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Am. Sub. H. B. No. 95

**Representatives Seitz, McGregor, C. Evans, Allen, Widener, Wolpert, Combs,
Latta, T. Patton, Schaffer, Raussen, Wagoner, Faber, Webster, Hoops, Taylor,
Gilb, Raga, Brinkman, Hagan, Reidelbach, White, Willamowski, Harwood,
Uecker, G. Smith, Gibbs, Schneider, Hartnett, Carmichael, Buehrer, Seaver,
Hughes, Collier, Trakas, Flowers, Oelslager, D. Evans, Aslanides, Blessing,
Bubp, Calvert, Daniels, Dolan, Domenick, Law, Martin, Reinhard, Setzer,
Widowfield**

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A B I L L

To amend sections 2152.17, 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 2152.17, 2929.01, 2929.13, 2929.14, 6
2941.149, and 2953.08 of the Revised Code be amended to read as 7
follows: 8

Sec. 2152.17. (A) Subject to division (D) of this section, if 9
a child is adjudicated a delinquent child for committing an act, 10
other than a violation of section 2923.12 of the Revised Code, 11
that would be a felony if committed by an adult and if the court 12
determines that, if the child was an adult, the child would be 13
guilty of a specification of the type set forth in section 14

2941.141, 2941.144, 2941.145, 2941.146, 2941.1412, 2941.1414, or 15
2941.1415 of the Revised Code, in addition to any commitment or 16
other disposition the court imposes for the underlying delinquent 17
act, all of the following apply: 18

(1) If the court determines that the child would be guilty of 19
a specification of the type set forth in section 2941.141 of the 20
Revised Code, the court may commit the child to the department of 21
youth services for the specification for a definite period of up 22
to one year. 23

(2) If the court determines that the child would be guilty of 24
a specification of the type set forth in section 2941.145 of the 25
Revised Code or if the delinquent act is a violation of division 26
(A)(1) or (2) of section 2903.06 of the Revised Code and the court 27
determines that the child would be guilty of a specification of 28
the type set forth in section 2941.1415 of the Revised Code, the 29
court shall commit the child to the department of youth services 30
for the specification for a definite period of not less than one 31
and not more than three years, and the court also shall commit the 32
child to the department for the underlying delinquent act under 33
sections 2152.11 to 2152.16 of the Revised Code. 34

(3) If the court determines that the child would be guilty of 35
a specification of the type set forth in section 2941.144, 36
2941.146, or 2941.1412 of the Revised Code or if the delinquent 37
act is a violation of division (A)(1) or (2) of section 2903.06 of 38
the Revised Code and the court determines that the child would be 39
guilty of a specification of the type set forth in section 40
2941.1414 of the Revised Code, the court shall commit the child to 41
the department of youth services for the specification for a 42
definite period of not less than one and not more than five years, 43
and the court also shall commit the child to the department for 44
the underlying delinquent act under sections 2152.11 to 2152.16 of 45
the Revised Code. 46

(B) Division (A) of this section also applies to a child who 47
is an accomplice to the same extent the firearm specifications 48
would apply to an adult accomplice in a criminal proceeding. 49

(C) If a child is adjudicated a delinquent child for 50
committing an act that would be aggravated murder, murder, or a 51
first, second, or third degree felony offense of violence if 52
committed by an adult and if the court determines that, if the 53
child was an adult, the child would be guilty of a specification 54
of the type set forth in section 2941.142 of the Revised Code in 55
relation to the act for which the child was adjudicated a 56
delinquent child, the court shall commit the child for the 57
specification to the legal custody of the department of youth 58
services for institutionalization in a secure facility for a 59
definite period of not less than one and not more than three 60
years, subject to division (D)(2) of this section, and the court 61
also shall commit the child to the department for the underlying 62
delinquent act. 63

(D)(1) If the child is adjudicated a delinquent child for 64
committing an act that would be an offense of violence that is a 65
felony if committed by an adult and is committed to the legal 66
custody of the department of youth services pursuant to division 67
(A)(1) of section 2152.16 of the Revised Code and if the court 68
determines that the child, if the child was an adult, would be 69
guilty of a specification of the type set forth in section 70
2941.1411 of the Revised Code in relation to the act for which the 71
child was adjudicated a delinquent child, the court may commit the 72
child to the custody of the department of youth services for 73
institutionalization in a secure facility for up to two years, 74
subject to division (D)(2) of this section. 75

(2) A court that imposes a period of commitment under 76
division (A) of this section is not precluded from imposing an 77
additional period of commitment under division (C) or (D)(1) of 78

this section, a court that imposes a period of commitment under
division (C) of this section is not precluded from imposing an
additional period of commitment under division (A) or (D)(1) of
this section, and a court that imposes a period of commitment
under division (D)(1) of this section is not precluded from
imposing an additional period of commitment under division (A) or
(C) of this section.

(E) The court shall not commit a child to the legal custody
of the department of youth services for a specification pursuant
to this section for a period that exceeds five years for any one
delinquent act. Any commitment imposed pursuant to division (A),
(B), (C), or (D)(1) of this section shall be in addition to, and
shall be served consecutively with and prior to, a period of
commitment ordered under this chapter for the underlying
delinquent act, and each commitment imposed pursuant to division
(A), (B), (C), or (D)(1) of this section shall be in addition to,
and shall be served consecutively with, any other period of
commitment imposed under those divisions. If a commitment is
imposed under division (A) or (B) of this section and a commitment
also is imposed under division (C) of this section, the period
imposed under division (A) or (B) of this section shall be served
prior to the period imposed under division (C) of this section.

In each case in which a court makes a disposition under this
section, the court retains control over the commitment for the
entire period of the commitment.

The total of all the periods of commitment imposed for any
specification under this section and for the underlying offense
shall not exceed the child's attainment of twenty-one years of
age.

(F) If a child is adjudicated a delinquent child for
committing two or more acts that would be felonies if committed by

an adult and if the court entering the delinquent child 110
adjudication orders the commitment of the child for two or more of 111
those acts to the legal custody of the department of youth 112
services for institutionalization in a secure facility pursuant to 113
section 2152.13 or 2152.16 of the Revised Code, the court may 114
order that all of the periods of commitment imposed under those 115
sections for those acts be served consecutively in the legal 116
custody of the department of youth services, provided that those 117
periods of commitment shall be in addition to and commence 118
immediately following the expiration of a period of commitment 119
that the court imposes pursuant to division (A), (B), (C), or 120
(D)(1) of this section. A court shall not commit a delinquent 121
child to the legal custody of the department of youth services 122
under this division for a period that exceeds the child's 123
attainment of twenty-one years of age. 124

~~(G) If a child is adjudicated a delinquent child for 125
committing an act that if committed by an adult would be 126
aggravated murder, murder, rape, felonious sexual penetration in 127
violation of former section 2907.12 of the Revised Code, 128
involuntary manslaughter, a felony of the first or second degree 129
resulting in the death of or physical harm to a person, complicity 130
in or an attempt to commit any of those offenses, or an offense 131
under an existing or former law of this state that is or was 132
substantially equivalent to any of those offenses and if the court 133
in its order of disposition for that act commits the child to the 134
custody of the department of youth services, the adjudication 135
shall be considered a conviction for purposes of a future 136
determination pursuant to Chapter 2929. of the Revised Code as to 137
whether the child, as an adult, is a repeat violent offender. 138~~

Sec. 2929.01. As used in this chapter: 139

(A)(1) "Alternative residential facility" means, subject to 140

division (A)(2) of this section, any facility other than an 141
offender's home or residence in which an offender is assigned to 142
live and that satisfies all of the following criteria: 143

(a) It provides programs through which the offender may seek 144
or maintain employment or may receive education, training, 145
treatment, or habilitation. 146

(b) It has received the appropriate license or certificate 147
for any specialized education, training, treatment, habilitation, 148
or other service that it provides from the government agency that 149
is responsible for licensing or certifying that type of education, 150
training, treatment, habilitation, or service. 151

(2) "Alternative residential facility" does not include a 152
community-based correctional facility, jail, halfway house, or 153
prison. 154

(B) "Bad time" means the time by which the parole board 155
administratively extends an offender's stated prison term or terms 156
pursuant to section 2967.11 of the Revised Code because the parole 157
board finds by clear and convincing evidence that the offender, 158
while serving the prison term or terms, committed an act that is a 159
criminal offense under the law of this state or the United States, 160
whether or not the offender is prosecuted for the commission of 161
that act. 162

(C) "Basic probation supervision" means a requirement that 163
the offender maintain contact with a person appointed to supervise 164
the offender in accordance with sanctions imposed by the court or 165
imposed by the parole board pursuant to section 2967.28 of the 166
Revised Code. "Basic probation supervision" includes basic parole 167
supervision and basic post-release control supervision. 168

(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and 169
"unit dose" have the same meanings as in section 2925.01 of the 170
Revised Code. 171

(E) "Community-based correctional facility" means a 172
community-based correctional facility and program or district 173
community-based correctional facility and program developed 174
pursuant to sections 2301.51 to 2301.56 of the Revised Code. 175

(F) "Community control sanction" means a sanction that is not 176
a prison term and that is described in section 2929.15, 2929.16, 177
2929.17, or 2929.18 of the Revised Code or a sanction that is not 178
a jail term and that is described in section 2929.26, 2929.27, or 179
2929.28 of the Revised Code. "Community control sanction" includes 180
probation if the sentence involved was imposed for a felony that 181
was committed prior to July 1, 1996, or if the sentence involved 182
was imposed for a misdemeanor that was committed prior to January 183
1, 2004. 184

(G) "Controlled substance," "marihuana," "schedule I," and 185
"schedule II" have the same meanings as in section 3719.01 of the 186
Revised Code. 187

(H) "Curfew" means a requirement that an offender during a 188
specified period of time be at a designated place. 189

(I) "Day reporting" means a sanction pursuant to which an 190
offender is required each day to report to and leave a center or 191
other approved reporting location at specified times in order to 192
participate in work, education or training, treatment, and other 193
approved programs at the center or outside the center. 194

(J) "Deadly weapon" has the same meaning as in section 195
2923.11 of the Revised Code. 196

(K) "Drug and alcohol use monitoring" means a program under 197
which an offender agrees to submit to random chemical analysis of 198
the offender's blood, breath, or urine to determine whether the 199
offender has ingested any alcohol or other drugs. 200

(L) "Drug treatment program" means any program under which a 201

person undergoes assessment and treatment designed to reduce or 202
completely eliminate the person's physical or emotional reliance 203
upon alcohol, another drug, or alcohol and another drug and under 204
which the person may be required to receive assessment and 205
treatment on an outpatient basis or may be required to reside at a 206
facility other than the person's home or residence while 207
undergoing assessment and treatment. 208

(M) "Economic loss" means any economic detriment suffered by 209
a victim as a direct and proximate result of the commission of an 210
offense and includes any loss of income due to lost time at work 211
because of any injury caused to the victim, and any property loss, 212
medical cost, or funeral expense incurred as a result of the 213
commission of the offense. "Economic loss" does not include 214
non-economic loss or any punitive or exemplary damages. 215

(N) "Education or training" includes study at, or in 216
conjunction with a program offered by, a university, college, or 217
technical college or vocational study and also includes the 218
completion of primary school, secondary school, and literacy 219
curricula or their equivalent. 220

(O) "Firearm" has the same meaning as in section 2923.11 of 221
the Revised Code. 222

(P) "Halfway house" means a facility licensed by the division 223
of parole and community services of the department of 224
rehabilitation and correction pursuant to section 2967.14 of the 225
Revised Code as a suitable facility for the care and treatment of 226
adult offenders. 227

(Q) "House arrest" means a period of confinement of an 228
offender that is in the offender's home or in other premises 229
specified by the sentencing court or by the parole board pursuant 230
to section 2967.28 of the Revised Code and during which all of the 231
following apply: 232

(1) The offender is required to remain in the offender's home 233
or other specified premises for the specified period of 234
confinement, except for periods of time during which the offender 235
is at the offender's place of employment or at other premises as 236
authorized by the sentencing court or by the parole board. 237

(2) The offender is required to report periodically to a 238
person designated by the court or parole board. 239

(3) The offender is subject to any other restrictions and 240
requirements that may be imposed by the sentencing court or by the 241
parole board. 242

(R) "Intensive probation supervision" means a requirement 243
that an offender maintain frequent contact with a person appointed 244
by the court, or by the parole board pursuant to section 2967.28 245
of the Revised Code, to supervise the offender while the offender 246
is seeking or maintaining necessary employment and participating 247
in training, education, and treatment programs as required in the 248
court's or parole board's order. "Intensive probation supervision" 249
includes intensive parole supervision and intensive post-release 250
control supervision. 251

(S) "Jail" means a jail, workhouse, minimum security jail, or 252
other residential facility used for the confinement of alleged or 253
convicted offenders that is operated by a political subdivision or 254
a combination of political subdivisions of this state. 255

(T) "Jail term" means the term in a jail that a sentencing 256
court imposes or is authorized to impose pursuant to section 257
2929.24 or 2929.25 of the Revised Code or pursuant to any other 258
provision of the Revised Code that authorizes a term in a jail for 259
a misdemeanor conviction. 260

(U) "Mandatory jail term" means the term in a jail that a 261
sentencing court is required to impose pursuant to division (G) of 262
section 1547.99 of the Revised Code, division (E) of section 263

2903.06 or division (D) of section 2903.08 of the Revised Code, 264
division (E) of section 2929.24 of the Revised Code, division (B) 265
of section 4510.14 of the Revised Code, or division (G) of section 266
4511.19 of the Revised Code or pursuant to any other provision of 267
the Revised Code that requires a term in a jail for a misdemeanor 268
conviction. 269

(V) "Delinquent child" has the same meaning as in section 270
2152.02 of the Revised Code. 271

(W) "License violation report" means a report that is made by 272
a sentencing court, or by the parole board pursuant to section 273
2967.28 of the Revised Code, to the regulatory or licensing board 274
or agency that issued an offender a professional license or a 275
license or permit to do business in this state and that specifies 276
that the offender has been convicted of or pleaded guilty to an 277
offense that may violate the conditions under which the offender's 278
professional license or license or permit to do business in this 279
state was granted or an offense for which the offender's 280
professional license or license or permit to do business in this 281
state may be revoked or suspended. 282

(X) "Major drug offender" means an offender who is convicted 283
of or pleads guilty to the possession of, sale of, or offer to 284
sell any drug, compound, mixture, preparation, or substance that 285
consists of or contains at least one thousand grams of hashish; at 286
least one hundred grams of crack cocaine; at least one thousand 287
grams of cocaine that is not crack cocaine; at least two thousand 288
five hundred unit doses or two hundred fifty grams of heroin; at 289
least five thousand unit doses of L.S.D. or five hundred grams of 290
L.S.D. in a liquid concentrate, liquid extract, or liquid 291
distillate form; or at least one hundred times the amount of any 292
other schedule I or II controlled substance other than marihuana 293
that is necessary to commit a felony of the third degree pursuant 294
to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised 295

Code that is based on the possession of, sale of, or offer to sell
the controlled substance. 296
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(Y) "Mandatory prison term" means any of the following: 298

(1) Subject to division (Y)(2) of this section, the term in 299
prison that must be imposed for the offenses or circumstances set 300
forth in divisions (F)(1) to (8) or (F)(12) to (14) of section 301
2929.13 and division (D) of section 2929.14 of the Revised Code. 302
Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, 303
and 2925.11 of the Revised Code, unless the maximum or another 304
specific term is required under section 2929.14 of the Revised 305
Code, a mandatory prison term described in this division may be 306
any prison term authorized for the level of offense. 307

(2) The term of sixty or one hundred twenty days in prison 308
that a sentencing court is required to impose for a third or 309
fourth degree felony OVI offense pursuant to division (G)(2) of 310
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 311
of the Revised Code or the term of one, two, three, four, or five 312
years in prison that a sentencing court is required to impose 313
pursuant to division (G)(2) of section 2929.13 of the Revised 314
Code. 315

(3) The term in prison imposed pursuant to section 2971.03 of 316
the Revised Code for the offenses and in the circumstances 317
described in division (F)(11) of section 2929.13 of the Revised 318
Code and that term as modified or terminated pursuant to section 319
2971.05 of the Revised Code. 320

(Z) "Monitored time" means a period of time during which an 321
offender continues to be under the control of the sentencing court 322
or parole board, subject to no conditions other than leading a 323
law-abiding life. 324

(AA) "Offender" means a person who, in this state, is 325
convicted of or pleads guilty to a felony or a misdemeanor. 326

(BB) "Prison" means a residential facility used for the 327
confinement of convicted felony offenders that is under the 328
control of the department of rehabilitation and correction but 329
does not include a violation sanction center operated under 330
authority of section 2967.141 of the Revised Code. 331

(CC) "Prison term" includes any of the following sanctions 332
for an offender: 333

(1) A stated prison term; 334

(2) A term in a prison shortened by, or with the approval of, 335
the sentencing court pursuant to section 2929.20, 2967.26, 336
5120.031, 5120.032, or 5120.073 of the Revised Code; 337

(3) A term in prison extended by bad time imposed pursuant to 338
section 2967.11 of the Revised Code or imposed for a violation of 339
post-release control pursuant to section 2967.28 of the Revised 340
Code. 341

(DD) "Repeat violent offender" means a person about whom both 342
of the following apply: 343

(1) The person ~~has been convicted of or has pleaded guilty~~ 344
~~to, and is being sentenced for committing, or for complicity in~~ 345
~~committing, or for an attempt to commit, aggravated~~ any of the 346
following: 347

(a) Aggravated murder, murder, involuntary manslaughter, a 348
any felony of the first or second degree other than one set forth 349
in Chapter 2925. of the Revised Code, a felony of the first degree 350
set forth in Chapter 2925. of the Revised Code that involved an 351
attempt to cause serious physical harm to a person or that 352
resulted in serious physical harm to a person, or a felony of the 353
second degree that involved an attempt to cause serious physical 354
harm to a person or that resulted in serious physical harm to a 355
person that is an offense of violence, or an attempt to commit any 356

of these offenses if the attempt is a felony of the first or 357
second degree; 358

(b) An offense under an existing or former law of this state, 359
another state, or the United States that is or was substantially 360
equivalent to an offense described in division (DD)(1)(a) of this 361
section. 362

~~(2) Either of the following applies:~~ 363

~~(a) The person previously was convicted of or pleaded guilty~~ 364
~~to, and previously served or, at the time of the offense was~~ 365
~~serving, a prison term for, any of the following:~~ 366

~~(i) Aggravated murder, murder, involuntary manslaughter,~~ 367
~~rape, felonious sexual penetration as it existed under section~~ 368
~~2907.12 of the Revised Code prior to September 3, 1996, a felony~~ 369
~~of the first or second degree that resulted in the death of a~~ 370
~~person or in physical harm to a person, or complicity in or an~~ 371
~~attempt to commit any of those offenses;~~ 372

~~(ii) An offense under an existing or former law of this~~ 373
~~state, another state, or the United States that is or was~~ 374
~~substantially equivalent to an offense listed under division~~ 375
~~(DD)(2)(a)(i) of this section and that resulted in the death of a~~ 376
~~person or in physical harm to a person.~~ 377

~~(b) The person previously was adjudicated a delinquent child~~ 378
~~for committing an act that if committed by an adult would have~~ 379
~~been an offense listed in division (DD)(2)(a)(i) or (ii) of this~~ 380
~~section, the person was committed to the department of youth~~ 381
~~services for that delinquent act an offense described in division~~ 382
~~(DD)(1)(a) or (b) of this section.~~ 383

(EE) "Sanction" means any penalty imposed upon an offender 384
who is convicted of or pleads guilty to an offense, as punishment 385
for the offense. "Sanction" includes any sanction imposed pursuant 386
to any provision of sections 2929.14 to 2929.18 or 2929.24 to 387

2929.28 of the Revised Code.	388
(FF) "Sentence" means the sanction or combination of	389
sanctions imposed by the sentencing court on an offender who is	390
convicted of or pleads guilty to an offense.	391
(GG) "Stated prison term" means the prison term, mandatory	392
prison term, or combination of all prison terms and mandatory	393
prison terms imposed by the sentencing court pursuant to section	394
2929.14 or 2971.03 of the Revised Code. "Stated prison term"	395
includes any credit received by the offender for time spent in	396
jail awaiting trial, sentencing, or transfer to prison for the	397
offense and any time spent under house arrest or house arrest with	398
electronic monitoring imposed after earning credits pursuant to	399
section 2967.193 of the Revised Code.	400
(HH) "Victim-offender mediation" means a reconciliation or	401
mediation program that involves an offender and the victim of the	402
offense committed by the offender and that includes a meeting in	403
which the offender and the victim may discuss the offense, discuss	404
restitution, and consider other sanctions for the offense.	405
(II) "Fourth degree felony OVI offense" means a violation of	406
division (A) of section 4511.19 of the Revised Code that, under	407
division (G) of that section, is a felony of the fourth degree.	408
(JJ) "Mandatory term of local incarceration" means the term	409
of sixty or one hundred twenty days in a jail, a community-based	410
correctional facility, a halfway house, or an alternative	411
residential facility that a sentencing court may impose upon a	412
person who is convicted of or pleads guilty to a fourth degree	413
felony OVI offense pursuant to division (G)(1) of section 2929.13	414
of the Revised Code and division (G)(1)(d) or (e) of section	415
4511.19 of the Revised Code.	416
(KK) "Designated homicide, assault, or kidnapping offense,"	417
"violent sex offense," "sexual motivation specification,"	418

"sexually violent offense," "sexually violent predator," and 419
"sexually violent predator specification" have the same meanings 420
as in section 2971.01 of the Revised Code. 421

(LL) "Habitual sex offender," "sexually oriented offense," 422
"sexual predator," "registration-exempt sexually oriented 423
offense," "child-victim oriented offense," "habitual child-victim 424
offender," and "child-victim predator" have the same meanings as 425
in section 2950.01 of the Revised Code. 426

(MM) An offense is "committed in the vicinity of a child" if 427
the offender commits the offense within thirty feet of or within 428
the same residential unit as a child who is under eighteen years 429
of age, regardless of whether the offender knows the age of the 430
child or whether the offender knows the offense is being committed 431
within thirty feet of or within the same residential unit as the 432
child and regardless of whether the child actually views the 433
commission of the offense. 434

(NN) "Family or household member" has the same meaning as in 435
section 2919.25 of the Revised Code. 436

(OO) "Motor vehicle" and "manufactured home" have the same 437
meanings as in section 4501.01 of the Revised Code. 438

(PP) "Detention" and "detention facility" have the same 439
meanings as in section 2921.01 of the Revised Code. 440

(QQ) "Third degree felony OVI offense" means a violation of 441
division (A) of section 4511.19 of the Revised Code that, under 442
division (G) of that section, is a felony of the third degree. 443

(RR) "Random drug testing" has the same meaning as in section 444
5120.63 of the Revised Code. 445

(SS) "Felony sex offense" has the same meaning as in section 446
2967.28 of the Revised Code. 447

(TT) "Body armor" has the same meaning as in section 448

2941.1411 of the Revised Code.

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

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

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

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(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.

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(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.

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(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

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section and can monitor continuously the person to whom an 480
electronic monitoring device of the type described in division 481
(VV)(1)(a) of this section is attached. 482

(2) Any device that is not a device of the type described in 483
division (VV)(1) of this section and that conforms with all of the 484
following: 485

(a) The device includes a transmitter and receiver that can 486
monitor and determine the location of a subject person at any 487
time, or at a designated point in time, through the use of a 488
central monitoring computer or through other electronic means. 489

(b) The device includes a transmitter and receiver that can 490
determine at any time, or at a designated point in time, through 491
the use of a central monitoring computer or other electronic means 492
the fact that the transmitter is turned off or altered in any 493
manner without prior approval of the court in relation to the 494
electronic monitoring or without prior approval of the department 495
of rehabilitation and correction in relation to the use of an 496
electronic monitoring device for an inmate on transitional control 497
or otherwise is tampered with. 498

(3) Any type of technology that can adequately track or 499
determine the location of a subject person at any time and that is 500
approved by the director of rehabilitation and correction, 501
including, but not limited to, any satellite technology, voice 502
tracking system, or retinal scanning system that is so approved. 503

(WW) "Non-economic loss" means nonpecuniary harm suffered by 504
a victim of an offense as a result of or related to the commission 505
of the offense, including, but not limited to, pain and suffering; 506
loss of society, consortium, companionship, care, assistance, 507
attention, protection, advice, guidance, counsel, instruction, 508
training, or education; mental anguish; and any other intangible 509
loss. 510

(XX) "Prosecutor" has the same meaning as in section 2935.01 511
of the Revised Code. 512

(YY) "Continuous alcohol monitoring" means the ability to 513
automatically test and periodically transmit alcohol consumption 514
levels and tamper attempts at least every hour, regardless of the 515
location of the person who is being monitored. 516

(ZZ) A person is "adjudicated a sexually violent predator" if 517
the person is convicted of or pleads guilty to a violent sex 518
offense and also is convicted of or pleads guilty to a sexually 519
violent predator specification that was included in the 520
indictment, count in the indictment, or information charging that 521
violent sex offense or if the person is convicted of or pleads 522
guilty to a designated homicide, assault, or kidnapping offense 523
and also is convicted of or pleads guilty to both a sexual 524
motivation specification and a sexually violent predator 525
specification that were included in the indictment, count in the 526
indictment, or information charging that designated homicide, 527
assault, or kidnapping offense. 528

Sec. 2929.13. (A) Except as provided in division (E), (F), or 529
(G) of this section and unless a specific sanction is required to 530
be imposed or is precluded from being imposed pursuant to law, a 531
court that imposes a sentence upon an offender for a felony may 532
impose any sanction or combination of sanctions on the offender 533
that are provided in sections 2929.14 to 2929.18 of the Revised 534
Code. The sentence shall not impose an unnecessary burden on state 535
or local government resources. 536

If the offender is eligible to be sentenced to community 537
control sanctions, the court shall consider the appropriateness of 538
imposing a financial sanction pursuant to section 2929.18 of the 539
Revised Code or a sanction of community service pursuant to 540
section 2929.17 of the Revised Code as the sole sanction for the 541

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

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

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

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

(B)(1) Except as provided in division (B)(2), (E), (F), or

(G) of this section, in sentencing an offender for a felony of the 573
fourth or fifth degree, the sentencing court shall determine 574
whether any of the following apply: 575

(a) In committing the offense, the offender caused physical 576
harm to a person. 577

(b) In committing the offense, the offender attempted to 578
cause or made an actual threat of physical harm to a person with a 579
deadly weapon. 580

(c) In committing the offense, the offender attempted to 581
cause or made an actual threat of physical harm to a person, and 582
the offender previously was convicted of an offense that caused 583
physical harm to a person. 584

(d) The offender held a public office or position of trust 585
and the offense related to that office or position; the offender's 586
position obliged the offender to prevent the offense or to bring 587
those committing it to justice; or the offender's professional 588
reputation or position facilitated the offense or was likely to 589
influence the future conduct of others. 590

(e) The offender committed the offense for hire or as part of 591
an organized criminal activity. 592

(f) The offense is a sex offense that is a fourth or fifth 593
degree felony violation of section 2907.03, 2907.04, 2907.05, 594
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 595
Revised Code. 596

(g) The offender at the time of the offense was serving, or 597
the offender previously had served, a prison term. 598

(h) The offender committed the offense while under a 599
community control sanction, while on probation, or while released 600
from custody on a bond or personal recognizance. 601

(i) The offender committed the offense while in possession of 602

a firearm. 603

(2)(a) If the court makes a finding described in division 604
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 605
section and if the court, after considering the factors set forth 606
in section 2929.12 of the Revised Code, finds that a prison term 607
is consistent with the purposes and principles of sentencing set 608
forth in section 2929.11 of the Revised Code and finds that the 609
offender is not amenable to an available community control 610
sanction, the court shall impose a prison term upon the offender. 611

(b) Except as provided in division (E), (F), or (G) of this 612
section, if the court does not make a finding described in 613
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 614
this section and if the court, after considering the factors set 615
forth in section 2929.12 of the Revised Code, finds that a 616
community control sanction or combination of community control 617
sanctions is consistent with the purposes and principles of 618
sentencing set forth in section 2929.11 of the Revised Code, the 619
court shall impose a community control sanction or combination of 620
community control sanctions upon the offender. 621

(C) Except as provided in division (E), (F), or (G) of this 622
section, in determining whether to impose a prison term as a 623
sanction for a felony of the third degree or a felony drug offense 624
that is a violation of a provision of Chapter 2925. of the Revised 625
Code and that is specified as being subject to this division for 626
purposes of sentencing, the sentencing court shall comply with the 627
purposes and principles of sentencing under section 2929.11 of the 628
Revised Code and with section 2929.12 of the Revised Code. 629

(D) Except as provided in division (E) or (F) of this 630
section, for a felony of the first or second degree and for a 631
felony drug offense that is a violation of any provision of 632
Chapter 2925., 3719., or 4729. of the Revised Code for which a 633

presumption in favor of a prison term is specified as being 634
applicable, it is presumed that a prison term is necessary in 635
order to comply with the purposes and principles of sentencing 636
under section 2929.11 of the Revised Code. Notwithstanding the 637
presumption established under this division, the sentencing court 638
may impose a community control sanction or a combination of 639
community control sanctions instead of a prison term on an 640
offender for a felony of the first or second degree or for a 641
felony drug offense that is a violation of any provision of 642
Chapter 2925., 3719., or 4729. of the Revised Code for which a 643
presumption in favor of a prison term is specified as being 644
applicable if it makes both of the following findings: 645

(1) A community control sanction or a combination of 646
community control sanctions would adequately punish the offender 647
and protect the public from future crime, because the applicable 648
factors under section 2929.12 of the Revised Code indicating a 649
lesser likelihood of recidivism outweigh the applicable factors 650
under that section indicating a greater likelihood of recidivism. 651

(2) A community control sanction or a combination of 652
community control sanctions would not demean the seriousness of 653
the offense, because one or more factors under section 2929.12 of 654
the Revised Code that indicate that the offender's conduct was 655
less serious than conduct normally constituting the offense are 656
applicable, and they outweigh the applicable factors under that 657
section that indicate that the offender's conduct was more serious 658
than conduct normally constituting the offense. 659

(E)(1) Except as provided in division (F) of this section, 660
for any drug offense that is a violation of any provision of 661
Chapter 2925. of the Revised Code and that is a felony of the 662
third, fourth, or fifth degree, the applicability of a presumption 663
under division (D) of this section in favor of a prison term or of 664
division (B) or (C) of this section in determining whether to 665

impose a prison term for the offense shall be determined as 666
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 667
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 668
Revised Code, whichever is applicable regarding the violation. 669

(2) If an offender who was convicted of or pleaded guilty to 670
a felony violates the conditions of a community control sanction 671
imposed for the offense solely by reason of producing positive 672
results on a drug test, the court, as punishment for the violation 673
of the sanction, shall not order that the offender be imprisoned 674
unless the court determines on the record either of the following: 675

(a) The offender had been ordered as a sanction for the 676
felony to participate in a drug treatment program, in a drug 677
education program, or in narcotics anonymous or a similar program, 678
and the offender continued to use illegal drugs after a reasonable 679
period of participation in the program. 680

(b) The imprisonment of the offender for the violation is 681
consistent with the purposes and principles of sentencing set 682
forth in section 2929.11 of the Revised Code. 683

(F) Notwithstanding divisions (A) to (E) of this section, the 684
court shall impose a prison term or terms under sections 2929.02 685
to 2929.06, section 2929.14, or section 2971.03 of the Revised 686
Code and except as specifically provided in section 2929.20 or 687
2967.191 of the Revised Code or when parole is authorized for the 688
offense under section 2967.13 of the Revised Code shall not reduce 689
the terms pursuant to section 2929.20, section 2967.193, or any 690
other provision of Chapter 2967. or Chapter 5120. of the Revised 691
Code for any of the following offenses: 692

(1) Aggravated murder when death is not imposed or murder; 693

(2) Any rape, regardless of whether force was involved and 694
regardless of the age of the victim, or an attempt to commit rape 695
if, had the offender completed the rape that was attempted, the 696

offender would have been subject to a sentence of life 697
imprisonment or life imprisonment without parole for the rape; 698

(3) Gross sexual imposition or sexual battery, if the victim 699
is under thirteen years of age, if the offender previously was 700
convicted of or pleaded guilty to rape, the former offense of 701
felonious sexual penetration, gross sexual imposition, or sexual 702
battery, and if the victim of the previous offense was under 703
thirteen years of age; 704

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 705
2903.11, 2903.12, or 2903.13 of the Revised Code if the section 706
requires the imposition of a prison term; 707

(5) A first, second, or third degree felony drug offense for 708
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 709
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 710
4729.99 of the Revised Code, whichever is applicable regarding the 711
violation, requires the imposition of a mandatory prison term; 712

(6) Any offense that is a first or second degree felony and 713
that is not set forth in division (F)(1), (2), (3), or (4) of this 714
section, if the offender previously was convicted of or pleaded 715
guilty to aggravated murder, murder, any first or second degree 716
felony, or an offense under an existing or former law of this 717
state, another state, or the United States that is or was 718
substantially equivalent to one of those offenses; 719

(7) Any offense that is a third degree felony and ~~that is~~ 720
~~listed in division (DD)(1) of section 2929.01 of the Revised Code~~ 721
either is a violation of section 2903.04 of the Revised Code or an 722
attempt to commit a felony of the second degree that is an offense 723
of violence and involved an attempt to cause serious physical harm 724
to a person or that resulted in serious physical harm to a person 725
if the offender previously was convicted of or pleaded guilty to 726
~~any offense that is listed in division (DD)(2)(a)(i) or (ii) of~~ 727

section 2929.01 of the Revised Code; of the following offenses:	728
<u>(a) Aggravated murder, murder, involuntary manslaughter,</u>	729
<u>rape, felonious sexual penetration as it existed under section</u>	730
<u>2907.12 of the Revised Code prior to September 3, 1996, a felony</u>	731
<u>of the first or second degree that resulted in the death of a</u>	732
<u>person or in physical harm to a person, or complicity in or an</u>	733
<u>attempt to commit any of those offenses;</u>	734
<u>(b) An offense under an existing or former law of this state,</u>	735
<u>another state, or the United States that is or was substantially</u>	736
<u>equivalent to an offense listed in division (F)(7)(a) of this</u>	737
<u>section that resulted in the death of a person or in physical harm</u>	738
<u>to a person.</u>	739
(8) Any offense, other than a violation of section 2923.12 of	740
the Revised Code, that is a felony, if the offender had a firearm	741
on or about the offender's person or under the offender's control	742
while committing the felony, with respect to a portion of the	743
sentence imposed pursuant to division (D)(1)(a) of section 2929.14	744
of the Revised Code for having the firearm;	745
(9) Any offense of violence that is a felony, if the offender	746
wore or carried body armor while committing the felony offense of	747
violence, with respect to the portion of the sentence imposed	748
pursuant to division (D)(1)(d) of section 2929.14 of the Revised	749
Code for wearing or carrying the body armor;	750
(10) Corrupt activity in violation of section 2923.32 of the	751
Revised Code when the most serious offense in the pattern of	752
corrupt activity that is the basis of the offense is a felony of	753
the first degree;	754
(11) Any violent sex offense or designated homicide, assault,	755
or kidnapping offense if, in relation to that offense, the	756
offender is adjudicated a sexually violent predator;	757
(12) A violation of division (A)(1) or (2) of section 2921.36	758

of the Revised Code, or a violation of division (C) of that 759
section involving an item listed in division (A)(1) or (2) of that 760
section, if the offender is an officer or employee of the 761
department of rehabilitation and correction; 762

(13) A violation of division (A)(1) or (2) of section 2903.06 763
of the Revised Code if the victim of the offense is a peace 764
officer, as defined in section 2935.01 of the Revised Code, with 765
respect to the portion of the sentence imposed pursuant to 766
division (D)(5) of section 2929.14 of the Revised Code; 767

(14) A violation of division (A)(1) or (2) of section 2903.06 768
of the Revised Code if the offender has been convicted of or 769
pleaded guilty to three or more violations of division (A) or (B) 770
of section 4511.19 of the Revised Code or an equivalent offense, 771
as defined in section 2941.1415 of the Revised Code, or three or 772
more violations of any combination of those divisions and 773
offenses, with respect to the portion of the sentence imposed 774
pursuant to division (D)(6) of section 2929.14 of the Revised 775
Code. 776

(G) Notwithstanding divisions (A) to (E) of this section, if 777
an offender is being sentenced for a fourth degree felony OVI 778
offense or for a third degree felony OVI offense, the court shall 779
impose upon the offender a mandatory term of local incarceration 780
or a mandatory prison term in accordance with the following: 781

(1) If the offender is being sentenced for a fourth degree 782
felony OVI offense and if the offender has not been convicted of 783
and has not pleaded guilty to a specification of the type 784
described in section 2941.1413 of the Revised Code, the court may 785
impose upon the offender a mandatory term of local incarceration 786
of sixty days or one hundred twenty days as specified in division 787
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 788
not reduce the term pursuant to section 2929.20, 2967.193, or any 789

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

(2) If the offender is being sentenced for a third degree
felony OVI offense, or if the offender is being sentenced for a
fourth degree felony OVI offense and the court does not impose a
mandatory term of local incarceration under division (G)(1) of
this section, the court shall impose upon the offender a mandatory
prison term of one, two, three, four, or five years if the
offender also is convicted of or also pleads guilty to a
specification of the type described in section 2941.1413 of the
Revised Code or shall impose upon the offender a mandatory prison
term of sixty days or one hundred twenty days as specified in
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code
if the offender has not been convicted of and has not pleaded
guilty to a specification of that type. The court shall not reduce
the term pursuant to section 2929.20, 2967.193, or any other
provision of the Revised Code. The offender shall serve the one-,
two-, three-, four-, or five-year mandatory prison term
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 822
fourth degree felony OVI offense be sentenced to another mandatory 823
term of local incarceration under that division for any violation 824
of division (A) of section 4511.19 of the Revised Code. In 825
addition to the mandatory prison term described in division (G)(2) 826
of this section, the court may sentence the offender to a 827
community control sanction under section 2929.16 or 2929.17 of the 828
Revised Code, but the offender shall serve the prison term prior 829
to serving the community control sanction. The department of 830
rehabilitation and correction may place an offender sentenced to a 831
mandatory prison term under this division in an intensive program 832
prison established pursuant to section 5120.033 of the Revised 833
Code if the department gave the sentencing judge prior notice of 834
its intent to place the offender in an intensive program prison 835
established under that section and if the judge did not notify the 836
department that the judge disapproved the placement. Upon the 837
establishment of the initial intensive program prison pursuant to 838
section 5120.033 of the Revised Code that is privately operated 839
and managed by a contractor pursuant to a contract entered into 840
under section 9.06 of the Revised Code, both of the following 841
apply: 842

(a) The department of rehabilitation and correction shall 843
make a reasonable effort to ensure that a sufficient number of 844
offenders sentenced to a mandatory prison term under this division 845
are placed in the privately operated and managed prison so that 846
the privately operated and managed prison has full occupancy. 847

(b) Unless the privately operated and managed prison has full 848
occupancy, the department of rehabilitation and correction shall 849
not place any offender sentenced to a mandatory prison term under 850
this division in any intensive program prison established pursuant 851
to section 5120.033 of the Revised Code other than the privately 852
operated and managed prison. 853

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

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

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

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

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

(2) When considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an

attempt to commit a drug abuse offense for which the penalty is 885
determined by the amount or number of unit doses of the controlled 886
substance involved in the drug abuse offense, the sentencing court 887
shall consider the factors applicable to the felony category that 888
the drug abuse offense attempted would be if that drug abuse 889
offense had been committed and had involved an amount or number of 890
unit doses of the controlled substance that is within the next 891
lower range of controlled substance amounts than was involved in 892
the attempt. 893

(K) As used in this section, "drug abuse offense" has the 894
same meaning as in section 2925.01 of the Revised Code. 895

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 896
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), or (G) of this section and 897
except in relation to an offense for which a sentence of death or 898
life imprisonment is to be imposed, if the court imposing a 899
sentence upon an offender for a felony elects or is required to 900
impose a prison term on the offender pursuant to this chapter, the 901
court shall impose a definite prison term that shall be one of the 902
following: 903

(1) For a felony of the first degree, the prison term shall 904
be three, four, five, six, seven, eight, nine, or ten years. 905

(2) For a felony of the second degree, the prison term shall 906
be two, three, four, five, six, seven, or eight years. 907

(3) For a felony of the third degree, the prison term shall 908
be one, two, three, four, or five years. 909

(4) For a felony of the fourth degree, the prison term shall 910
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 911
fourteen, fifteen, sixteen, seventeen, or eighteen months. 912

(5) For a felony of the fifth degree, the prison term shall 913
be six, seven, eight, nine, ten, eleven, or twelve months. 914

(B) Except as provided in division (C), (D)(1), (D)(2), 915
(D)(3), (D)(5), (D)(6), or (G) of this section, in section 2907.02 916
of the Revised Code, or in Chapter 2925. of the Revised Code, if 917
the court imposing a sentence upon an offender for a felony elects 918
or is required to impose a prison term on the offender, the court 919
shall impose the shortest prison term authorized for the offense 920
pursuant to division (A) of this section, unless one or more of 921
the following applies: 922

(1) The offender was serving a prison term at the time of the 923
offense, or the offender previously had served a prison term. 924

(2) The court finds on the record that the shortest prison 925
term will demean the seriousness of the offender's conduct or will 926
not adequately protect the public from future crime by the 927
offender or others. 928

(C) Except as provided in division (G) of this section or in 929
Chapter 2925. of the Revised Code, the court imposing a sentence 930
upon an offender for a felony may impose the longest prison term 931
authorized for the offense pursuant to division (A) of this 932
section only upon offenders who committed the worst forms of the 933
offense, upon offenders who pose the greatest likelihood of 934
committing future crimes, upon certain major drug offenders under 935
division (D)(3) of this section, and upon certain repeat violent 936
offenders in accordance with division (D)(2) of this section. 937

(D)(1)(a) Except as provided in division (D)(1)(e) of this 938
section, if an offender who is convicted of or pleads guilty to a 939
felony also is convicted of or pleads guilty to a specification of 940
the type described in section 2941.141, 2941.144, or 2941.145 of 941
the Revised Code, the court shall impose on the offender one of 942
the following prison terms: 943

(i) A prison term of six years if the specification is of the 944
type described in section 2941.144 of the Revised Code that 945

charges the offender with having a firearm that is an automatic 946
firearm or that was equipped with a firearm muffler or silencer on 947
or about the offender's person or under the offender's control 948
while committing the felony; 949

(ii) A prison term of three years if the specification is of 950
the type described in section 2941.145 of the Revised Code that 951
charges the offender with having a firearm on or about the 952
offender's person or under the offender's control while committing 953
the offense and displaying the firearm, brandishing the firearm, 954
indicating that the offender possessed the firearm, or using it to 955
facilitate the offense; 956

(iii) A prison term of one year if the specification is of 957
the type described in section 2941.141 of the Revised Code that 958
charges the offender with having a firearm on or about the 959
offender's person or under the offender's control while committing 960
the felony. 961

(b) If a court imposes a prison term on an offender under 962
division (D)(1)(a) of this section, the prison term shall not be 963
reduced pursuant to section 2929.20, section 2967.193, or any 964
other provision of Chapter 2967. or Chapter 5120. of the Revised 965
Code. A court shall not impose more than one prison term on an 966
offender under division (D)(1)(a) of this section for felonies 967
committed as part of the same act or transaction. 968

(c) Except as provided in division (D)(1)(e) of this section, 969
if an offender who is convicted of or pleads guilty to a violation 970
of section 2923.161 of the Revised Code or to a felony that 971
includes, as an essential element, purposely or knowingly causing 972
or attempting to cause the death of or physical harm to another, 973
also is convicted of or pleads guilty to a specification of the 974
type described in section 2941.146 of the Revised Code that 975
charges the offender with committing the offense by discharging a 976

firearm from a motor vehicle other than a manufactured home, the
court, after imposing a prison term on the offender for the
violation of section 2923.161 of the Revised Code or for the other
felony offense under division (A), (D)(2), or (D)(3) of this
section, shall impose an additional prison term of five 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)(c) 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)(c) of this section
relative to an offense, the court also shall impose a prison term
under division (D)(1)(a) of this section relative to the same
offense, provided the criteria specified in that division for
imposing an additional prison term are satisfied relative to the
offender and the offense.

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

(e) The court shall not impose any of the prison terms 1009
described in division (D)(1)(a) of this section or any of the 1010
additional prison terms described in division (D)(1)(c) of this 1011
section upon an offender for a violation of section 2923.12 or 1012
2923.123 of the Revised Code. The court shall not impose any of 1013
the prison terms described in division (D)(1)(a) of this section 1014
or any of the additional prison terms described in division 1015
(D)(1)(c) of this section upon an offender for a violation of 1016
section 2923.13 of the Revised Code unless all of the following 1017
apply: 1018

(i) The offender previously has been convicted of aggravated 1019
murder, murder, or any felony of the first or second degree. 1020

(ii) Less than five years have passed since the offender was 1021
released from prison or post-release control, whichever is later, 1022
for the prior offense. 1023

(f) If an offender is convicted of or pleads guilty to a 1024
felony that includes, as an essential element, causing or 1025
attempting to cause the death of or physical harm to another and 1026
also is convicted of or pleads guilty to a specification of the 1027
type described in section 2941.1412 of the Revised Code that 1028
charges the offender with committing the offense by discharging a 1029
firearm at a peace officer as defined in section 2935.01 of the 1030
Revised Code or a corrections officer as defined in section 1031
2941.1412 of the Revised Code, the court, after imposing a prison 1032
term on the offender for the felony offense under division (A), 1033
(D)(2), or (D)(3) of this section, shall impose an additional 1034
prison term of seven years upon the offender that shall not be 1035
reduced pursuant to section 2929.20, section 2967.193, or any 1036
other provision of Chapter 2967. or Chapter 5120. of the Revised 1037
Code. A court shall not impose more than one additional prison 1038
term on an offender under division (D)(1)(f) of this section for 1039
felonies committed as part of the same act or transaction. If a 1040

court imposes an additional prison term on an offender under
division (D)(1)(f) of this section relative to an offense, the
court shall not impose a prison term under division (D)(1)(a) or
(c) of this section relative to the same offense.

~~(2)(a) If an offender who is convicted of or pleads guilty to
a felony also is convicted of or pleads guilty to a specification
of the type described in section 2941.149 of the Revised Code that
the offender is a repeat violent offender 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.
of the Revised Code. If the court finds that the repeat violent
offender, in committing the offense, caused any physical harm that
carried a substantial risk of death to a person or that involved
substantial permanent incapacity or substantial permanent
disfigurement of a person, the court shall impose the longest
prison term from the range of terms authorized for the offense
under division (A) of this section.~~

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

~~(i), 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:

(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.

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(ii) 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.

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

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(iv) The court imposes the longest prison term for the offense that is not life imprisonment without parole.

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(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 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.

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~~(ii)~~(vi) The ~~terms so imposed~~ court finds that the prison

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terms imposed pursuant to division (D)(2)(a)(iii) of this section 1102
and, if applicable, division (D)(1) or (3) of this section are 1103
demeaning to the seriousness of the offense, because one or more 1104
of the factors under section 2929.12 of the Revised Code 1105
indicating that the offender's conduct is more serious than 1106
conduct normally constituting the offense are present, and they 1107
outweigh the applicable factors under that section indicating that 1108
the offender's conduct is less serious than conduct normally 1109
constituting the offense. 1110

(b) The court shall impose on an offender the longest prison 1111
term authorized or required for the offense and shall impose on 1112
the offender an additional definite prison term of one, two, 1113
three, four, five, six, seven, eight, nine, or ten years if all of 1114
the following criteria are met: 1115

(i) The offender is convicted of or pleads guilty to a 1116
specification of the type described in section 2941.149 of the 1117
Revised Code that the offender is a repeat violent offender. 1118

(ii) The offender within the preceding twenty years has been 1119
convicted of or pleaded guilty to three or more offenses described 1120
in division (DD)(1) of section 2929.01 of the Revised Code, 1121
including all offenses described in that division of which the 1122
offender is convicted or to which the offender pleads guilty in 1123
the current prosecution and all offenses described in that 1124
division of which the offender previously has been convicted or to 1125
which the offender previously pleaded guilty, whether prosecuted 1126
together or separately. 1127

(iii) The offense or offenses of which the offender currently 1128
is convicted or to which the offender currently pleads guilty is 1129
aggravated murder and the court does not impose a sentence of 1130
death or life imprisonment without parole, murder, terrorism and 1131
the court does not impose a sentence of life imprisonment without 1132
parole, any felony of the first degree that is an offense of 1133

violence and the court does not impose a sentence of life 1134
imprisonment without parole, or any felony of the second degree 1135
that is an offense of violence and the trier of fact finds that 1136
the offense involved an attempt to cause or a threat to cause 1137
serious physical harm to a person or resulted in serious physical 1138
harm to a person. 1139

(c) For purposes of division (D)(2)(b) of this section, two 1140
or more offenses committed at the same time or as part of the same 1141
act or event shall be considered one offense, and that one offense 1142
shall be the offense with the greatest penalty. 1143

(d) A sentence imposed under division (D)(2)(a) or (b) of 1144
this section shall not be reduced pursuant to section 2929.20 or 1145
section 2967.193, or any other provision of Chapter 2967. or 1146
Chapter 5120. of the Revised Code. The offender shall serve an 1147
additional prison term imposed under this section consecutively to 1148
and prior to the prison term imposed for the underlying offense. 1149

(e) When imposing a sentence pursuant to division (D)(2)(a) 1150
or (b) of this section, the court shall state its findings 1151
explaining the imposed sentence. 1152

(3)(a) Except when an offender commits a violation of section 1153
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 1154
the violation is life imprisonment or commits a violation of 1155
section 2903.02 of the Revised Code, if the offender commits a 1156
violation of section 2925.03 or 2925.11 of the Revised Code and 1157
that section classifies the offender as a major drug offender and 1158
requires the imposition of a ten-year prison term on the offender, 1159
if the offender commits a felony violation of section 2925.02, 1160
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 1161
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 1162
division (C) of section 4729.51, or division (J) of section 1163
4729.54 of the Revised Code that includes the sale, offer to sell, 1164

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.

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

(4) If the offender is being sentenced for a third or fourth
degree felony OVI offense under division (G)(2) of section 2929.13
of the Revised Code, the sentencing court shall impose upon the
offender a mandatory prison term in accordance with that division.
In addition to the mandatory prison term, if the offender is being
sentenced for a fourth degree felony OVI offense, the court,
notwithstanding division (A)(4) of this section, may sentence the

offender to a definite prison term of not less than six months and
not more than thirty months, and if the offender is being
sentenced for a third degree felony OVI offense, the sentencing
court may sentence the offender to an additional prison term of
any duration specified in division (A)(3) of this section. In
either case, the additional prison term imposed shall be reduced
by the sixty or one hundred twenty days imposed upon the offender
as the mandatory prison term. The total of the additional prison
term imposed under division (D)(4) of this section plus the sixty
or one hundred twenty days imposed as the mandatory prison term
shall equal a definite term in the range of six months to thirty
months for a fourth degree felony OVI offense and shall equal one
of the authorized prison terms specified in division (A)(3) of
this section for a third degree felony OVI offense. If the court
imposes an additional prison term under division (D)(4) of this
section, the offender shall serve the additional prison term after
the offender has served the mandatory prison term required for the
offense. In addition to the mandatory prison term or mandatory and
additional prison term imposed as described in division (D)(4) of
this section, the court also may sentence the offender to a
community control sanction under section 2929.16 or 2929.17 of the
Revised Code, but the offender shall serve all of the prison terms
so imposed prior to serving the community control sanction.

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

(5) If an offender is convicted of or pleads guilty to a
violation of division (A)(1) or (2) of section 2903.06 of the
Revised Code and also is convicted of or pleads guilty to a
specification of the type described in section 2941.1414 of the

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

(6) If an offender is convicted of or pleads guilty to a
violation of division (A)(1) or (2) of section 2903.06 of the
Revised Code and also is convicted of or pleads guilty to a
specification of the type described in section 2941.1415 of the
Revised Code that charges that the offender previously has been
convicted of or pleaded guilty to three or more violations of
division (A) or (B) of section 4511.19 of the Revised Code or an
equivalent offense, as defined in section 2941.1415 of the Revised
Code, or three or more violations of any combination of those
divisions and offenses, the court shall impose on the offender a
prison term of three years. If a court imposes a prison term on an
offender under division (D)(6) of this section, the prison term
shall not be reduced pursuant to section 2929.20, section
2967.193, or any other provision of Chapter 2967. or Chapter 5120.
of the Revised Code. A court shall not impose more than one prison
term on an offender under division (D)(6) of this section for
felonies committed as part of the same act.

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a
mandatory prison term is imposed upon an offender pursuant to
division (D)(1)(a) of this section for having a firearm on or
about the offender's person or under the offender's control while
committing a felony, if a mandatory prison term is imposed upon an

offender pursuant to division (D)(1)(c) of this section for 1261
committing a felony specified in that division by discharging a 1262
firearm from a motor vehicle, or if both types of mandatory prison 1263
terms are imposed, the offender shall serve any mandatory prison 1264
term imposed under either division consecutively to any other 1265
mandatory prison term imposed under either division or under 1266
division (D)(1)(d) of this section, consecutively to and prior to 1267
any prison term imposed for the underlying felony pursuant to 1268
division (A), (D)(2), or (D)(3) of this section or any other 1269
section of the Revised Code, and consecutively to any other prison 1270
term or mandatory prison term previously or subsequently imposed 1271
upon the offender. 1272

(b) If a mandatory prison term is imposed upon an offender 1273
pursuant to division (D)(1)(d) of this section for wearing or 1274
carrying body armor while committing an offense of violence that 1275
is a felony, the offender shall serve the mandatory term so 1276
imposed consecutively to any other mandatory prison term imposed 1277
under that division or under division (D)(1)(a) or (c) of this 1278
section, consecutively to and prior to any prison term imposed for 1279
the underlying felony under division (A), (D)(2), or (D)(3) of 1280
this section or any other section of the Revised Code, and 1281
consecutively to any other prison term or mandatory prison term 1282
previously or subsequently imposed upon the offender. 1283

(c) If a mandatory prison term is imposed upon an offender 1284
pursuant to division (D)(1)(f) of this section, the offender shall 1285
serve the mandatory prison term so imposed consecutively to and 1286
prior to any prison term imposed for the underlying felony under 1287
division (A), (D)(2), or (D)(3) of this section or any other 1288
section of the Revised Code, and consecutively to any other prison 1289
term or mandatory prison term previously or subsequently imposed 1290
upon the offender. 1291

(2) If an offender who is an inmate in a jail, prison, or 1292

other residential detention facility violates section 2917.02, 1293
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 1294
who is under detention at a detention facility commits a felony 1295
violation of section 2923.131 of the Revised Code, or if an 1296
offender who is an inmate in a jail, prison, or other residential 1297
detention facility or is under detention at a detention facility 1298
commits another felony while the offender is an escapee in 1299
violation of section 2921.34 of the Revised Code, any prison term 1300
imposed upon the offender for one of those violations shall be 1301
served by the offender consecutively to the prison term or term of 1302
imprisonment the offender was serving when the offender committed 1303
that offense and to any other prison term previously or 1304
subsequently imposed upon the offender. 1305

(3) If a prison term is imposed for a violation of division 1306
(B) of section 2911.01 of the Revised Code, a violation of 1307
division (A) of section 2913.02 of the Revised Code in which the 1308
stolen property is a firearm or dangerous ordnance, or a felony 1309
violation of division (B) of section 2921.331 of the Revised Code, 1310
the offender shall serve that prison term consecutively to any 1311
other prison term or mandatory prison term previously or 1312
subsequently imposed upon the offender. 1313

(4) If multiple prison terms are imposed on an offender for 1314
convictions of multiple offenses, the court may require the 1315
offender to serve the prison terms consecutively if the court 1316
finds that the consecutive service is necessary to protect the 1317
public from future crime or to punish the offender and that 1318
consecutive sentences are not disproportionate to the seriousness 1319
of the offender's conduct and to the danger the offender poses to 1320
the public, and if the court also finds any of the following: 1321

(a) The offender committed one or more of the multiple 1322
offenses while the offender was awaiting trial or sentencing, was 1323
under a sanction imposed pursuant to section 2929.16, 2929.17, or 1324

2929.18 of the Revised Code, or was under post-release control for 1325
a prior offense. 1326

(b) At least two of the multiple offenses were committed as 1327
part of one or more courses of conduct, and the harm caused by two 1328
or more of the multiple offenses so committed was so great or 1329
unusual that no single prison term for any of the offenses 1330
committed as part of any of the courses of conduct adequately 1331
reflects the seriousness of the offender's conduct. 1332

(c) The offender's history of criminal conduct demonstrates 1333
that consecutive sentences are necessary to protect the public 1334
from future crime by the offender. 1335

(5) If a mandatory prison term is imposed upon an offender 1336
pursuant to division (D)(5) or (6) of this section, the offender 1337
shall serve the mandatory prison term consecutively to and prior 1338
to any prison term imposed for the underlying violation of 1339
division (A)(1) or (2) of section 2903.06 of the Revised Code 1340
pursuant to division (A) of this section. If a mandatory prison 1341
term is imposed upon an offender pursuant to division (D)(5) of 1342
this section, and if a mandatory prison term also is imposed upon 1343
the offender pursuant to division (D)(6) of this section in 1344
relation to the same violation, the offender shall serve the 1345
mandatory prison term imposed pursuant to division (D)(5) of this 1346
section consecutively to and prior to the mandatory prison term 1347
imposed pursuant to division (D)(6) of this section and 1348
consecutively to and prior to any prison term imposed for the 1349
underlying violation of division (A)(1) or (2) of section 2903.06 1350
of the Revised Code pursuant to division (A) of this section. 1351

(6) When consecutive prison terms are imposed pursuant to 1352
division (E)(1), (2), (3), (4), or (5) of this section, the term 1353
to be served is the aggregate of all of the terms so imposed. 1354

(F) If a court imposes a prison term of a type described in 1355

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

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

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

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

one, two, or three years. 1388

(J) If an offender who is convicted of or pleads guilty to 1389
aggravated murder, murder, or a felony of the first, second, or 1390
third degree that is an offense of violence also is convicted of 1391
or pleads guilty to a specification of the type described in 1392
section 2941.143 of the Revised Code that charges the offender 1393
with having committed the offense in a school safety zone or 1394
towards a person in a school safety zone, the court shall impose 1395
upon the offender an additional prison term of two years. The 1396
offender shall serve the additional two years consecutively to and 1397
prior to the prison term imposed for the underlying offense. 1398

(K) At the time of sentencing, the court may recommend the 1399
offender for placement in a program of shock incarceration under 1400
section 5120.031 of the Revised Code or for placement in an 1401
intensive program prison under section 5120.032 of the Revised 1402
Code, disapprove placement of the offender in a program of shock 1403
incarceration or an intensive program prison of that nature, or 1404
make no recommendation on placement of the offender. In no case 1405
shall the department of rehabilitation and correction place the 1406
offender in a program or prison of that nature unless the 1407
department determines as specified in section 5120.031 or 5120.032 1408
of the Revised Code, whichever is applicable, that the offender is 1409
eligible for the placement. 1410

If the court disapproves placement of the offender in a 1411
program or prison of that nature, the department of rehabilitation 1412
and correction shall not place the offender in any program of 1413
shock incarceration or intensive program prison. 1414

If the court recommends placement of the offender in a 1415
program of shock incarceration or in an intensive program prison, 1416
and if the offender is subsequently placed in the recommended 1417
program or prison, the department shall notify the court of the 1418

placement and shall include with the notice a brief description of 1419
the placement. 1420

If the court recommends placement of the offender in a 1421
program of shock incarceration or in an intensive program prison 1422
and the department does not subsequently place the offender in the 1423
recommended program or prison, the department shall send a notice 1424
to the court indicating why the offender was not placed in the 1425
recommended program or prison. 1426

If the court does not make a recommendation under this 1427
division with respect to an offender and if the department 1428
determines as specified in section 5120.031 or 5120.032 of the 1429
Revised Code, whichever is applicable, that the offender is 1430
eligible for placement in a program or prison of that nature, the 1431
department shall screen the offender and determine if there is an 1432
available program of shock incarceration or an intensive program 1433
prison for which the offender is suited. If there is an available 1434
program of shock incarceration or an intensive program prison for 1435
which the offender is suited, the department shall notify the 1436
court of the proposed placement of the offender as specified in 1437
section 5120.031 or 5120.032 of the Revised Code and shall include 1438
with the notice a brief description of the placement. The court 1439
shall have ten days from receipt of the notice to disapprove the 1440
placement. 1441

Sec. 2941.149. (A) The determination by a court that an 1442
offender is a repeat violent offender is precluded unless the 1443
indictment, count in the indictment, or information charging the 1444
offender specifies that the offender is a repeat violent offender. 1445
The specification shall be stated at the end of the body of the 1446
indictment, count, or information, and shall be stated in 1447
substantially the following form: 1448

"SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The 1449

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)." 1450
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(B) The court shall determine the issue of whether an
offender is a repeat violent offender. 1453
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(C) At the arraignment or as soon thereafter as is 1455
practicable, the prosecuting attorney may give notice to the 1456
defendant of the prosecuting attorney's intention to use a 1457
certified copy of the entry of judgment of a prior conviction as 1458
proof of that prior conviction. The defendant must then give 1459
notice to the prosecuting attorney of the defendant's intention to 1460
object to the use of the entry of judgment. If the defendant 1461
pursuant to Criminal Rule 12 does not give notice of that 1462
intention to the prosecuting attorney before trial, the defendant 1463
waives the objection to the use of an entry of judgment as proof 1464
of the defendant's prior conviction, as shown on the entry of 1465
judgment. 1466

(D) As used in this section, "repeat violent offender" has
the same meaning as in section 2929.01 of the Revised Code. 1467
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Sec. 2953.08. (A) In addition to any other right to appeal 1469
and except as provided in division (D) of this section, a 1470
defendant who is convicted of or pleads guilty to a felony may 1471
appeal as a matter of right the sentence imposed upon the 1472
defendant on one of the following grounds: 1473

(1) The sentence consisted of or included the maximum prison 1474
term allowed for the offense by division (A) of section 2929.14 of 1475
the Revised Code, the sentence was not imposed pursuant to 1476
division (D)(3)(b) of section 2929.14 of the Revised Code, the 1477
maximum prison term was not required for the offense pursuant to 1478
Chapter 2925. or any other provision of the Revised Code, and the 1479

court imposed the sentence under one of the following 1480
circumstances: 1481

(a) The sentence was imposed for only one offense. 1482

(b) The sentence was imposed for two or more offenses arising 1483
out of a single incident, and the court imposed the maximum prison 1484
term for the offense of the highest degree. 1485

(2) The sentence consisted of or included a prison term, the 1486
offense for which it was imposed is a felony of the fourth or 1487
fifth degree or is a felony drug offense that is a violation of a 1488
provision of Chapter 2925. of the Revised Code and that is 1489
specified as being subject to division (B) of section 2929.13 of 1490
the Revised Code for purposes of sentencing, and the court did not 1491
specify at sentencing that it found one or more factors specified 1492
in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised 1493
Code to apply relative to the defendant. If the court specifies 1494
that it found one or more of those factors to apply relative to 1495
the defendant, the defendant is not entitled under this division 1496
to appeal as a matter of right the sentence imposed upon the 1497
offender. 1498

(3) The person was convicted of or pleaded guilty to a 1499
violent sex offense or a designated homicide, assault, or 1500
kidnapping offense, was adjudicated a sexually violent predator in 1501
relation to that offense, and was sentenced pursuant to division 1502
(A)(3) of section 2971.03 of the Revised Code, if the minimum term 1503
of the indefinite term imposed pursuant to division (A)(3) of 1504
section 2971.03 of the Revised Code is the longest term available 1505
for the offense from among the range of terms listed in section 1506
2929.14 of the Revised Code. As used in this division, "designated 1507
homicide, assault, or kidnapping offense" and "violent sex 1508
offense" have the same meanings as in section 2971.01 of the 1509
Revised Code. As used in this division, "adjudicated a sexually 1510

violent predator" has the same meaning as in section 2929.01 of
the Revised Code, and a person is "adjudicated a sexually violent
predator" in the same manner and the same circumstances as are
described in that section.

(4) The sentence is contrary to law.

(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 1541
a sentence imposed upon the defendant on the basis that the 1542
sentencing judge has imposed consecutive sentences under division 1543
(E)(3) or (4) of section 2929.14 of the Revised Code and that the 1544
consecutive sentences exceed the maximum prison term allowed by 1545
division (A) of that section for the most serious offense of which 1546
the defendant was convicted. Upon the filing of a motion under 1547
this division, the court of appeals may grant leave to appeal the 1548
sentence if the court determines that the allegation included as 1549
the basis of the motion is true. 1550

(2) A defendant may seek leave to appeal an additional 1551
sentence imposed upon the defendant pursuant to division (D)(2)(a) 1552
or (b) of section 2929.14 of the Revised Code if the additional 1553
sentence is for a definite prison term that is longer than five 1554
years. 1555

(D)(1) A sentence imposed upon a defendant is not subject to 1556
review under this section if the sentence is authorized by law, 1557
has been recommended jointly by the defendant and the prosecution 1558
in the case, and is imposed by a sentencing judge. 1559

(2) Except as provided in division (C)(2) of this section, a 1560
sentence imposed upon a defendant is not subject to review under 1561
this section if the sentence is imposed pursuant to division 1562
(D)(2)(b) of section 2929.14 of the Revised Code. Except as 1563
otherwise provided in this division, a defendant retains all 1564
rights to appeal as provided under this chapter or any other 1565
provision of the Revised Code. A defendant has the right to appeal 1566
under this chapter or any other provision of the Revised Code the 1567
court's application of division (D)(2)(c) of section 2929.14 of 1568
the Revised Code. 1569

(3) A sentence imposed for aggravated murder or murder 1570
pursuant to sections 2929.02 to 2929.06 of the Revised Code is not 1571
subject to review under this section. 1572

(E) A defendant, prosecuting attorney, city director of law, 1573
village solicitor, or chief municipal legal officer shall file an 1574
appeal of a sentence under this section to a court of appeals 1575
within the time limits specified in Rule 4(B) of the Rules of 1576
Appellate Procedure, provided that if the appeal is pursuant to 1577
division (B)(3) of this section, the time limits specified in that 1578
rule shall not commence running until the court grants the motion 1579
that makes the sentence modification in question. A sentence 1580
appeal under this section shall be consolidated with any other 1581
appeal in the case. If no other appeal is filed, the court of 1582
appeals may review only the portions of the trial record that 1583
pertain to sentencing. 1584

(F) On the appeal of a sentence under this section, the 1585
record to be reviewed shall include all of the following, as 1586
applicable: 1587

(1) Any presentence, psychiatric, or other investigative 1588
report that was submitted to the court in writing before the 1589
sentence was imposed. An appellate court that reviews a 1590
presentence investigation report prepared pursuant to section 1591
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 1592
connection with the appeal of a sentence under this section shall 1593
comply with division (D)(3) of section 2951.03 of the Revised Code 1594
when the appellate court is not using the presentence 1595
investigation report, and the appellate court's use of a 1596
presentence investigation report of that nature in connection with 1597
the appeal of a sentence under this section does not affect the 1598
otherwise confidential character of the contents of that report as 1599
described in division (D)(1) of section 2951.03 of the Revised 1600
Code and does not cause that report to become a public record, as 1601
defined in section 149.43 of the Revised Code, following the 1602
appellate court's use of the report. 1603

(2) The trial record in the case in which the sentence was 1604

imposed; 1605

(3) Any oral or written statements made to or by the court at 1606
the sentencing hearing at which the sentence was imposed; 1607

(4) Any written findings that the court was required to make 1608
in connection with the modification of the sentence pursuant to a 1609
judicial release under division (H) of section 2929.20 of the 1610
Revised Code. 1611

(G)(1) If the sentencing court was required to make the 1612
findings required by division (B) or (D) of section 2929.13, 1613
division (D)(2)(e) or (E)(4) of section 2929.14, or division (H) 1614
of section 2929.20 of the Revised Code relative to the imposition 1615
or modification of the sentence, and if the sentencing court 1616
failed to state the required findings on the record, the court 1617
hearing an appeal under division (A), (B), or (C) of this section 1618
shall remand the case to the sentencing court and instruct the 1619
sentencing court to state, on the record, the required findings. 1620

(2) The court hearing an appeal under division (A), (B), or 1621
(C) of this section shall review the record, including the 1622
findings underlying the sentence or modification given by the 1623
sentencing court. 1624

The appellate court may increase, reduce, or otherwise modify 1625
a sentence that is appealed under this section or may vacate the 1626
sentence and remand the matter to the sentencing court for 1627
resentencing. The appellate court's standard for review is not 1628
whether the sentencing court abused its discretion. The appellate 1629
court may take any action authorized by this division if it 1630
clearly and convincingly finds either of the following: 1631

(a) That the record does not support the sentencing court's 1632
findings under division (B) or (D) of section 2929.13, division 1633
(D)(2)(e) or (E)(4) of section 2929.14, or division (H) of section 1634
2929.20 of the Revised Code, whichever, if any, is relevant; 1635

(b) That the sentence is otherwise contrary to law. 1636

(H) A judgment or final order of a court of appeals under 1637
this section may be appealed, by leave of court, to the supreme 1638
court. 1639

(I)(1) There is hereby established the felony sentence appeal 1640
cost oversight committee, consisting of eight members. One member 1641
shall be the chief justice of the supreme court or a 1642
representative of the court designated by the chief justice, one 1643
member shall be a member of the senate appointed by the president 1644
of the senate, one member shall be a member of the house of 1645
representatives appointed by the speaker of the house of 1646
representatives, one member shall be the director of budget and 1647
management or a representative of the office of budget and 1648
management designated by the director, one member shall be a judge 1649
of a court of appeals, court of common pleas, municipal court, or 1650
county court appointed by the chief justice of the supreme court, 1651
one member shall be the state public defender or a representative 1652
of the office of the state public defender designated by the state 1653
public defender, one member shall be a prosecuting attorney 1654
appointed by the Ohio prosecuting attorneys association, and one 1655
member shall be a county commissioner appointed by the county 1656
commissioners association of Ohio. No more than three of the 1657
appointed members of the committee may be members of the same 1658
political party. 1659

The president of the senate, the speaker of the house of 1660
representatives, the chief justice of the supreme court, the Ohio 1661
prosecuting attorneys association, and the county commissioners 1662
association of Ohio shall make the initial appointments to the 1663
committee of the appointed members no later than ninety days after 1664
July 1, 1996. Of those initial appointments to the committee, the 1665
members appointed by the speaker of the house of representatives 1666
and the Ohio prosecuting attorneys association shall serve a term 1667

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
of the office of the state public defender to serve as a member,
the person so designated shall serve as a member of the commission
for as long as the official who made the designation holds office
as chief justice, director of the office of budget and management,
or state public defender or until that official revokes the
designation.

The chief justice of the supreme court or the representative 1700
of the supreme court appointed by the chief justice shall serve as 1701
chairperson of the committee. The committee shall meet within two 1702
weeks after all appointed members have been appointed and shall 1703
organize as necessary. Thereafter, the committee shall meet at 1704
least once every six months or more often upon the call of the 1705
chairperson or the written request of three or more members, 1706
provided that the committee shall not meet unless moneys have been 1707
appropriated to the judiciary budget administered by the supreme 1708
court specifically for the purpose of providing financial 1709
assistance to counties under division (I)(2) of this section and 1710
the moneys so appropriated then are available for that purpose. 1711

The members of the committee shall serve without 1712
compensation, but, if moneys have been appropriated to the 1713
judiciary budget administered by the supreme court specifically 1714
for the purpose of providing financial assistance to counties 1715
under division (I)(2) of this section, each member shall be 1716
reimbursed out of the moneys so appropriated that then are 1717
available for actual and necessary expenses incurred in the 1718
performance of official duties as a committee member. 1719

(2) The state criminal sentencing commission periodically 1720
shall provide to the felony sentence appeal cost oversight 1721
committee all data the commission collects pursuant to division 1722
(A)(5) of section 181.25 of the Revised Code. Upon receipt of the 1723
data from the state criminal sentencing commission, the felony 1724
sentence appeal cost oversight committee periodically shall review 1725
the data; determine whether any money has been appropriated to the 1726
judiciary budget administered by the supreme court specifically 1727
for the purpose of providing state financial assistance to 1728
counties in accordance with this division for the increase in 1729
expenses the counties experience as a result of the felony 1730
sentence appeal provisions set forth in this section or as a 1731

result of a postconviction relief proceeding brought under 1732
division (A)(2) of section 2953.21 of the Revised Code or an 1733
appeal of a judgment in that proceeding; if it determines that any 1734
money has been so appropriated, determine the total amount of 1735
moneys that have been so appropriated specifically for that 1736
purpose and that then are available for that purpose; and develop 1737
a recommended method of distributing those moneys to the counties. 1738
The committee shall send a copy of its recommendation to the 1739
supreme court. Upon receipt of the committee's recommendation, the 1740
supreme court shall distribute to the counties, based upon that 1741
recommendation, the moneys that have been so appropriated 1742
specifically for the purpose of providing state financial 1743
assistance to counties under this division and that then are 1744
available for that purpose. 1745

Section 2. That existing sections 2152.17, 2929.01, 2929.13, 1746
2929.14, 2941.149, and 2953.08 of the Revised Code are hereby 1747
repealed. 1748