2925.01 of the 39
Revised Code. 40

(E) "Community-based correctional facility" means a 41
community-based correctional facility and program or district 42
community-based correctional facility and program developed 43
pursuant to sections 2301.51 to 2301.56 of the Revised Code. 44

(F) "Community control sanction" means a sanction that is not 45
a prison term and that is described in section 2929.15, 2929.16, 46

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
probation if the sentence involved was imposed for a felony that
was committed prior to July 1, 1996, or if the sentence involved
was imposed for a misdemeanor that was committed prior to January
1, 2004.

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

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

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

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

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

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

(M) "Economic loss" means any economic detriment suffered by a victim as a direct and proximate result of the commission of an offense and includes any loss of income due to lost time at work because of any injury caused to the victim, and any property loss, medical cost, or funeral expense incurred as a result of the commission of the offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages.

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

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

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

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

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

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

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

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

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

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

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

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

2152.02 of the Revised Code.

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

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

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

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

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2929.13 and division (D) of section 2929.14 of the Revised Code. 171
Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, 172
and 2925.11 of the Revised Code, unless the maximum or another 173
specific term is required under section 2929.14 of the Revised 174
Code, a mandatory prison term described in this division may be 175
any prison term authorized for the level of offense. 176

(2) The term of sixty or one hundred twenty days in prison 177
that a sentencing court is required to impose for a third or 178
fourth degree felony OVI offense pursuant to division (G)(2) of 179
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 180
of the Revised Code or the term of one, two, three, four, or five 181
years in prison that a sentencing court is required to impose 182
pursuant to division (G)(2) of section 2929.13 of the Revised 183
Code. 184

(3) The term in prison imposed pursuant to section 2971.03 of 185
the Revised Code for the offenses and in the circumstances 186
described in division (F)(11) of section 2929.13 of the Revised 187
Code and that term as modified or terminated pursuant to section 188
2971.05 of the Revised Code. 189

(Z) "Monitored time" means a period of time during which an 190
offender continues to be under the control of the sentencing court 191
or parole board, subject to no conditions other than leading a 192
law-abiding life. 193

(AA) "Offender" means a person who, in this state, is 194
convicted of or pleads guilty to a felony or a misdemeanor. 195

(BB) "Prison" means a residential facility used for the 196
confinement of convicted felony offenders that is under the 197
control of the department of rehabilitation and correction but 198
does not include a violation sanction center operated under 199
authority of section 2967.141 of the Revised Code. 200

(CC) "Prison term" includes any of the following sanctions 201

for an offender:	202
(1) A stated prison term;	203
(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;	204 205 206
(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.	207 208 209 210
(DD) "Repeat violent offender" means a person about whom both of the following apply:	211 212
(1) The person has been convicted of or has pleaded guilty to, and is being sentenced for committing, or <u>or</u> for complicity in committing, or for an attempt to commit, aggravated <u>any of the</u> <u>following:</u>	213 214 215 216
(a) <u>Aggravated murder, murder, involuntary manslaughter, a</u> <u>any felony of the first or second degree other than one set forth</u> <u>in Chapter 2925. of the Revised Code, a felony of the first degree</u> <u>set forth in Chapter 2925. of the Revised Code that involved an</u> <u>attempt to cause serious physical harm to a person or that</u> <u>resulted in serious physical harm to a person, or a felony of the</u> <u>second degree that involved an attempt to cause serious physical</u> <u>harm to a person or that resulted in serious physical harm to a</u> <u>person that is an offense of violence, or an attempt to commit any</u> <u>of these offenses if the attempt is a felony of the first or</u> <u>second degree;</u>	217 218 219 220 221 222 223 224 225 226 227
(b) <u>An offense under an existing or former law of this state,</u> <u>another state, or the United States that is or was substantially</u> <u>equivalent to an offense described in division (DD)(1)(a) of this</u> <u>section.</u>	228 229 230 231

(2) Either of the following applies:	232
(a) The person previously was convicted of or pleaded guilty	233
to, and previously served or, at the time of the offense was	234
serving, a prison term for, any of the following:	235
(i) Aggravated murder, murder, involuntary manslaughter,	236
rape, felonious sexual penetration as it existed under section	237
2907.12 of the Revised Code prior to September 3, 1996, a felony	238
of the first or second degree that resulted in the death of a	239
person or in physical harm to a person, or complicity in or an	240
attempt to commit any of those offenses;	241
(ii) An offense under an existing or former law of this	242
state, another state, or the United States that is or was	243
substantially equivalent to an offense listed under division	244
(DD)(2)(a)(i) of this section and that resulted in the death of a	245
person or in physical harm to a person.	246
(b) The person previously was adjudicated a delinquent child	247
for committing an act that if committed by an adult would have	248
been an offense listed in division (DD)(2)(a)(i) or (ii) of this	249
section, the person was committed to the department of youth	250
services for that delinquent act <u>an offense described in division</u>	251
<u>(DD)(1)(a) or (b) of this section.</u>	252
(EE) "Sanction" means any penalty imposed upon an offender	253
who is convicted of or pleads guilty to an offense, as punishment	254
for the offense. "Sanction" includes any sanction imposed pursuant	255
to any provision of sections 2929.14 to 2929.18 or 2929.24 to	256
2929.28 of the Revised Code.	257
(FF) "Sentence" means the sanction or combination of	258
sanctions imposed by the sentencing court on an offender who is	259
convicted of or pleads guilty to an offense.	260
(GG) "Stated prison term" means the prison term, mandatory	261

prison term, or combination of all prison terms and mandatory 262
prison terms imposed by the sentencing court pursuant to section 263
2929.14 or 2971.03 of the Revised Code. "Stated prison term" 264
includes any credit received by the offender for time spent in 265
jail awaiting trial, sentencing, or transfer to prison for the 266
offense and any time spent under house arrest or house arrest with 267
electronic monitoring imposed after earning credits pursuant to 268
section 2967.193 of the Revised Code. 269

(HH) "Victim-offender mediation" means a reconciliation or 270
mediation program that involves an offender and the victim of the 271
offense committed by the offender and that includes a meeting in 272
which the offender and the victim may discuss the offense, discuss 273
restitution, and consider other sanctions for the offense. 274

(II) "Fourth degree felony OVI offense" means a violation of 275
division (A) of section 4511.19 of the Revised Code that, under 276
division (G) of that section, is a felony of the fourth degree. 277

(JJ) "Mandatory term of local incarceration" means the term 278
of sixty or one hundred twenty days in a jail, a community-based 279
correctional facility, a halfway house, or an alternative 280
residential facility that a sentencing court may impose upon a 281
person who is convicted of or pleads guilty to a fourth degree 282
felony OVI offense pursuant to division (G)(1) of section 2929.13 283
of the Revised Code and division (G)(1)(d) or (e) of section 284
4511.19 of the Revised Code. 285

(KK) "Designated homicide, assault, or kidnapping offense," 286
"sexual motivation specification," "sexually violent offense," 287
"sexually violent predator," and "sexually violent predator 288
specification" have the same meanings as in section 2971.01 of the 289
Revised Code. 290

(LL) "Habitual sex offender," "sexually oriented offense," 291
"sexual predator," "registration-exempt sexually oriented 292

offense," "child-victim oriented offense," "habitual child-victim	293
offender," and "child-victim predator" have the same meanings as	294
in section 2950.01 of the Revised Code.	295
(MM) An offense is "committed in the vicinity of a child" if	296
the offender commits the offense within thirty feet of or within	297
the same residential unit as a child who is under eighteen years	298
of age, regardless of whether the offender knows the age of the	299
child or whether the offender knows the offense is being committed	300
within thirty feet of or within the same residential unit as the	301
child and regardless of whether the child actually views the	302
commission of the offense.	303
(NN) "Family or household member" has the same meaning as in	304
section 2919.25 of the Revised Code.	305
(OO) "Motor vehicle" and "manufactured home" have the same	306
meanings as in section 4501.01 of the Revised Code.	307
(PP) "Detention" and "detention facility" have the same	308
meanings as in section 2921.01 of the Revised Code.	309
(QQ) "Third degree felony OVI offense" means a violation of	310
division (A) of section 4511.19 of the Revised Code that, under	311
division (G) of that section, is a felony of the third degree.	312
(RR) "Random drug testing" has the same meaning as in section	313
5120.63 of the Revised Code.	314
(SS) "Felony sex offense" has the same meaning as in section	315
2967.28 of the Revised Code.	316
(TT) "Body armor" has the same meaning as in section	317
2941.1411 of the Revised Code.	318
(UU) "Electronic monitoring" means monitoring through the use	319
of an electronic monitoring device.	320
(VV) "Electronic monitoring device" means any of the	321
following:	322

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

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

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

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

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

following: 354

(a) The device includes a transmitter and receiver that can 355
monitor and determine the location of a subject person at any 356
time, or at a designated point in time, through the use of a 357
central monitoring computer or through other electronic means. 358

(b) The device includes a transmitter and receiver that can 359
determine at any time, or at a designated point in time, through 360
the use of a central monitoring computer or other electronic means 361
the fact that the transmitter is turned off or altered in any 362
manner without prior approval of the court in relation to the 363
electronic monitoring or without prior approval of the department 364
of rehabilitation and correction in relation to the use of an 365
electronic monitoring device for an inmate on transitional control 366
or otherwise is tampered with. 367

(3) Any type of technology that can adequately track or 368
determine the location of a subject person at any time and that is 369
approved by the director of rehabilitation and correction, 370
including, but not limited to, any satellite technology, voice 371
tracking system, or retinal scanning system that is so approved. 372

(WW) "Non-economic loss" means nonpecuniary harm suffered by 373
a victim of an offense as a result of or related to the commission 374
of the offense, including, but not limited to, pain and suffering; 375
loss of society, consortium, companionship, care, assistance, 376
attention, protection, advice, guidance, counsel, instruction, 377
training, or education; mental anguish; and any other intangible 378
loss. 379

(XX) "Prosecutor" has the same meaning as in section 2935.01 380
of the Revised Code. 381

~~(WW)~~(YY) "Continuous alcohol monitoring" means the ability to 382
automatically test and periodically transmit alcohol consumption 383
levels and tamper attempts at least every hour, regardless of the 384

location of the person who is being monitored. 385

Sec. 2929.13. (A) Except as provided in division (E), (F), or 386
(G) of this section and unless a specific sanction is required to 387
be imposed or is precluded from being imposed pursuant to law, a 388
court that imposes a sentence upon an offender for a felony may 389
impose any sanction or combination of sanctions on the offender 390
that are provided in sections 2929.14 to 2929.18 of the Revised 391
Code. The sentence shall not impose an unnecessary burden on state 392
or local government resources. 393

If the offender is eligible to be sentenced to community 394
control sanctions, the court shall consider the appropriateness of 395
imposing a financial sanction pursuant to section 2929.18 of the 396
Revised Code or a sanction of community service pursuant to 397
section 2929.17 of the Revised Code as the sole sanction for the 398
offense. Except as otherwise provided in this division, if the 399
court is required to impose a mandatory prison term for the 400
offense for which sentence is being imposed, the court also may 401
impose a financial sanction pursuant to section 2929.18 of the 402
Revised Code but may not impose any additional sanction or 403
combination of sanctions under section 2929.16 or 2929.17 of the 404
Revised Code. 405

If the offender is being sentenced for a fourth degree felony 406
OVI offense or for a third degree felony OVI offense, in addition 407
to the mandatory term of local incarceration or the mandatory 408
prison term required for the offense by division (G)(1) or (2) of 409
this section, the court shall impose upon the offender a mandatory 410
fine in accordance with division (B)(3) of section 2929.18 of the 411
Revised Code and may impose whichever of the following is 412
applicable: 413

(1) For a fourth degree felony OVI offense for which sentence 414
is imposed under division (G)(1) of this section, an additional 415

community control sanction or combination of community control 416
sanctions under section 2929.16 or 2929.17 of the Revised Code. If 417
the court imposes upon the offender a community control sanction 418
and the offender violates any condition of the community control 419
sanction, the court may take any action prescribed in division (B) 420
of section 2929.15 of the Revised Code relative to the offender, 421
including imposing a prison term on the offender pursuant to that 422
division. 423

(2) For a third or fourth degree felony OVI offense for which 424
sentence is imposed under division (G)(2) of this section, an 425
additional prison term as described in division (D)(4) of section 426
2929.14 of the Revised Code or a community control sanction as 427
described in division (G)(2) of this section. 428

(B)(1) Except as provided in division (B)(2), (E), (F), or 429
(G) of this section, in sentencing an offender for a felony of the 430
fourth or fifth degree, the sentencing court shall determine 431
whether any of the following apply: 432

(a) In committing the offense, the offender caused physical 433
harm to a person. 434

(b) In committing the offense, the offender attempted to 435
cause or made an actual threat of physical harm to a person with a 436
deadly weapon. 437

(c) In committing the offense, the offender attempted to 438
cause or made an actual threat of physical harm to a person, and 439
the offender previously was convicted of an offense that caused 440
physical harm to a person. 441

(d) The offender held a public office or position of trust 442
and the offense related to that office or position; the offender's 443
position obliged the offender to prevent the offense or to bring 444
those committing it to justice; or the offender's professional 445
reputation or position facilitated the offense or was likely to 446

influence the future conduct of others. 447

(e) The offender committed the offense for hire or as part of 448
an organized criminal activity. 449

(f) The offense is a sex offense that is a fourth or fifth 450
degree felony violation of section 2907.03, 2907.04, 2907.05, 451
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 452
Revised Code. 453

(g) The offender at the time of the offense was serving, or 454
the offender previously had served, a prison term. 455

(h) The offender committed the offense while under a 456
community control sanction, while on probation, or while released 457
from custody on a bond or personal recognizance. 458

(i) The offender committed the offense while in possession of 459
a firearm. 460

(2)(a) If the court makes a finding described in division 461
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 462
section and if the court, after considering the factors set forth 463
in section 2929.12 of the Revised Code, finds that a prison term 464
is consistent with the purposes and principles of sentencing set 465
forth in section 2929.11 of the Revised Code and finds that the 466
offender is not amenable to an available community control 467
sanction, the court shall impose a prison term upon the offender. 468

(b) Except as provided in division (E), (F), or (G) of this 469
section, if the court does not make a finding described in 470
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 471
this section and if the court, after considering the factors set 472
forth in section 2929.12 of the Revised Code, finds that a 473
community control sanction or combination of community control 474
sanctions is consistent with the purposes and principles of 475
sentencing set forth in section 2929.11 of the Revised Code, the 476

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
factors under section 2929.12 of the Revised Code indicating a
lesser likelihood of recidivism outweigh the applicable factors
under that section indicating a greater likelihood of recidivism.

(2) A community control sanction or a combination of 509
community control sanctions would not demean the seriousness of 510
the offense, because one or more factors under section 2929.12 of 511
the Revised Code that indicate that the offender's conduct was 512
less serious than conduct normally constituting the offense are 513
applicable, and they outweigh the applicable factors under that 514
section that indicate that the offender's conduct was more serious 515
than conduct normally constituting the offense. 516

(E)(1) Except as provided in division (F) of this section, 517
for any drug offense that is a violation of any provision of 518
Chapter 2925. of the Revised Code and that is a felony of the 519
third, fourth, or fifth degree, the applicability of a presumption 520
under division (D) of this section in favor of a prison term or of 521
division (B) or (C) of this section in determining whether to 522
impose a prison term for the offense shall be determined as 523
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 524
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 525
Revised Code, whichever is applicable regarding the violation. 526

(2) If an offender who was convicted of or pleaded guilty to 527
a felony violates the conditions of a community control sanction 528
imposed for the offense solely by reason of producing positive 529
results on a drug test, the court, as punishment for the violation 530
of the sanction, shall not order that the offender be imprisoned 531
unless the court determines on the record either of the following: 532

(a) The offender had been ordered as a sanction for the 533
felony to participate in a drug treatment program, in a drug 534
education program, or in narcotics anonymous or a similar program, 535
and the offender continued to use illegal drugs after a reasonable 536
period of participation in the program. 537

(b) The imprisonment of the offender for the violation is 538
consistent with the purposes and principles of sentencing set 539

forth in section 2929.11 of the Revised Code.

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

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

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

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

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

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

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(6) Any offense that is a first or second degree felony and 570
that is not set forth in division (F)(1), (2), (3), or (4) of this 571
section, if the offender previously was convicted of or pleaded 572
guilty to aggravated murder, murder, any first or second degree 573
felony, or an offense under an existing or former law of this 574
state, another state, or the United States that is or was 575
substantially equivalent to one of those offenses; 576

(7) Any offense that is a third degree felony and ~~that is~~ 577
~~listed in division (DD)(1) of section 2929.01 of the Revised Code~~ 578
either is a violation of section 2903.04 of the Revised Code or an 579
attempt to commit a felony of the second degree that is an offense 580
of violence and involved an attempt to cause serious physical harm 581
to a person or that resulted in serious physical harm to a person 582
if the offender previously was convicted of or pleaded guilty to 583
~~any offense that is listed in division (DD)(2)(a)(i) or (ii) of~~ 584
~~section 2929.01 of the Revised Code;~~ of the following offenses: 585

(a) Aggravated murder, murder, involuntary manslaughter, 586
rape, felonious sexual penetration as it existed under section 587
2907.12 of the Revised Code prior to September 3, 1996, a felony 588
of the first or second degree that resulted in the death of a 589
person or in physical harm to a person, or complicity in or an 590
attempt to commit any of those offenses; 591

(b) An offense under an existing or former law of this state, 592
another state, or the United States that is or was substantially 593
equivalent to an offense listed in division (F)(7)(a) of this 594
section that resulted in the death of a person or in physical harm 595
to a person. 596

(8) Any offense, other than a violation of section 2923.12 of 597
the Revised Code, that is a felony, if the offender had a firearm 598
on or about the offender's person or under the offender's control 599
while committing the felony, with respect to a portion of the 600

sentence imposed pursuant to division (D)(1)(a) of section 2929.14 601
of the Revised Code for having the firearm; 602

(9) Any offense of violence that is a felony, if the offender 603
wore or carried body armor while committing the felony offense of 604
violence, with respect to the portion of the sentence imposed 605
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 606
Code for wearing or carrying the body armor; 607

(10) Corrupt activity in violation of section 2923.32 of the 608
Revised Code when the most serious offense in the pattern of 609
corrupt activity that is the basis of the offense is a felony of 610
the first degree; 611

(11) Any sexually violent offense for which the offender also 612
is convicted of or pleads guilty to a sexually violent predator 613
specification that was included in the indictment, count in the 614
indictment, or information charging the sexually violent offense; 615

(12) A violation of division (A)(1) or (2) of section 2921.36 616
of the Revised Code, or a violation of division (C) of that 617
section involving an item listed in division (A)(1) or (2) of that 618
section, if the offender is an officer or employee of the 619
department of rehabilitation and correction; 620

(13) A violation of division (A)(1) or (2) of section 2903.06 621
of the Revised Code if the victim of the offense is a peace 622
officer, as defined in section 2935.01 of the Revised Code, with 623
respect to the portion of the sentence imposed pursuant to 624
division (D)(5) of section 2929.14 of the Revised Code; 625

(14) A violation of division (A)(1) or (2) of section 2903.06 626
of the Revised Code if the offender has been convicted of or 627
pleaded guilty to three or more violations of division (A) or (B) 628
of section 4511.19 of the Revised Code or an equivalent offense, 629
as defined in section 2941.1415 of the Revised Code, or three or 630
more violations of any combination of those divisions and 631

offenses, with respect to the portion of the sentence imposed 632
pursuant to division (D)(6) of section 2929.14 of the Revised 633
Code. 634

(G) Notwithstanding divisions (A) to (E) of this section, if 635
an offender is being sentenced for a fourth degree felony OVI 636
offense or for a third degree felony OVI offense, the court shall 637
impose upon the offender a mandatory term of local incarceration 638
or a mandatory prison term in accordance with the following: 639

(1) If the offender is being sentenced for a fourth degree 640
felony OVI offense and if the offender has not been convicted of 641
and has not pleaded guilty to a specification of the type 642
described in section 2941.1413 of the Revised Code, the court may 643
impose upon the offender a mandatory term of local incarceration 644
of sixty days or one hundred twenty days as specified in division 645
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 646
not reduce the term pursuant to section 2929.20, 2967.193, or any 647
other provision of the Revised Code. The court that imposes a 648
mandatory term of local incarceration under this division shall 649
specify whether the term is to be served in a jail, a 650
community-based correctional facility, a halfway house, or an 651
alternative residential facility, and the offender shall serve the 652
term in the type of facility specified by the court. A mandatory 653
term of local incarceration imposed under division (G)(1) of this 654
section is not subject to extension under section 2967.11 of the 655
Revised Code, to a period of post-release control under section 656
2967.28 of the Revised Code, or to any other Revised Code 657
provision that pertains to a prison term except as provided in 658
division (A)(1) of this section. 659

(2) If the offender is being sentenced for a third degree 660
felony OVI offense, or if the offender is being sentenced for a 661
fourth degree felony OVI offense and the court does not impose a 662
mandatory term of local incarceration under division (G)(1) of 663

this section, the court shall impose upon the offender a mandatory
prison term of one, two, three, four, or five years if the
offender also is convicted of or also pleads guilty to a
specification of the type described in section 2941.1413 of the
Revised Code or shall impose upon the offender a mandatory prison
term of sixty days or one hundred twenty days as specified in
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code
if the offender has not been convicted of and has not pleaded
guilty to a specification of that type. The court shall not reduce
the term pursuant to section 2929.20, 2967.193, or any other
provision of the Revised Code. The offender shall serve the one-,
two-, three-, four-, or five-year mandatory prison term
consecutively to and prior to the prison term imposed for the
underlying offense and consecutively to any other mandatory prison
term imposed in relation to the offense. In no case shall an
offender who once has been sentenced to a mandatory term of local
incarceration pursuant to division (G)(1) of this section for a
fourth degree felony OVI offense be sentenced to another mandatory
term of local incarceration under that division for any violation
of division (A) of section 4511.19 of the Revised Code. In
addition to the mandatory prison term described in division (G)(2)
of this section, the court may sentence the offender to a
community control sanction under section 2929.16 or 2929.17 of the
Revised Code, but the offender shall serve the prison term prior
to serving the community control sanction. The department of
rehabilitation and correction may place an offender sentenced to a
mandatory prison term under this division in an intensive program
prison established pursuant to section 5120.033 of the Revised
Code if the department gave the sentencing judge prior notice of
its intent to place the offender in an intensive program prison
established under that section and if the judge did not notify the
department that the judge disapproved the placement. Upon the
establishment of the initial intensive program prison pursuant to

section 5120.033 of the Revised Code that is privately operated 697
and managed by a contractor pursuant to a contract entered into 698
under section 9.06 of the Revised Code, both of the following 699
apply: 700

(a) The department of rehabilitation and correction shall 701
make a reasonable effort to ensure that a sufficient number of 702
offenders sentenced to a mandatory prison term under this division 703
are placed in the privately operated and managed prison so that 704
the privately operated and managed prison has full occupancy. 705

(b) Unless the privately operated and managed prison has full 706
occupancy, the department of rehabilitation and correction shall 707
not place any offender sentenced to a mandatory prison term under 708
this division in any intensive program prison established pursuant 709
to section 5120.033 of the Revised Code other than the privately 710
operated and managed prison. 711

(H) If an offender is being sentenced for a sexually oriented 712
offense committed on or after January 1, 1997, the judge shall 713
require the offender to submit to a DNA specimen collection 714
procedure pursuant to section 2901.07 of the Revised Code if 715
either of the following applies: 716

(1) The offense was a sexually violent offense, and the 717
offender also was convicted of or pleaded guilty to a sexually 718
violent predator specification that was included in the 719
indictment, count in the indictment, or information charging the 720
sexually violent offense. 721

(2) The judge imposing sentence for the sexually oriented 722
offense determines pursuant to division (B) of section 2950.09 of 723
the Revised Code that the offender is a sexual predator. 724

(I) If an offender is being sentenced for a sexually oriented 725
offense that is not a registration-exempt sexually oriented 726
offense or for a child-victim oriented offense committed on or 727

after January 1, 1997, the judge shall include in the sentence a
summary of the offender's duties imposed under sections 2950.04,
2950.041, 2950.05, and 2950.06 of the Revised Code and the
duration of the duties. The judge shall inform the offender, at
the time of sentencing, of those duties and of their duration and,
if required under division (A)(2) of section 2950.03 of the
Revised Code, shall perform the duties specified in that section.

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

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

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

Sec. 2929.14. (A) Except as provided in division (C), (D)(1),
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), or (G) of this section and
except in relation to an offense for which a sentence of death or

life imprisonment is to be imposed, if the court imposing a 759
sentence upon an offender for a felony elects or is required to 760
impose a prison term on the offender pursuant to this chapter, the 761
court shall impose a definite prison term that shall be one of the 762
following: 763

(1) For a felony of the first degree, the prison term shall 764
be three, four, five, six, seven, eight, nine, or ten years. 765

(2) For a felony of the second degree, the prison term shall 766
be two, three, four, five, six, seven, or eight years. 767

(3) For a felony of the third degree, the prison term shall 768
be one, two, three, four, or five years. 769

(4) For a felony of the fourth degree, the prison term shall 770
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 771
fourteen, fifteen, sixteen, seventeen, or eighteen months. 772

(5) For a felony of the fifth degree, the prison term shall 773
be six, seven, eight, nine, ten, eleven, or twelve months. 774

(B) Except as provided in division (C), (D)(1), (D)(2), 775
(D)(3), (D)(5), (D)(6), or (G) of this section, in section 2907.02 776
of the Revised Code, or in Chapter 2925. of the Revised Code, if 777
the court imposing a sentence upon an offender for a felony elects 778
or is required to impose a prison term on the offender, the court 779
shall impose the shortest prison term authorized for the offense 780
pursuant to division (A) of this section, unless one or more of 781
the following applies: 782

(1) The offender was serving a prison term at the time of the 783
offense, or the offender previously had served a prison term. 784

(2) The court finds on the record that the shortest prison 785
term will demean the seriousness of the offender's conduct or will 786
not adequately protect the public from future crime by the 787
offender or others. 788

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

(D)(1)(a) Except as provided in division (D)(1)(e) of this section, 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 2941.141, 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 820
the felony. 821

(b) If a court imposes a prison term on an offender under 822
division (D)(1)(a) of this section, the prison term shall not be 823
reduced pursuant to section 2929.20, section 2967.193, or any 824
other provision of Chapter 2967. or Chapter 5120. of the Revised 825
Code. A court shall not impose more than one prison term on an 826
offender under division (D)(1)(a) of this section for felonies 827
committed as part of the same act or transaction. 828

(c) Except as provided in division (D)(1)(e) of this section, 829
if an offender who is convicted of or pleads guilty to a violation 830
of section 2923.161 of the Revised Code or to a felony that 831
includes, as an essential element, purposely or knowingly causing 832
or attempting to cause the death of or physical harm to another, 833
also is convicted of or pleads guilty to a specification of the 834
type described in section 2941.146 of the Revised Code that 835
charges the offender with committing the offense by discharging a 836
firearm from a motor vehicle other than a manufactured home, the 837
court, after imposing a prison term on the offender for the 838
violation of section 2923.161 of the Revised Code or for the other 839
felony offense under division (A), (D)(2), or (D)(3) of this 840
section, shall impose an additional prison term of five years upon 841
the offender that shall not be reduced pursuant to section 842
2929.20, section 2967.193, or any other provision of Chapter 2967. 843
or Chapter 5120. of the Revised Code. A court shall not impose 844
more than one additional prison term on an offender under division 845
(D)(1)(c) of this section for felonies committed as part of the 846
same act or transaction. If a court imposes an additional prison 847
term on an offender under division (D)(1)(c) of this section 848
relative to an offense, the court also shall impose a prison term 849
under division (D)(1)(a) of this section relative to the same 850
offense, provided the criteria specified in that division for 851

imposing an additional prison term are satisfied relative to the 852
offender and the offense. 853

(d) If an offender who is convicted of or pleads guilty to an 854
offense of violence that is a felony also is convicted of or 855
pleads guilty to a specification of the type described in section 856
2941.1411 of the Revised Code that charges the offender with 857
wearing or carrying body armor while committing the felony offense 858
of violence, the court shall impose on the offender a prison term 859
of two years. The prison term so imposed shall not be reduced 860
pursuant to section 2929.20, section 2967.193, or any other 861
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 862
court shall not impose more than one prison term on an offender 863
under division (D)(1)(d) of this section for felonies committed as 864
part of the same act or transaction. If a court imposes an 865
additional prison term under division (D)(1)(a) or (c) of this 866
section, the court is not precluded from imposing an additional 867
prison term under division (D)(1)(d) of this section. 868

(e) The court shall not impose any of the prison terms 869
described in division (D)(1)(a) of this section or any of the 870
additional prison terms described in division (D)(1)(c) of this 871
section upon an offender for a violation of section 2923.12 or 872
2923.123 of the Revised Code. The court shall not impose any of 873
the prison terms described in division (D)(1)(a) of this section 874
or any of the additional prison terms described in division 875
(D)(1)(c) of this section upon an offender for a violation of 876
section 2923.13 of the Revised Code unless all of the following 877
apply: 878

(i) The offender previously has been convicted of aggravated 879
murder, murder, or any felony of the first or second degree. 880

(ii) Less than five years have passed since the offender was 881
released from prison or post-release control, whichever is later, 882

for the prior offense.

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

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~~(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 division (D)(2)(b) of this section does not apply, the court shall may impose a on an offender, in addition to the longest prison term ~~from the range of terms authorized or required~~ 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.~~~~

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~~of the Revised Code. If the court finds that the repeat violent 915
offender, in committing the offense, caused any physical harm that 916
carried a substantial risk of death to a person or that involved 917
substantial permanent incapacity or substantial permanent 918
disfigurement of a person, the court shall impose the longest 919
prison term from the range of terms authorized for the offense 920
under division (A) of this section. 921~~

~~(b) If the court imposing a prison term on a repeat violent 922
offender imposes the longest prison term from the range of terms 923
authorized for the offense under division (A) of this section, the 924
court may impose on the offender an additional definite prison 925
term of one, two, three, four, five, six, seven, eight, nine, or 926
ten years if the court finds that both of the following apply with 927
respect to the prison terms imposed on the offender pursuant to 928
division (D)(2)(a) of this section and, if applicable, divisions 929
(D)(1) and (3) of this section: 930~~

~~(i), an additional definite prison term of one, two, three, 931
four, five, six, seven, eight, nine, or ten years if all of the 932
following criteria are met: 933~~

~~(i) The offender is convicted of or pleads guilty to a 934
specification of the type described in section 2941.149 of the 935
Revised Code that the offender is a repeat violent offender. 936~~

~~(ii) The offense of which the offender currently is convicted 937
or to which the offender currently pleads guilty is aggravated 938
murder and the court does not impose a sentence of death or life 939
imprisonment without parole, murder, terrorism and the court does 940
not impose a sentence of life imprisonment without parole, any 941
felony of the first degree that is an offense of violence and the 942
court does not impose a sentence of life imprisonment without 943
parole, or any felony of the second degree that is an offense of 944
violence and the trier of fact finds that the offense involved an 945
attempt to cause or a threat to cause serious physical harm to a 946~~

person or resulted in serious physical harm to a person. 947

(iii) The court imposes the longest prison term for the offense that is not life imprisonment without parole. 948
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(iv) The ~~terms so imposed~~ court finds that the prison terms imposed pursuant to division (D)(2)(a)(iii) of this section and, if applicable, division (D)(1) or (3) of this section are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that section indicating a lesser likelihood of recidivism. 950
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~~(ii)~~(v) The ~~terms so imposed~~ court finds that the prison terms imposed pursuant to division (D)(2)(a)(iii) of this section and, if applicable, division (D)(1) or (3) of this section are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense. 958
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(b) The court shall impose on an offender the longest prison term authorized or required for the offense and shall impose on the offender an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met: 968
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(i) The offender 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. 973
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(ii) The offender within the preceding twenty years has been convicted of or pleaded guilty to three or more offenses described 976
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in division (DD)(1) of section 2929.01 of the Revised Code, 978
including all offenses described in that division of which the 979
offender is convicted or to which the offender pleads guilty in 980
the current prosecution and all offenses described in that 981
division of which the offender previously has been convicted or to 982
which the offender previously pleaded guilty, whether prosecuted 983
together or separately. 984

(iii) The offense or offenses of which the offender currently 985
is convicted or to which the offender currently pleads guilty is 986
aggravated murder and the court does not impose a sentence of 987
death or life imprisonment without parole, murder, terrorism and 988
the court does not impose a sentence of life imprisonment without 989
parole, any felony of the first degree that is an offense of 990
violence and the court does not impose a sentence of life 991
imprisonment without parole, or any felony of the second degree 992
that is an offense of violence and the trier of fact finds that 993
the offense involved an attempt to cause or a threat to cause 994
serious physical harm to a person or resulted in serious physical 995
harm to a person. 996

(c) For purposes of division (D)(2)(b) of this section, two 997
or more offenses committed at the same time or as part of the same 998
act or event shall be considered one offense, and that one offense 999
shall be the offense with the greatest penalty. 1000

(d) A sentence imposed under division (D)(2)(a) or (b) of 1001
this section shall not be reduced pursuant to section 2929.20 or 1002
section 2967.193, or any other provision of Chapter 2967. or 1003
Chapter 5120. of the Revised Code. The offender shall serve an 1004
additional prison term imposed under this section consecutively to 1005
and prior to the prison term imposed for the underlying offense. 1006

(e) When imposing a sentence pursuant to division (D)(2)(a) 1007
or (b) of this section, the court shall state its findings 1008

explaining the imposed sentence.

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

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(b) The court imposing a prison term on an offender under division (D)(3)(a) of this section may impose an additional prison

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term of one, two, three, four, five, six, seven, eight, nine, or 1041
ten years, if the court, with respect to the term imposed under 1042
division (D)(3)(a) of this section and, if applicable, divisions 1043
(D)(1) and (2) of this section, makes both of the findings set 1044
forth in divisions (D)(2)~~(b)(i)~~(a)(iv) and ~~(ii)~~(v) of this 1045
section. 1046

(4) If the offender is being sentenced for a third or fourth 1047
degree felony OVI offense under division (G)(2) of section 2929.13 1048
of the Revised Code, the sentencing court shall impose upon the 1049
offender a mandatory prison term in accordance with that division. 1050
In addition to the mandatory prison term, if the offender is being 1051
sentenced for a fourth degree felony OVI offense, the court, 1052
notwithstanding division (A)(4) of this section, may sentence the 1053
offender to a definite prison term of not less than six months and 1054
not more than thirty months, and if the offender is being 1055
sentenced for a third degree felony OVI offense, the sentencing 1056
court may sentence the offender to an additional prison term of 1057
any duration specified in division (A)(3) of this section. In 1058
either case, the additional prison term imposed shall be reduced 1059
by the sixty or one hundred twenty days imposed upon the offender 1060
as the mandatory prison term. The total of the additional prison 1061
term imposed under division (D)(4) of this section plus the sixty 1062
or one hundred twenty days imposed as the mandatory prison term 1063
shall equal a definite term in the range of six months to thirty 1064
months for a fourth degree felony OVI offense and shall equal one 1065
of the authorized prison terms specified in division (A)(3) of 1066
this section for a third degree felony OVI offense. If the court 1067
imposes an additional prison term under division (D)(4) of this 1068
section, the offender shall serve the additional prison term after 1069
the offender has served the mandatory prison term required for the 1070
offense. In addition to the mandatory prison term or mandatory and 1071
additional prison term imposed as described in division (D)(4) of 1072

this section, the court also may sentence the offender to a
community control sanction under section 2929.16 or 2929.17 of the
Revised Code, but the offender shall serve all of the prison terms
so imposed prior to serving the community control sanction.

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

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

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

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

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

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

the underlying felony under division (A), (D)(2), or (D)(3) of 1137
this section or any other section of the Revised Code, and 1138
consecutively to any other prison term or mandatory prison term 1139
previously or subsequently imposed upon the offender. 1140

(c) If a mandatory prison term is imposed upon an offender 1141
pursuant to division (D)(1)(f) of this section, the offender shall 1142
serve the mandatory prison term so imposed consecutively to and 1143
prior to any prison term imposed for the underlying felony under 1144
division (A), (D)(2), or (D)(3) of this section or any other 1145
section of the Revised Code, and consecutively to any other prison 1146
term or mandatory prison term previously or subsequently imposed 1147
upon the offender. 1148

(2) If an offender who is an inmate in a jail, prison, or 1149
other residential detention facility violates section 2917.02, 1150
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 1151
who is under detention at a detention facility commits a felony 1152
violation of section 2923.131 of the Revised Code, or if an 1153
offender who is an inmate in a jail, prison, or other residential 1154
detention facility or is under detention at a detention facility 1155
commits another felony while the offender is an escapee in 1156
violation of section 2921.34 of the Revised Code, any prison term 1157
imposed upon the offender for one of those violations shall be 1158
served by the offender consecutively to the prison term or term of 1159
imprisonment the offender was serving when the offender committed 1160
that offense and to any other prison term previously or 1161
subsequently imposed upon the offender. 1162

(3) If a prison term is imposed for a violation of division 1163
(B) of section 2911.01 of the Revised Code, a violation of 1164
division (A) of section 2913.02 of the Revised Code in which the 1165
stolen property is a firearm or dangerous ordnance, or a felony 1166
violation of division (B) of section 2921.331 of the Revised Code, 1167
the offender shall serve that prison term consecutively to any 1168

other prison term or mandatory prison term previously or 1169
subsequently imposed upon the offender. 1170

(4) If multiple prison terms are imposed on an offender for 1171
convictions of multiple offenses, the court may require the 1172
offender to serve the prison terms consecutively if the court 1173
finds that the consecutive service is necessary to protect the 1174
public from future crime or to punish the offender and that 1175
consecutive sentences are not disproportionate to the seriousness 1176
of the offender's conduct and to the danger the offender poses to 1177
the public, and if the court also finds any of the following: 1178

(a) The offender committed one or more of the multiple 1179
offenses while the offender was awaiting trial or sentencing, was 1180
under a sanction imposed pursuant to section 2929.16, 2929.17, or 1181
2929.18 of the Revised Code, or was under post-release control for 1182
a prior offense. 1183

(b) At least two of the multiple offenses were committed as 1184
part of one or more courses of conduct, and the harm caused by two 1185
or more of the multiple offenses so committed was so great or 1186
unusual that no single prison term for any of the offenses 1187
committed as part of any of the courses of conduct adequately 1188
reflects the seriousness of the offender's conduct. 1189

(c) The offender's history of criminal conduct demonstrates 1190
that consecutive sentences are necessary to protect the public 1191
from future crime by the offender. 1192

(5) If a mandatory prison term is imposed upon an offender 1193
pursuant to division (D)(5) or (6) of this section, the offender 1194
shall serve the mandatory prison term consecutively to and prior 1195
to any prison term imposed for the underlying violation of 1196
division (A)(1) or (2) of section 2903.06 of the Revised Code 1197
pursuant to division (A) of this section. If a mandatory prison 1198
term is imposed upon an offender pursuant to division (D)(5) of 1199

this section, and if a mandatory prison term also is imposed upon 1200
the offender pursuant to division (D)(6) of this section in 1201
relation to the same violation, the offender shall serve the 1202
mandatory prison term imposed pursuant to division (D)(5) of this 1203
section consecutively to and prior to the mandatory prison term 1204
imposed pursuant to division (D)(6) of this section and 1205
consecutively to and prior to any prison term imposed for the 1206
underlying violation of division (A)(1) or (2) of section 2903.06 1207
of the Revised Code pursuant to division (A) of this section. 1208

(6) When consecutive prison terms are imposed pursuant to 1209
division (E)(1), (2), (3), (4), or (5) of this section, the term 1210
to be served is the aggregate of all of the terms so imposed. 1211

(F) If a court imposes a prison term of a type described in 1212
division (B) of section 2967.28 of the Revised Code, it shall 1213
include in the sentence a requirement that the offender be subject 1214
to a period of post-release control after the offender's release 1215
from imprisonment, in accordance with that division. If a court 1216
imposes a prison term of a type described in division (C) of that 1217
section, it shall include in the sentence a requirement that the 1218
offender be subject to a period of post-release control after the 1219
offender's release from imprisonment, in accordance with that 1220
division, if the parole board determines that a period of 1221
post-release control is necessary. 1222

(G) If a person is convicted of or pleads guilty to a 1223
sexually violent offense and also is convicted of or pleads guilty 1224
to a sexually violent predator specification that was included in 1225
the indictment, count in the indictment, or information charging 1226
that offense, the court shall impose sentence upon the offender in 1227
accordance with section 2971.03 of the Revised Code, and Chapter 1228
2971. of the Revised Code applies regarding the prison term or 1229
term of life imprisonment without parole imposed upon the offender 1230
and the service of that term of imprisonment. 1231

(H) If a person who has been convicted of or pleaded guilty 1232
to a felony is sentenced to a prison term or term of imprisonment 1233
under this section, sections 2929.02 to 2929.06 of the Revised 1234
Code, section 2971.03 of the Revised Code, or any other provision 1235
of law, section 5120.163 of the Revised Code applies regarding the 1236
person while the person is confined in a state correctional 1237
institution. 1238

(I) If an offender who is convicted of or pleads guilty to a 1239
felony that is an offense of violence also is convicted of or 1240
pleads guilty to a specification of the type described in section 1241
2941.142 of the Revised Code that charges the offender with having 1242
committed the felony while participating in a criminal gang, the 1243
court shall impose upon the offender an additional prison term of 1244
one, two, or three years. 1245

(J) If an offender who is convicted of or pleads guilty to 1246
aggravated murder, murder, or a felony of the first, second, or 1247
third degree that is an offense of violence also is convicted of 1248
or pleads guilty to a specification of the type described in 1249
section 2941.143 of the Revised Code that charges the offender 1250
with having committed the offense in a school safety zone or 1251
towards a person in a school safety zone, the court shall impose 1252
upon the offender an additional prison term of two years. The 1253
offender shall serve the additional two years consecutively to and 1254
prior to the prison term imposed for the underlying offense. 1255

(K) At the time of sentencing, the court may recommend the 1256
offender for placement in a program of shock incarceration under 1257
section 5120.031 of the Revised Code or for placement in an 1258
intensive program prison under section 5120.032 of the Revised 1259
Code, disapprove placement of the offender in a program of shock 1260
incarceration or an intensive program prison of that nature, or 1261
make no recommendation on placement of the offender. In no case 1262
shall the department of rehabilitation and correction place the 1263

offender in a program or prison of that nature unless the
department determines as specified in section 5120.031 or 5120.032
of the Revised Code, whichever is applicable, that the offender is
eligible for the placement.

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

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

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

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

Sec. 2941.149. (A) The determination by a court that an
offender is a repeat violent offender is precluded unless the
indictment, count in the indictment, or information charging the
offender specifies that the offender is a repeat violent offender.
The specification shall be stated at the end of the body of the
indictment, count, or information, and shall be stated in
substantially the following form:

"SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The
Grand Jurors (or insert the person's or prosecuting attorney's
name when appropriate) further find and specify that (set forth
that the offender is a repeat violent offender)."

(B) The court shall determine the issue of whether an
offender is a repeat violent offender.

(C) At the arraignment or as soon thereafter as is
practicable, the prosecuting attorney may give notice to the
defendant of the prosecuting attorney's intention to use a
certified copy of the entry of judgment of a prior conviction as
proof of that prior conviction. The defendant must then give
notice to the prosecuting attorney of the defendant's intention to
object to the use of the entry of judgment. If the defendant
pursuant to Criminal Rule 12 does not give notice of that
intention to the prosecuting attorney before trial, the defendant
waives the objection to the use of an entry of judgment as proof
of the defendant's prior conviction, as shown on the entry of
judgment.

(D) As used in this section, "repeat violent offender" has

the same meaning as in section 2929.01 of the Revised Code. 1325

Sec. 2953.08. (A) In addition to any other right to appeal 1326
and except as provided in division (D) of this section, a 1327
defendant who is convicted of or pleads guilty to a felony may 1328
appeal as a matter of right the sentence imposed upon the 1329
defendant on one of the following grounds: 1330

(1) The sentence consisted of or included the maximum prison 1331
term allowed for the offense by division (A) of section 2929.14 of 1332
the Revised Code, the sentence was not imposed pursuant to 1333
division (D)(3)(b) of section 2929.14 of the Revised Code, the 1334
maximum prison term was not required for the offense pursuant to 1335
Chapter 2925. or any other provision of the Revised Code, and the 1336
court imposed the sentence under one of the following 1337
circumstances: 1338

(a) The sentence was imposed for only one offense. 1339

(b) The sentence was imposed for two or more offenses arising 1340
out of a single incident, and the court imposed the maximum prison 1341
term for the offense of the highest degree. 1342

(2) The sentence consisted of or included a prison term, the 1343
offense for which it was imposed is a felony of the fourth or 1344
fifth degree or is a felony drug offense that is a violation of a 1345
provision of Chapter 2925. of the Revised Code and that is 1346
specified as being subject to division (B) of section 2929.13 of 1347
the Revised Code for purposes of sentencing, and the court did not 1348
specify at sentencing that it found one or more factors specified 1349
in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised 1350
Code to apply relative to the defendant. If the court specifies 1351
that it found one or more of those factors to apply relative to 1352
the defendant, the defendant is not entitled under this division 1353
to appeal as a matter of right the sentence imposed upon the 1354
offender. 1355

(3) The person was convicted of or pleaded guilty to a sexually violent offense, was adjudicated as being a sexually violent predator, 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, "sexually violent offense" and "sexually violent predator" have the same meanings as in section 2971.01 of the Revised Code.

(4) The sentence is contrary to law.

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

(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.

(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:

(1) The sentence did not include a prison term despite a 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)(1) 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.

(2) A defendant may seek leave to appeal an additional sentence imposed upon the defendant pursuant to division (D)(2)(a) or (b) of section 2929.14 of the Revised Code if the additional sentence is for a definite prison term that is longer than five years.

(D)(1) 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.

(2) Except as provided in division (C)(2) of this section, a sentence imposed upon a defendant is not subject to review under this section if the sentence is imposed pursuant to division (D)(2)(b) of section 2929.14 of the Revised Code. Except as otherwise provided in this division, a defendant retains all rights to appeal as provided under this chapter or any other provision of the Revised Code. A defendant has the right to appeal

under this chapter or any other provision of the Revised Code the 1418
court's application of division (D)(2)(c) of section 2929.14 of 1419
the Revised Code. 1420

(3) A sentence imposed for aggravated murder or murder 1421
pursuant to sections 2929.02 to 2929.06 of the Revised Code is not 1422
subject to review under this section. 1423

(E) A defendant, prosecuting attorney, city director of law, 1424
village solicitor, or chief municipal legal officer shall file an 1425
appeal of a sentence under this section to a court of appeals 1426
within the time limits specified in Rule 4(B) of the Rules of 1427
Appellate Procedure, provided that if the appeal is pursuant to 1428
division (B)(3) of this section, the time limits specified in that 1429
rule shall not commence running until the court grants the motion 1430
that makes the sentence modification in question. A sentence 1431
appeal under this section shall be consolidated with any other 1432
appeal in the case. If no other appeal is filed, the court of 1433
appeals may review only the portions of the trial record that 1434
pertain to sentencing. 1435

(F) On the appeal of a sentence under this section, the 1436
record to be reviewed shall include all of the following, as 1437
applicable: 1438

(1) Any presentence, psychiatric, or other investigative 1439
report that was submitted to the court in writing before the 1440
sentence was imposed. An appellate court that reviews a 1441
presentence investigation report prepared pursuant to section 1442
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 1443
connection with the appeal of a sentence under this section shall 1444
comply with division (D)(3) of section 2951.03 of the Revised Code 1445
when the appellate court is not using the presentence 1446
investigation report, and the appellate court's use of a 1447
presentence investigation report of that nature in connection with 1448
the appeal of a sentence under this section does not affect the 1449

otherwise confidential character of the contents of that report as 1450
described in division (D)(1) of section 2951.03 of the Revised 1451
Code and does not cause that report to become a public record, as 1452
defined in section 149.43 of the Revised Code, following the 1453
appellate court's use of the report. 1454

(2) The trial record in the case in which the sentence was 1455
imposed; 1456

(3) Any oral or written statements made to or by the court at 1457
the sentencing hearing at which the sentence was imposed; 1458

(4) Any written findings that the court was required to make 1459
in connection with the modification of the sentence pursuant to a 1460
judicial release under division (H) of section 2929.20 of the 1461
Revised Code. 1462

(G)(1) If the sentencing court was required to make the 1463
findings required by division (B) or (D) of section 2929.13, 1464
division (D)(2)(e) or (E)(4) of section 2929.14, or division (H) 1465
of section 2929.20 of the Revised Code relative to the imposition 1466
or modification of the sentence, and if the sentencing court 1467
failed to state the required findings on the record, the court 1468
hearing an appeal under division (A), (B), or (C) of this section 1469
shall remand the case to the sentencing court and instruct the 1470
sentencing court to state, on the record, the required findings. 1471

(2) The court hearing an appeal under division (A), (B), or 1472
(C) of this section shall review the record, including the 1473
findings underlying the sentence or modification given by the 1474
sentencing court. 1475

The appellate court may increase, reduce, or otherwise modify 1476
a sentence that is appealed under this section or may vacate the 1477
sentence and remand the matter to the sentencing court for 1478
resentencing. The appellate court's standard for review is not 1479
whether the sentencing court abused its discretion. The appellate 1480

court may take any action authorized by this division if it 1481
clearly and convincingly finds either of the following: 1482

(a) That the record does not support the sentencing court's 1483
findings under division (B) or (D) of section 2929.13, division 1484
(D)(2)(e) or (E)(4) of section 2929.14, or division (H) of section 1485
2929.20 of the Revised Code, whichever, if any, is relevant; 1486

(b) That the sentence is otherwise contrary to law. 1487

(H) A judgment or final order of a court of appeals under 1488
this section may be appealed, by leave of court, to the supreme 1489
court. 1490

(I)(1) There is hereby established the felony sentence appeal 1491
cost oversight committee, consisting of eight members. One member 1492
shall be the chief justice of the supreme court or a 1493
representative of the court designated by the chief justice, one 1494
member shall be a member of the senate appointed by the president 1495
of the senate, one member shall be a member of the house of 1496
representatives appointed by the speaker of the house of 1497
representatives, one member shall be the director of budget and 1498
management or a representative of the office of budget and 1499
management designated by the director, one member shall be a judge 1500
of a court of appeals, court of common pleas, municipal court, or 1501
county court appointed by the chief justice of the supreme court, 1502
one member shall be the state public defender or a representative 1503
of the office of the state public defender designated by the state 1504
public defender, one member shall be a prosecuting attorney 1505
appointed by the Ohio prosecuting attorneys association, and one 1506
member shall be a county commissioner appointed by the county 1507
commissioners association of Ohio. No more than three of the 1508
appointed members of the committee may be members of the same 1509
political party. 1510

The president of the senate, the speaker of the house of 1511

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

If the chief justice of the supreme court, the director of
the office of budget and management, or the state public defender
serves as a member of the committee, that person's term of office
as a member shall continue for as long as that person holds office
as chief justice, director of the office of budget and management,
or state public defender. If the chief justice of the supreme
court designates a representative of the court to serve as a
member, the director of budget and management designates a
representative of the office of budget and management to serve as

a member, or the state public defender designates a representative 1544
of the office of the state public defender to serve as a member, 1545
the person so designated shall serve as a member of the commission 1546
for as long as the official who made the designation holds office 1547
as chief justice, director of the office of budget and management, 1548
or state public defender or until that official revokes the 1549
designation. 1550

The chief justice of the supreme court or the representative 1551
of the supreme court appointed by the chief justice shall serve as 1552
chairperson of the committee. The committee shall meet within two 1553
weeks after all appointed members have been appointed and shall 1554
organize as necessary. Thereafter, the committee shall meet at 1555
least once every six months or more often upon the call of the 1556
chairperson or the written request of three or more members, 1557
provided that the committee shall not meet unless moneys have been 1558
appropriated to the judiciary budget administered by the supreme 1559
court specifically for the purpose of providing financial 1560
assistance to counties under division (I)(2) of this section and 1561
the moneys so appropriated then are available for that purpose. 1562

The members of the committee shall serve without 1563
compensation, but, if moneys have been appropriated to the 1564
judiciary budget administered by the supreme court specifically 1565
for the purpose of providing financial assistance to counties 1566
under division (I)(2) of this section, each member shall be 1567
reimbursed out of the moneys so appropriated that then are 1568
available for actual and necessary expenses incurred in the 1569
performance of official duties as a committee member. 1570

(2) The state criminal sentencing commission periodically 1571
shall provide to the felony sentence appeal cost oversight 1572
committee all data the commission collects pursuant to division 1573
(A)(5) of section 181.25 of the Revised Code. Upon receipt of the 1574
data from the state criminal sentencing commission, the felony 1575

sentence appeal cost oversight committee periodically shall review 1576
the data; determine whether any money has been appropriated to the 1577
judiciary budget administered by the supreme court specifically 1578
for the purpose of providing state financial assistance to 1579
counties in accordance with this division for the increase in 1580
expenses the counties experience as a result of the felony 1581
sentence appeal provisions set forth in this section or as a 1582
result of a postconviction relief proceeding brought under 1583
division (A)(2) of section 2953.21 of the Revised Code or an 1584
appeal of a judgment in that proceeding; if it determines that any 1585
money has been so appropriated, determine the total amount of 1586
moneys that have been so appropriated specifically for that 1587
purpose and that then are available for that purpose; and develop 1588
a recommended method of distributing those moneys to the counties. 1589
The committee shall send a copy of its recommendation to the 1590
supreme court. Upon receipt of the committee's recommendation, the 1591
supreme court shall distribute to the counties, based upon that 1592
recommendation, the moneys that have been so appropriated 1593
specifically for the purpose of providing state financial 1594
assistance to counties under this division and that then are 1595
available for that purpose. 1596

Section 2. That existing sections 2929.01, 2929.13, 2929.14, 1597
2941.149, and 2953.08 of the Revised Code are hereby repealed. 1598

Section 3. Sections 2929.01, 2929.13, and 2929.14 of the 1599
Revised Code are presented in this act as a composite of the 1600
sections as amended by both Sub. H.B. 52 and Am. Sub. H.B. 163 of 1601
the 125th General Assembly. Section 2953.08 of the Revised Code is 1602
presented in this act as a composite of the section as amended by 1603
both Sub. H.B. 331 and Am. Sub. S.B. 107 of the 123rd General 1604
Assembly. The General Assembly, applying the principle stated in 1605
division (B) of section 1.52 of the Revised Code that amendments 1606

are to be harmonized if reasonably capable of simultaneous	1607
operation, finds that the composites are the resulting version of	1608
the sections in effect prior to the effective date of the sections	1609
as presented in this act.	1610