

As Passed by the Senate

126th General Assembly

Regular Session

2005-2006

Sub. S. B. No. 281

Senators Stivers, Padgett, Mumper, Goodman, Austria, Spada, Zurz

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A B I L L

To amend sections 109.761, 109.802, 2921.51, 2929.13,	1
2929.14, and 2941.1414 to enact new section	2
109.803, and to repeal section 109.803 of the	3
Revised Code to mandate up to 24 hours a year of	4
continuing professional training for peace	5
officers and state highway patrol troopers, to	6
provide a mechanism for the granting for a	7
calendar year because of emergency circumstances	8
of an extension of the time within which a peace	9
officer or trooper must complete the required	10
minimum number of hours of training, to establish	11
the method by which the Attorney General	12
reimburses the costs of training programs for	13
peace officers and troopers of public appointing	14
authorities, to prohibit impersonating BCII	15
investigators, to apply the increased penalties	16
for aggravated vehicular homicide when the victim	17
is a peace officer to when the victim is a BCII	18
investigator, and to make an appropriation.	19

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

Section 1. That sections 109.761, 109.802, 2921.51, 2929.13,	20
2929.14, and 2941.1414 be amended and new section 109.803 of the	21

Revised Code be enacted to read as follows:

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Sec. 109.761. (A)(1) Each agency or entity that appoints or
employs one or more peace officers shall report to the Ohio peace
officer training commission all of the following that occur on or
after ~~the effective date of this section~~ February 20, 2002:

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(a) The appointment or employment of any person to serve the
agency or entity as a peace officer in any full-time, part-time,
reserve, auxiliary, or other capacity;

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(b) The termination, resignation, felony conviction, or death
of any person who has been appointed to or employed by the agency
or entity as a peace officer in any full-time, part-time, reserve,
auxiliary, or other capacity and is serving the agency or entity
in any of those peace officer capacities.

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(2) An agency or entity shall make each report required by
this division not later than ten days after the occurrence of the
event being reported. The agency or entity shall make the report
in the manner and format prescribed by the executive director of
the Ohio peace officer training commission.

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(B) Each agency or entity that appoints or employs one or
more peace officers or state highway patrol troopers shall
annually provide to the Ohio peace officer training commission a
roster of all persons who have been appointed to or employed by
the agency or entity as peace officers or troopers in any
full-time, part-time, reserve, auxiliary, or other capacity and
are serving, or during the year covered by the report have served,
the agency or entity in any of those peace officer or trooper
capacities. The agency or entity shall provide the roster in the
manner and format, and by the date, prescribed by the executive
director of the Ohio peace officer training commission.

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(C) The Ohio peace officer training commission shall

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prescribe the manner and format of making reports under division 52
(A) of this section and providing annual rosters under division 53
(B) of this section and shall prescribe the date by which the 54
annual rosters must be provided. 55

Sec. 109.802. (A) There is hereby created in the state 56
treasury the law enforcement assistance fund. The fund shall be 57
used to pay reimbursements for ~~law enforcement~~ continuing 58
professional training programs for peace officers and troopers as 59
provided in this section and section 109.803 of the Revised Code, 60
the compensation of any employees of the attorney general required 61
to administer those sections, and any other administrative costs 62
incurred by the attorney general to administer those sections. 63

(B) The attorney general shall adopt rules in accordance with 64
Chapter 119. of the Revised Code establishing application 65
procedures, standards, and guidelines, and prescribing an 66
application form, for the reimbursement of ~~sheriffs, constables,~~ 67
~~chiefs of police of organized municipal and township police~~ 68
~~departments, chiefs of police of township police district police~~ 69
~~forces, and chiefs of police of university or college police~~ 70
~~departments for the costs of peace officer basic training~~ 71
~~programs, advanced peace officer training programs, basic jailer~~ 72
~~training programs, and firearms requalification programs~~ 73
~~successfully completed by them or the peace officers under their~~ 74
~~supervision, for the reimbursement of the superintendent of the~~ 75
~~state highway patrol and the director of natural resources for the~~ 76
~~costs of peace officer basic training programs, advanced peace~~ 77
~~officer training programs, and basic jailer training programs~~ 78
~~successfully completed by them or the peace officers under their~~ 79
~~supervision, and for the reimbursement of the chief of the adult~~ 80
~~parole authority and the chief probation officer of a county~~ 81
~~probation department, multicounty probation department, and~~ 82

~~municipal court department of probation for the costs of basic~~ 83
~~firearm training programs and firearms requalification programs~~ 84
~~successfully completed by them or by parole or probation officers~~ 85
~~under their supervision~~ public appointing authorities for the cost 86
of continuing professional training programs for their peace 87
officers and troopers. The rules shall include, but are not 88
limited to, all of the following: 89

(1) A requirement that applications for reimbursement be 90
submitted on a ~~fiscal~~ calendar-year basis; 91

(2) The documentation required to substantiate any costs for 92
which the applicant seeks reimbursement; 93

(3) ~~The procedure for prorating reimbursements if the amount~~ 94
~~of money appropriated for reimbursement for any fiscal year is not~~ 95
~~sufficient to pay all of the costs approved for reimbursement for~~ 96
~~that fiscal year~~ Procedures for submitting applications for 97
reimbursement for the cost of continuing professional training 98
programs completed by a peace officer or trooper for whom the 99
executive director of the Ohio peace officer training commission 100
granted pursuant to division (A)(2) of section 109.803 of the 101
Revised Code an extension of the time for compliance with the 102
continuing professional training requirement specified in division 103
(A) of that section and who complied with the requirement prior to 104
the date on which the extension ends; 105

(4) Any other requirements necessary for the proper 106
administration of the reimbursement program. 107

(C) The Ohio peace officer training commission shall 108
administer a program for reimbursing public appointing authorities 109
for the costs of continuing professional training programs that 110
are successfully completed by the appointing authority's peace 111
officers or troopers. The commission shall administer the 112
reimbursement program in accordance with rules adopted by the 113

attorney general pursuant to division (B) of this section. 114

~~(D) Each sheriff, constable, and chief of police of an 115
organized municipal or township police department, township police 116
district police force, or university or college police department 117
public appointing authority may apply each fiscal calendar year to 118
the peace officer training commission for reimbursement for the 119
costs of ~~peace officer basic~~ continuing professional training 120
programs, ~~advanced peace officer training programs, basic jailer 121
training programs, and firearms requalification training programs 122~~
that are successfully completed by the ~~sheriff, constable, or 123
chief or a peace officer under the sheriff's, constable's, or 124
chief's supervision. The superintendent of the state highway 125
patrol and the director of natural resources may apply each fiscal 126
year to the peace officer training commission for reimbursement 127
for the costs of peace officer basic training programs, advanced 128
peace officer training programs, and basic jailer training 129
programs successfully completed by the superintendent or director 130
or the peace officers under the superintendent's or director's 131
supervision. The chief of the adult parole authority and each 132
chief probation officer of a county probation department, 133
multicounty probation department, or municipal court department of 134
probation may apply each fiscal year to the peace officer training 135
commission for reimbursement for the costs of basic firearm 136
training programs and firearms requalification programs 137
successfully completed by that chief or by parole or probation 138
officers under the chief's supervision~~ appointing authority's 139
peace officers or troopers. Each application shall be made in 140
accordance with, on an application form prescribed in, and be 141
supported by the documentation required by, the rules adopted by 142
the attorney general pursuant to division (B) of this section. 143~~

~~(D)~~(E)(1) The Ohio peace officer training commission, in 144
accordance with rules of the attorney general adopted under 145

division (B) of this section, shall review each application for 146
reimbursement made under division (D) of this section to determine 147
if the applicant is entitled to reimbursement for the training 148
programs for which the applicant seeks reimbursement. Except as 149
provided in division (E)(2) of this section, a public appointing 150
authority that applies under division (D) of this section for 151
reimbursement is entitled to reimbursement only if all of the 152
appointing authority's peace officers or troopers comply with the 153
continuing professional training requirement specified in division 154
(A)(1) of section 109.803 of the Revised Code by completing the 155
minimum number of hours of training directed by the Ohio peace 156
officer training commission under that division and with the other 157
requirements described in that division. 158

(2) If a public appointing authority applies under division 159
(D) of this section for reimbursement, if one or more of its peace 160
officers or troopers have not complied with the continuing 161
professional training requirement specified in division (A)(1) of 162
section 109.803 of the Revised Code by completing the minimum 163
number of hours of training directed by the Ohio peace officer 164
training commission under that division, and if the executive 165
director of the commission granted pursuant to division (A)(2) of 166
section 109.803 of the Revised Code an extension of the time 167
within which each of those peace officers or troopers who have not 168
complied with the continuing professional training requirement 169
must comply with that requirement, notwithstanding division (E)(1) 170
of this section, both of the following apply: 171

(a) If each peace officer or trooper of the public appointing 172
authority for whom the executive director of the commission did 173
not grant an extension pursuant to division (A)(2) of section 174
109.803 of the Revised Code has complied with the continuing 175
professional training requirement and with the other requirements 176
described in division (A)(1) of section 109.803 of the Revised 177

Code, the public appointing authority is entitled to reimbursement for the training programs completed by all of its peace officers or troopers who have so complied with the continuing professional training requirement and the other specified requirements.

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(b) If a peace officer or trooper of the public appointing authority for whom the executive director of the commission granted an extension pursuant to division (A)(2) of section 109.803 of the Revised Code complies prior to the date on which the extension ends with the continuing professional training requirement, and if the peace officer or trooper also has complied with the other requirements described in division (A)(1) of section 109.803 of the Revised Code, the public appointing authority is entitled to reimbursement for the training programs completed by that peace officer or trooper. An application for reimbursement of the type described in this division shall be made in accordance with rules adopted by the attorney general pursuant to division (B) of section 109.802 of the Revised Code.

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(3) If a public appointing authority that applies under division (D) of this section for reimbursement is entitled to reimbursement under division (E)(1) or (2) of this section for each peace officer and trooper who successfully completes a training program, the commission shall approve reimbursing the appointing authority for the cost of that program. The actual amount of reimbursement for each authorized training program shall be determined by rules adopted by the attorney general under division (B) of this section.

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If the public appointing authority is entitled to reimbursement under division (E)(2)(a) of this section, payment of the reimbursement shall not be withheld during the period of the extension granted to the other peace officers or troopers of the authority pursuant to division (A)(2) of section 109.803 of the Revised Code, pending their compliance with the requirement. If

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the public appointing authority is entitled to reimbursement under
division (E)(2)(a) of this section and if one or more of its peace
officers or troopers who were granted an extension pursuant to
division (A)(2) of section 109.803 of the Revised Code fails to
complete prior to the date on which the extension ends the
required minimum number of hours of continuing professional
training set by the commission under division (A)(1) of section
109.803 of the Revised Code, the failure does not affect the
reimbursement made to the public appointing authority, and the
public appointing authority is not required to return the
reimbursement or any portion of it.

(F) Each public appointing authority that receives funds
under this section shall keep those funds separate from any other
funds of the appointing authority and shall use those funds only
for paying the cost of continuing professional training programs.

(G) As used in this section and section 109.803 of the
Revised Code:

(1) "Peace officer" ~~includes a sheriff, deputy sheriff,~~
~~marshal, deputy marshal, chief of police and member of a municipal~~
~~or township police department, chief of police and member of a~~
~~township police district police force, chief of police of a~~
~~university or college police department, state university law~~
~~enforcement officer appointed under section 3345.04 of the Revised~~
~~Code, superintendent of the state highway patrol, state highway~~
~~patrol trooper, and employee of the department of natural~~
~~resources who is a natural resources law enforcement staff~~
~~officer, park officer, forest officer, preserve officer, wildlife~~
~~officer, or state watercraft officer~~ has the same meaning as in
section 109.71 of the Revised Code.

(2) ~~"Chief of police of an organized municipal police~~
~~department" includes the chief of police of a village police~~

department. 241

~~(3) "Chief of police of a village police department" means~~ 242
~~the village marshal.~~ 243

~~(4) "Chief of police of a university or college police~~ 244
~~department" means the person who has direct supervisory authority~~ 245
~~over the state university law enforcement officers who are~~ 246
~~appointed for the university or college pursuant to section~~ 247
~~3345.04 of the Revised Code by the board of trustees of the~~ 248
~~university or college "Trooper" means an individual appointed as a~~ 249
~~state highway patrol trooper under section 5503.01 of the Revised~~ 250
~~Code.~~ 251

(3) "Appointing authority" means any agency or entity that 252
appoints a peace officer or trooper. 253

Sec. 109.803. (A)(1) Subject to division (A)(2) of this 254
section, every appointing authority shall require each of its 255
appointed peace officers and troopers to complete up to 256
twenty-four hours of continuing professional training each 257
calendar year, as directed by the Ohio peace officer training 258
commission. The number of hours directed by the commission, up to 259
twenty-four hours, is intended to be a minimum requirement, and 260
appointing authorities are encouraged to exceed the number of 261
hours the commission directs as the minimum. The commission shall 262
set the required minimum number of hours based upon available 263
funding for reimbursement as described in this division. If no 264
funding for the reimbursement is available, no continuing 265
professional training will be required. 266

(2) An appointing authority may submit a written request to 267
the peace officer training commission that requests for a calendar 268
year because of emergency circumstances an extension of the time 269
within which one or more of its appointed peace officers or 270
troopers must complete the required minimum number of hours of 271

continuing professional training set by the commission, as
described in division (A)(1) of this section. A request made under
this division shall set forth the name of each of the appointing
authority's peace officers or troopers for whom an extension is
requested, identify the emergency circumstances related to that
peace officer or trooper, include documentation of those emergency
circumstances, and set forth the date on which the request is
submitted to the commission. A request shall be made under this
division not later than the fifteenth day of December in the
calendar year for which the extension is requested.

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Upon receipt of a written request made under this division,
the executive director of the commission shall review the request
and the submitted documentation. If the executive director of the
commission is satisfied that emergency circumstances exist for any
peace officer or trooper for whom a request was made under this
division, the executive director may approve the request for that
peace officer or trooper and grant an extension of the time within
which that peace officer or trooper must complete the required
minimum number of hours of continuing professional training set by
the commission. An extension granted under this division may be
for any period of time the executive director believes to be
appropriate, and the executive director shall specify in the
notice granting the extension the date on which the extension
ends. Not later than thirty days after the date on which a request
is submitted to the commission, for each peace officer and trooper
for whom an extension is requested, the executive director either
shall approve the request and grant an extension or deny the
request and deny an extension and shall send to the appointing
authority that submitted the request written notice of the
executive director's decision.

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If the executive director grants an extension of the time
within which a particular appointed peace officer or trooper of an

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appointing authority must complete the required minimum number of
hours of continuing professional training set by the commission,
the appointing authority shall require that peace officer or
trooper to complete the required minimum number of hours of
training not later than the date on which the extension ends.

(3)(a) If a public appointing authority complies with the
training requirement specified in division (A)(1) of this section
by requiring each of its appointed peace officers and troopers to
complete the number of hours of training the commission directs as
the minimum and with division (B) of section 109.761 of the
Revised Code and if the appointed peace officers and troopers of
the public appointing authority comply with section 109.801 of the
Revised Code to the extent that they are subject to that section
and comply with all other training mandated by the general
assembly or the attorney general, the attorney general shall
reimburse the public appointing authority for the successful
training costs of each of its appointed peace officers and
troopers as provided in section 109.802 of the Revised Code.

(b) If the executive director of the Ohio peace officer
training commission grants pursuant to division (A)(2) of this
section an extension of the time within which one or more
appointed peace officers or troopers of a public appointing
authority must complete the required minimum number of hours of
continuing professional training set by the commission, and if the
criteria set forth in division (A)(3)(a) of this section are
satisfied regarding each appointed peace officer or trooper of the
public appointing authority for whom such an extension was not
granted, the attorney general shall reimburse the public
appointing authority for the successful training costs of each of
its appointed peace officers and troopers for whom such an
extension was not granted, as provided in section 109.802 of the
Revised Code.

If an appointed peace officer or trooper of a public 336
appointing authority for whom the executive director granted such 337
an extension completes prior to the date on which the extension 338
ends the number of hours of training the commission directs as the 339
minimum, if the officer or trooper also has complied with section 340
109.801 of the Revised Code to the extent that the officer or 341
trooper is subject to that section and has complied with all other 342
training mandated by the general assembly or the attorney general, 343
and if the public appointing authority has complied with division 344
(B) of section 109.761 of the Revised Code, the attorney general 345
shall reimburse the public appointing authority for the successful 346
training costs of that peace officer or trooper as provided in 347
section 109.802 of the Revised Code. 348

(B)(1) Subject to division (B)(2) of this section, no 349
appointed peace officer or trooper of an appointing authority who 350
fails to complete in any calendar year the required hours of 351
continuing professional training the Ohio peace officer training 352
commission directs pursuant to division (A) of this section as the 353
minimum number of hours or who fails to comply with section 354
109.801 of the Revised Code or any other required training shall 355
carry a firearm during the course of official duties or perform 356
the functions of a peace officer or trooper until evidence of the 357
peace officer's or trooper's compliance with those requirements is 358
filed with the executive director of the Ohio peace officer 359
training commission. 360

(2) If the executive director of the Ohio peace officer 361
training commission grants pursuant to division (A)(2) of this 362
section an extension of the time within which an appointed peace 363
officer or trooper of an appointing authority must complete the 364
required minimum number of hours of continuing professional 365
training set by the commission, during the period of the extension 366
division (B)(1) of this section does not apply to a peace officer 367

or trooper for whom such an extension was granted, provided that
peace officer or trooper has complied with section 109.801 of the
Revised Code to the extent that the officer or trooper is subject
to that section and has complied with all other required training.
If a peace officer or trooper of an appointing authority for whom
such an extension was granted fails to complete prior to the date
on which the extension ends the required minimum number of hours
of continuing professional training set by the commission,
division (B)(1) of this section applies to that officer or trooper
after the date on which the extension ends.

(C) With the advice of the Ohio peace officer training
commission, the attorney general shall adopt in accordance with
Chapter 119. of the Revised Code rules setting forth minimum
standards for continuing professional training for peace officers
and troopers and governing the administration of continuing
professional training programs for peace officers and troopers.
The attorney general shall transmit a certified copy of any rule
adopted under this section to the secretary of state.

Sec. 2921.51. (A) As used in this section:

(1) "Peace officer" means a sheriff, deputy sheriff, marshal,
deputy marshal, member of the organized police department of a
municipal corporation, or township constable, who is employed by a
political subdivision of this state, a member of a police force
employed by a metropolitan housing authority under division (D) of
section 3735.31 of the Revised Code, a member of a police force
employed by a regional transit authority under division (Y) of
section 306.35 of the Revised Code, a state university law
enforcement officer appointed under section 3345.04 of the Revised
Code, a veterans' home police officer appointed under section
5907.02 of the Revised Code, a special police officer employed by
a port authority under section 4582.04 or 4582.28 of the Revised

Code, or a state highway patrol trooper and whose primary duties
are to preserve the peace, to protect life and property, and to
enforce the laws, ordinances, or rules of the state or any of its
political subdivisions.

(2) "Private police officer" means any security guard,
special police officer, private detective, or other person who is
privately employed in a police capacity.

(3) "Impersonate" means to act the part of, assume the
identity of, wear the uniform or any part of the uniform of, or
display the identification of a particular person or of a member
of a class of persons with purpose to make another person believe
that the actor is that particular person or is a member of that
class of persons.

(4) "Investigator of the bureau of criminal identification
and investigation" has the same meaning as in section 2903.11 of
the Revised Code.

(B) No person shall impersonate a peace officer ~~or a~~ private
police officer, or investigator of the bureau of criminal
identification and investigation.

(C) No person, by impersonating a peace officer ~~or a~~ private
police officer, or investigator of the bureau of criminal
identification and investigation, shall arrest or detain any
person, search any person, or search the property of any person.

(D) No person, with purpose to commit or facilitate the
commission of an offense, shall impersonate a peace officer, a
private police officer, ~~or an~~ officer, agent, or employee of the
state, or investigator of the bureau of criminal identification
and investigation.

(E) No person shall commit a felony while impersonating a
peace officer, a private police officer, ~~or an~~ officer, agent, or

employee of the state, or investigator of the bureau of criminal 429
identification and investigation. 430

(F) It is an affirmative defense to a charge under division 431
(B) of this section that the impersonation of the peace officer, 432
private police officer, or investigator of the bureau of criminal 433
identification and investigation was for a lawful purpose. 434

(G) Whoever violates division (B) of this section is guilty 435
of a misdemeanor of the fourth degree. Whoever violates division 436
(C) or (D) of this section is guilty of a misdemeanor of the first 437
degree. If the purpose of a violation of division (D) of this 438
section is to commit or facilitate the commission of a felony, a 439
violation of division (D) is a felony of the fourth degree. 440
Whoever violates division (E) of this section is guilty of a 441
felony of the third degree. 442

Sec. 2929.13. (A) Except as provided in division (E), (F), or 443
(G) of this section and unless a specific sanction is required to 444
be imposed or is precluded from being imposed pursuant to law, a 445
court that imposes a sentence upon an offender for a felony may 446
impose any sanction or combination of sanctions on the offender 447
that are provided in sections 2929.14 to 2929.18 of the Revised 448
Code. The sentence shall not impose an unnecessary burden on state 449
or local government resources. 450

If the offender is eligible to be sentenced to community 451
control sanctions, the court shall consider the appropriateness of 452
imposing a financial sanction pursuant to section 2929.18 of the 453
Revised Code or a sanction of community service pursuant to 454
section 2929.17 of the Revised Code as the sole sanction for the 455
offense. Except as otherwise provided in this division, if the 456
court is required to impose a mandatory prison term for the 457
offense for which sentence is being imposed, the court also may 458
impose a financial sanction pursuant to section 2929.18 of the 459

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
fourth or fifth degree, the sentencing court shall determine
whether any of the following apply:

(a) In committing the offense, the offender caused physical

harm to a person. 491

(b) In committing the offense, the offender attempted to 492
cause or made an actual threat of physical harm to a person with a 493
deadly weapon. 494

(c) In committing the offense, the offender attempted to 495
cause or made an actual threat of physical harm to a person, and 496
the offender previously was convicted of an offense that caused 497
physical harm to a person. 498

(d) The offender held a public office or position of trust 499
and the offense related to that office or position; the offender's 500
position obliged the offender to prevent the offense or to bring 501
those committing it to justice; or the offender's professional 502
reputation or position facilitated the offense or was likely to 503
influence the future conduct of others. 504

(e) The offender committed the offense for hire or as part of 505
an organized criminal activity. 506

(f) The offense is a sex offense that is a fourth or fifth 507
degree felony violation of section 2907.03, 2907.04, 2907.05, 508
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 509
Revised Code. 510

(g) The offender at the time of the offense was serving, or 511
the offender previously had served, a prison term. 512

(h) The offender committed the offense while under a 513
community control sanction, while on probation, or while released 514
from custody on a bond or personal recognizance. 515

(i) The offender committed the offense while in possession of 516
a firearm. 517

(2)(a) If the court makes a finding described in division 518
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 519
section and if the court, after considering the factors set forth 520

in section 2929.12 of the Revised Code, finds that a prison term
is consistent with the purposes and principles of sentencing set
forth in section 2929.11 of the Revised Code and finds that the
offender is not amenable to an available community control
sanction, the court shall impose a prison term upon the offender.

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

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

(D)(1) Except as provided in division (E) or (F) of this
section, for a felony of the first or second degree, for a felony
drug offense that is a violation of any provision of Chapter
2925., 3719., or 4729. of the Revised Code for which a presumption
in favor of a prison term is specified as being applicable, and
for a violation of division (A)(4) of section 2907.05 of the
Revised Code for which a presumption in favor of a prison term is
specified as being applicable, it is presumed that a prison term
is necessary in order to comply with the purposes and principles

of sentencing under section 2929.11 of the Revised Code. Division 553
(D)(2) of this section does not apply to a presumption established 554
under this division for a violation of division (A)(4) of section 555
2907.05 of the Revised Code. 556

(2) Notwithstanding the presumption established under 557
division (D)(1) of this section for the offenses listed in that 558
division other than a violation of division (A)(4) of section 559
2907.05 of the Revised Code, the sentencing court may impose a 560
community control sanction or a combination of community control 561
sanctions instead of a prison term on an offender for a felony of 562
the first or second degree or for a felony drug offense that is a 563
violation of any provision of Chapter 2925., 3719., or 4729. of 564
the Revised Code for which a presumption in favor of a prison term 565
is specified as being applicable if it makes both of the following 566
findings: 567

(a) A community control sanction or a combination of 568
community control sanctions would adequately punish the offender 569
and protect the public from future crime, because the applicable 570
factors under section 2929.12 of the Revised Code indicating a 571
lesser likelihood of recidivism outweigh the applicable factors 572
under that section indicating a greater likelihood of recidivism. 573

(b) A community control sanction or a combination of 574
community control sanctions would not demean the seriousness of 575
the offense, because one or more factors under section 2929.12 of 576
the Revised Code that indicate that the offender's conduct was 577
less serious than conduct normally constituting the offense are 578
applicable, and they outweigh the applicable factors under that 579
section that indicate that the offender's conduct was more serious 580
than conduct normally constituting the offense. 581

(E)(1) Except as provided in division (F) of this section, 582
for any drug offense that is a violation of any provision of 583

Chapter 2925. of the Revised Code and that is a felony of the 584
third, fourth, or fifth degree, the applicability of a presumption 585
under division (D) of this section in favor of a prison term or of 586
division (B) or (C) of this section in determining whether to 587
impose a prison term for the offense shall be determined as 588
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 589
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 590
Revised Code, whichever is applicable regarding the violation. 591

(2) If an offender who was convicted of or pleaded guilty to 592
a felony violates the conditions of a community control sanction 593
imposed for the offense solely by reason of producing positive 594
results on a drug test, the court, as punishment for the violation 595
of the sanction, shall not order that the offender be imprisoned 596
unless the court determines on the record either of the following: 597

(a) The offender had been ordered as a sanction for the 598
felony to participate in a drug treatment program, in a drug 599
education program, or in narcotics anonymous or a similar program, 600
and the offender continued to use illegal drugs after a reasonable 601
period of participation in the program. 602

(b) The imprisonment of the offender for the violation is 603
consistent with the purposes and principles of sentencing set 604
forth in section 2929.11 of the Revised Code. 605

(F) Notwithstanding divisions (A) to (E) of this section, the 606
court shall impose a prison term or terms under sections 2929.02 607
to 2929.06, section 2929.14, or section 2971.03 of the Revised 608
Code and except as specifically provided in section 2929.20 or 609
2967.191 of the Revised Code or when parole is authorized for the 610
offense under section 2967.13 of the Revised Code shall not reduce 611
the terms pursuant to section 2929.20, section 2967.193, or any 612
other provision of Chapter 2967. or Chapter 5120. of the Revised 613
Code for any of the following offenses: 614

(1) Aggravated murder when death is not imposed or murder; 615

(2) Any rape, regardless of whether force was involved and 616
regardless of the age of the victim, or an attempt to commit rape 617
if, had the offender completed the rape that was attempted, the 618
offender would have been subject to a sentence of life 619
imprisonment or life imprisonment without parole for the rape; 620

(3) Gross sexual imposition or sexual battery, if the victim 621
is under thirteen years of age and if any of the following 622
applies: 623

(a) Regarding gross sexual imposition, the offender 624
previously was convicted of or pleaded guilty to rape, the former 625
offense of felonious sexual penetration, gross sexual imposition, 626
or sexual battery, and the victim of the previous offense was 627
under thirteen years of age; 628

(b) Regarding gross sexual imposition, the offense was 629
committed on or after ~~the effective date of this amendment~~ August 630
3, 2006, and evidence other than the testimony of the victim was 631
admitted in the case corroborating the violation. 632

(c) Regarding sexual battery, either of the following 633
applies: 634

(i) The offense was committed prior to ~~the effective date of~~ 635
~~this amendment~~ August 3, 2006, the offender previously was 636
convicted of or pleaded guilty to rape, the former offense of 637
felonious sexual penetration, or sexual battery, and the victim of 638
the previous offense was under thirteen years of age. 639

(ii) The offense was committed on or after ~~the effective date~~ 640
~~of this amendment~~ August 3, 2006. 641

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 642
2903.11, 2903.12, or 2903.13 of the Revised Code if the section 643
requires the imposition of a prison term; 644

(5) A first, second, or third degree felony drug offense for 645
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 646
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 647
4729.99 of the Revised Code, whichever is applicable regarding the 648
violation, requires the imposition of a mandatory prison term; 649

(6) Any offense that is a first or second degree felony and 650
that is not set forth in division (F)(1), (2), (3), or (4) of this 651
section, if the offender previously was convicted of or pleaded 652
guilty to aggravated murder, murder, any first or second degree 653
felony, or an offense under an existing or former law of this 654
state, another state, or the United States that is or was 655
substantially equivalent to one of those offenses; 656

(7) Any offense that is a third degree felony and either is a 657
violation of section 2903.04 of the Revised Code or an attempt to 658
commit a felony of the second degree that is an offense of 659
violence and involved an attempt to cause serious physical harm to 660
a person or that resulted in serious physical harm to a person if 661
the offender previously was convicted of or pleaded guilty to any 662
of the following offenses: 663

(a) Aggravated murder, murder, involuntary manslaughter, 664
rape, felonious sexual penetration as it existed under section 665
2907.12 of the Revised Code prior to September 3, 1996, a felony 666
of the first or second degree that resulted in the death of a 667
person or in physical harm to a person, or complicity in or an 668
attempt to commit any of those offenses; 669

(b) An offense under an existing or former law of this state, 670
another state, or the United States that is or was substantially 671
equivalent to an offense listed in division (F)(7)(a) of this 672
section that resulted in the death of a person or in physical harm 673
to a person. 674

(8) Any offense, other than a violation of section 2923.12 of 675

the Revised Code, that is a felony, if the offender had a firearm 676
on or about the offender's person or under the offender's control 677
while committing the felony, with respect to a portion of the 678
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 679
of the Revised Code for having the firearm; 680

(9) Any offense of violence that is a felony, if the offender 681
wore or carried body armor while committing the felony offense of 682
violence, with respect to the portion of the sentence imposed 683
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 684
Code for wearing or carrying the body armor; 685

(10) Corrupt activity in violation of section 2923.32 of the 686
Revised Code when the most serious offense in the pattern of 687
corrupt activity that is the basis of the offense is a felony of 688
the first degree; 689

(11) Any violent sex offense or designated homicide, assault, 690
or kidnapping offense if, in relation to that offense, the 691
offender is adjudicated a sexually violent predator; 692

(12) A violation of division (A)(1) or (2) of section 2921.36 693
of the Revised Code, or a violation of division (C) of that 694
section involving an item listed in division (A)(1) or (2) of that 695
section, if the offender is an officer or employee of the 696
department of rehabilitation and correction; 697

(13) A violation of division (A)(1) or (2) of section 2903.06 698
of the Revised Code if the victim of the offense is a peace 699
officer, as defined in section 2935.01 of the Revised Code, or an 700
investigator of the bureau of criminal identification and 701
investigation, as defined in section 2903.11 of the Revised Code, 702
with respect to the portion of the sentence imposed pursuant to 703
division (D)(5) of section 2929.14 of the Revised Code; 704

(14) A violation of division (A)(1) or (2) of section 2903.06 705
of the Revised Code if the offender has been convicted of or 706

pleaded guilty to three or more violations of division (A) or (B) 707
of section 4511.19 of the Revised Code or an equivalent offense, 708
as defined in section 2941.1415 of the Revised Code, or three or 709
more violations of any combination of those divisions and 710
offenses, with respect to the portion of the sentence imposed 711
pursuant to division (D)(6) of section 2929.14 of the Revised 712
Code. 713

(G) Notwithstanding divisions (A) to (E) of this section, if 714
an offender is being sentenced for a fourth degree felony OVI 715
offense or for a third degree felony OVI offense, the court shall 716
impose upon the offender a mandatory term of local incarceration 717
or a mandatory prison term in accordance with the following: 718

(1) If the offender is being sentenced for a fourth degree 719
felony OVI offense and if the offender has not been convicted of 720
and has not pleaded guilty to a specification of the type 721
described in section 2941.1413 of the Revised Code, the court may 722
impose upon the offender a mandatory term of local incarceration 723
of sixty days or one hundred twenty days as specified in division 724
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 725
not reduce the term pursuant to section 2929.20, 2967.193, or any 726
other provision of the Revised Code. The court that imposes a 727
mandatory term of local incarceration under this division shall 728
specify whether the term is to be served in a jail, a 729
community-based correctional facility, a halfway house, or an 730
alternative residential facility, and the offender shall serve the 731
term in the type of facility specified by the court. A mandatory 732
term of local incarceration imposed under division (G)(1) of this 733
section is not subject to extension under section 2967.11 of the 734
Revised Code, to a period of post-release control under section 735
2967.28 of the Revised Code, or to any other Revised Code 736
provision that pertains to a prison term except as provided in 737
division (A)(1) of this section. 738

(2) If the offender is being sentenced for a third degree 739
felony OVI offense, or if the offender is being sentenced for a 740
fourth degree felony OVI offense and the court does not impose a 741
mandatory term of local incarceration under division (G)(1) of 742
this section, the court shall impose upon the offender a mandatory 743
prison term of one, two, three, four, or five years if the 744
offender also is convicted of or also pleads guilty to a 745
specification of the type described in section 2941.1413 of the 746
Revised Code or shall impose upon the offender a mandatory prison 747
term of sixty days or one hundred twenty days as specified in 748
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 749
if the offender has not been convicted of and has not pleaded 750
guilty to a specification of that type. The court shall not reduce 751
the term pursuant to section 2929.20, 2967.193, or any other 752
provision of the Revised Code. The offender shall serve the one-, 753
two-, three-, four-, or five-year mandatory prison term 754
consecutively to and prior to the prison term imposed for the 755
underlying offense and consecutively to any other mandatory prison 756
term imposed in relation to the offense. In no case shall an 757
offender who once has been sentenced to a mandatory term of local 758
incarceration pursuant to division (G)(1) of this section for a 759
fourth degree felony OVI offense be sentenced to another mandatory 760
term of local incarceration under that division for any violation 761
of division (A) of section 4511.19 of the Revised Code. In 762
addition to the mandatory prison term described in division (G)(2) 763
of this section, the court may sentence the offender to a 764
community control sanction under section 2929.16 or 2929.17 of the 765
Revised Code, but the offender shall serve the prison term prior 766
to serving the community control sanction. The department of 767
rehabilitation and correction may place an offender sentenced to a 768
mandatory prison term under this division in an intensive program 769
prison established pursuant to section 5120.033 of the Revised 770
Code if the department gave the sentencing judge prior notice of 771

its intent to place the offender in an intensive program prison
established under that section and if the judge did not notify the
department that the judge disapproved the placement. Upon the
establishment of the initial intensive program prison pursuant to
section 5120.033 of the Revised Code that is privately operated
and managed by a contractor pursuant to a contract entered into
under section 9.06 of the Revised Code, both of the following
apply:

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

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

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

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

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

(I) If an offender is being sentenced for a sexually oriented

offense that is not a registration-exempt sexually oriented 803
offense or for a child-victim oriented offense committed on or 804
after January 1, 1997, the judge shall include in the sentence a 805
summary of the offender's duties imposed under sections 2950.04, 806
2950.041, 2950.05, and 2950.06 of the Revised Code and the 807
duration of the duties. The judge shall inform the offender, at 808
the time of sentencing, of those duties and of their duration and, 809
if required under division (A)(2) of section 2950.03 of the 810
Revised Code, shall perform the duties specified in that section. 811

(J)(1) Except as provided in division (J)(2) of this section, 812
when considering sentencing factors under this section in relation 813
to an offender who is convicted of or pleads guilty to an attempt 814
to commit an offense in violation of section 2923.02 of the 815
Revised Code, the sentencing court shall consider the factors 816
applicable to the felony category of the violation of section 817
2923.02 of the Revised Code instead of the factors applicable to 818
the felony category of the offense attempted. 819

(2) When considering sentencing factors under this section in 820
relation to an offender who is convicted of or pleads guilty to an 821
attempt to commit a drug abuse offense for which the penalty is 822
determined by the amount or number of unit doses of the controlled 823
substance involved in the drug abuse offense, the sentencing court 824
shall consider the factors applicable to the felony category that 825
the drug abuse offense attempted would be if that drug abuse 826
offense had been committed and had involved an amount or number of 827
unit doses of the controlled substance that is within the next 828
lower range of controlled substance amounts than was involved in 829
the attempt. 830

(K) As used in this section, "drug abuse offense" has the 831
same meaning as in section 2925.01 of the Revised Code. 832

(L) At the time of sentencing an offender who is a sexual 833

predator for any sexually oriented offense, if the offender does
not serve a prison term or jail term, the court may require that
the offender be monitored by means of a global positioning device.
If the court requires such monitoring, the cost of monitoring
shall be borne by the offender. If the offender is indigent, the
cost of compliance shall be paid by the crime victims reparations
fund.

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

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

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

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

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

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

(B) Except as provided in division (C), (D)(1), (D)(2),
(D)(3), (D)(5), (D)(6), or (G) of this section, in section 2907.02
or 2907.05 of the Revised Code, or in Chapter 2925. of the Revised
Code, if the court imposing a sentence upon an offender for a

felony elects or is required to impose a prison term on the
offender, the court shall impose the shortest prison term
authorized for the offense pursuant to division (A) of this
section, unless one or more of the following applies:

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

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

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

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

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

(ii) A prison term of three years if the specification is of 895
the type described in section 2941.145 of the Revised Code that 896
charges the offender with having a firearm on or about the 897
offender's person or under the offender's control while committing 898
the offense and displaying the firearm, brandishing the firearm, 899
indicating that the offender possessed the firearm, or using it to 900
facilitate the offense; 901

(iii) A prison term of one year if the specification is of 902
the type described in section 2941.141 of the Revised Code that 903
charges the offender with having a firearm on or about the 904
offender's person or under the offender's control while committing 905
the felony. 906

(b) If a court imposes a prison term on an offender under 907
division (D)(1)(a) of this section, the prison term shall not be 908
reduced pursuant to section 2929.20, section 2967.193, or any 909
other provision of Chapter 2967. or Chapter 5120. of the Revised 910
Code. A court shall not impose more than one prison term on an 911
offender under division (D)(1)(a) of this section for felonies 912
committed as part of the same act or transaction. 913

(c) Except as provided in division (D)(1)(e) of this section, 914
if an offender who is convicted of or pleads guilty to a violation 915
of section 2923.161 of the Revised Code or to a felony that 916
includes, as an essential element, purposely or knowingly causing 917
or attempting to cause the death of or physical harm to another, 918
also is convicted of or pleads guilty to a specification of the 919
type described in section 2941.146 of the Revised Code that 920
charges the offender with committing the offense by discharging a 921
firearm from a motor vehicle other than a manufactured home, the 922
court, after imposing a prison term on the offender for the 923
violation of section 2923.161 of the Revised Code or for the other 924
felony offense under division (A), (D)(2), or (D)(3) of this 925
section, shall impose an additional prison term of five years upon 926

the offender that shall not be reduced pursuant to section 927
2929.20, section 2967.193, or any other provision of Chapter 2967. 928
or Chapter 5120. of the Revised Code. A court shall not impose 929
more than one additional prison term on an offender under division 930
(D)(1)(c) of this section for felonies committed as part of the 931
same act or transaction. If a court imposes an additional prison 932
term on an offender under division (D)(1)(c) of this section 933
relative to an offense, the court also shall impose a prison term 934
under division (D)(1)(a) of this section relative to the same 935
offense, provided the criteria specified in that division for 936
imposing an additional prison term are satisfied relative to the 937
offender and the offense. 938

(d) If an offender who is convicted of or pleads guilty to an 939
offense of violence that is a felony also is convicted of or 940
pleads guilty to a specification of the type described in section 941
2941.1411 of the Revised Code that charges the offender with 942
wearing or carrying body armor while committing the felony offense 943
of violence, the court shall impose on the offender a prison term 944
of two years. The prison term so imposed shall not be reduced 945
pursuant to section 2929.20, section 2967.193, or any other 946
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 947
court shall not impose more than one prison term on an offender 948
under division (D)(1)(d) of this section for felonies committed as 949
part of the same act or transaction. If a court imposes an 950
additional prison term under division (D)(1)(a) or (c) of this 951
section, the court is not precluded from imposing an additional 952
prison term under division (D)(1)(d) of this section. 953

(e) The court shall not impose any of the prison terms 954
described in division (D)(1)(a) of this section or any of the 955
additional prison terms described in division (D)(1)(c) of this 956
section upon an offender for a violation of section 2923.12 or 957
2923.123 of the Revised Code. The court shall not impose any of 958

the prison terms described in division (D)(1)(a) of this section 959
or any of the additional prison terms described in division 960
(D)(1)(c) of this section upon an offender for a violation of 961
section 2923.13 of the Revised Code unless all of the following 962
apply: 963

(i) The offender previously has been convicted of aggravated 964
murder, murder, or any felony of the first or second degree. 965

(ii) Less than five years have passed since the offender was 966
released from prison or post-release control, whichever is later, 967
for the prior offense. 968

(f) If an offender is convicted of or pleads guilty to a 969
felony that includes, as an essential element, causing or 970
attempting to cause the death of or physical harm to another and 971
also is convicted of or pleads guilty to a specification of the 972
type described in section 2941.1412 of the Revised Code that 973
charges the offender with committing the offense by discharging a 974
firearm at a peace officer as defined in section 2935.01 of the 975
Revised Code or a corrections officer, as defined in section 976
2941.1412 of the Revised Code, the court, after imposing a prison 977
term on the offender for the felony offense under division (A), 978
(D)(2), or (D)(3) of this section, shall impose an additional 979
prison term of seven years upon the offender that shall not be 980
reduced pursuant to section 2929.20, section 2967.193, or any 981
other provision of Chapter 2967. or Chapter 5120. of the Revised 982
Code. A court shall not impose more than one additional prison 983
term on an offender under division (D)(1)(f) of this section for 984
felonies committed as part of the same act or transaction. If a 985
court imposes an additional prison term on an offender under 986
division (D)(1)(f) of this section relative to an offense, the 987
court shall not impose a prison term under division (D)(1)(a) or 988
(c) of this section relative to the same offense. 989

(2)(a) If division (D)(2)(b) of this section does not apply, 990
the court may impose on an offender, in addition to the longest 991
prison term authorized or required for the offense, an additional 992
definite prison term of one, two, three, four, five, six, seven, 993
eight, nine, or ten years if all of the following criteria are 994
met: 995

(i) The offender is convicted of or pleads guilty to a 996
specification of the type described in section 2941.149 of the 997
Revised Code that the offender is a repeat violent offender. 998

(ii) The offense of which the offender currently is convicted 999
or to which the offender currently pleads guilty is aggravated 1000
murder and the court does not impose a sentence of death or life 1001
imprisonment without parole, murder, terrorism and the court does 1002
not impose a sentence of life imprisonment without parole, any 1003
felony of the first degree that is an offense of violence and the 1004
court does not impose a sentence of life imprisonment without 1005
parole, or any felony of the second degree that is an offense of 1006
violence and the trier of fact finds that the offense involved an 1007
attempt to cause or a threat to cause serious physical harm to a 1008
person or resulted in serious physical harm to a person. 1009

(iii) The court imposes the longest prison term for the 1010
offense that is not life imprisonment without parole. 1011

(iv) The court finds that the prison terms imposed pursuant 1012
to division (D)(2)(a)(iii) of this section and, if applicable, 1013
division (D)(1) or (3) of this section are inadequate to punish 1014
the offender and protect the public from future crime, because the 1015
applicable factors under section 2929.12 of the Revised Code 1016
indicating a greater likelihood of recidivism outweigh the 1017
applicable factors under that section indicating a lesser 1018
likelihood of recidivism. 1019

(v) The court finds that the prison terms imposed pursuant to 1020

division (D)(2)(a)(iii) of this section and, if applicable, 1021
division (D)(1) or (3) of this section are demeaning to the 1022
seriousness of the offense, because one or more of the factors 1023
under section 2929.12 of the Revised Code indicating that the 1024
offender's conduct is more serious than conduct normally 1025
constituting the offense are present, and they outweigh the 1026
applicable factors under that section indicating that the 1027
offender's conduct is less serious than conduct normally 1028
constituting the offense. 1029

(b) The court shall impose on an offender the longest prison 1030
term authorized or required for the offense and shall impose on 1031
the offender an additional definite prison term of one, two, 1032
three, four, five, six, seven, eight, nine, or ten years if all of 1033
the following criteria are met: 1034

(i) The offender is convicted of or pleads guilty to a 1035
specification of the type described in section 2941.149 of the 1036
Revised Code that the offender is a repeat violent offender. 1037

(ii) The offender within the preceding twenty years has been 1038
convicted of or pleaded guilty to three or more offenses described 1039
in division (DD)(1) of section 2929.01 of the Revised Code, 1040
including all offenses described in that division of which the 1041
offender is convicted or to which the offender pleads guilty in 1042
the current prosecution and all offenses described in that 1043
division of which the offender previously has been convicted or to 1044
which the offender previously pleaded guilty, whether prosecuted 1045
together or separately. 1046

(iii) The offense or offenses of which the offender currently 1047
is convicted or to which the offender currently pleads guilty is 1048
aggravated murder and the court does not impose a sentence of 1049
death or life imprisonment without parole, murder, terrorism and 1050
the court does not impose a sentence of life imprisonment without 1051

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.

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

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

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

(3)(a) Except when an offender commits a violation of section
2903.01 or 2907.02 of the Revised Code and the penalty imposed for
the violation is life imprisonment or commits a violation of
section 2903.02 of the Revised Code, if the offender commits a
violation of section 2925.03 or 2925.11 of the Revised Code and
that section classifies the offender as a major drug offender and
requires the imposition of a ten-year prison term on the offender,
if the offender commits a felony violation of section 2925.02,
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161,
4729.37, or 4729.61, division (C) or (D) of section 3719.172,
division (C) of section 4729.51, or division (J) of section

4729.54 of the Revised Code that includes the sale, offer to sell, 1083
or possession of a schedule I or II controlled substance, with the 1084
exception of marihuana, and the court imposing sentence upon the 1085
offender finds that the offender is guilty of a specification of 1086
the type described in section 2941.1410 of the Revised Code 1087
charging that the offender is a major drug offender, if the court 1088
imposing sentence upon an offender for a felony finds that the 1089
offender is guilty of corrupt activity with the most serious 1090
offense in the pattern of corrupt activity being a felony of the 1091
first degree, or if the offender is guilty of an attempted 1092
violation of section 2907.02 of the Revised Code and, had the 1093
offender completed the violation of section 2907.02 of the Revised 1094
Code that was attempted, the offender would have been subject to a 1095
sentence of life imprisonment or life imprisonment without parole 1096
for the violation of section 2907.02 of the Revised Code, the 1097
court shall impose upon the offender for the felony violation a 1098
ten-year prison term that cannot be reduced pursuant to section 1099
2929.20 or Chapter 2967. or 5120. of the Revised Code. 1100

(b) The court imposing a prison term on an offender under 1101
division (D)(3)(a) of this section may impose an additional prison 1102
term of one, two, three, four, five, six, seven, eight, nine, or 1103
ten years, if the court, with respect to the term imposed under 1104
division (D)(3)(a) of this section and, if applicable, divisions 1105
(D)(1) and (2) of this section, makes both of the findings set 1106
forth in divisions (D)(2)(a)(iv) and (v) of this section. 1107

(4) If the offender is being sentenced for a third or fourth 1108
degree felony OVI offense under division (G)(2) of section 2929.13 1109
of the Revised Code, the sentencing court shall impose upon the 1110
offender a mandatory prison term in accordance with that division. 1111
In addition to the mandatory prison term, if the offender is being 1112
sentenced for a fourth degree felony OVI offense, the court, 1113
notwithstanding division (A)(4) of this section, may sentence the 1114

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,
or an investigator of the bureau of criminal identification and
investigation, as defined in section 2903.11 of the Revised Code,
the court shall impose on the offender a prison term of five
years. If a court imposes a prison term on an offender under
division (D)(5) of this section, the prison term shall not be
reduced pursuant to section 2929.20, section 2967.193, or any
other provision of Chapter 2967. or Chapter 5120. of the Revised
Code. A court shall not impose more than one prison term on an
offender under division (D)(5) of this section for felonies
committed as part of the same act.

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

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a
mandatory prison term is imposed upon an offender pursuant to
division (D)(1)(a) of this section for having a firearm on or

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

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

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

upon the offender. 1211

(2) If an offender who is an inmate in a jail, prison, or 1212
other residential detention facility violates section 2917.02, 1213
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 1214
who is under detention at a detention facility commits a felony 1215
violation of section 2923.131 of the Revised Code, or if an 1216
offender who is an inmate in a jail, prison, or other residential 1217
detention facility or is under detention at a detention facility 1218
commits another felony while the offender is an escapee in 1219
violation of section 2921.34 of the Revised Code, any prison term 1220
imposed upon the offender for one of those violations shall be 1221
served by the offender consecutively to the prison term or term of 1222
imprisonment the offender was serving when the offender committed 1223
that offense and to any other prison term previously or 1224
subsequently imposed upon the offender. 1225

(3) If a prison term is imposed for a violation of division 1226
(B) of section 2911.01 of the Revised Code, a violation of 1227
division (A) of section 2913.02 of the Revised Code in which the 1228
stolen property is a firearm or dangerous ordnance, or a felony 1229
violation of division (B) of section 2921.331 of the Revised Code, 1230
the offender shall serve that prison term consecutively to any 1231
other prison term or mandatory prison term previously or 1232
subsequently imposed upon the offender. 1233

(4) If multiple prison terms are imposed on an offender for 1234
convictions of multiple offenses, the court may require the 1235
offender to serve the prison terms consecutively if the court 1236
finds that the consecutive service is necessary to protect the 1237
public from future crime or to punish the offender and that 1238
consecutive sentences are not disproportionate to the seriousness 1239
of the offender's conduct and to the danger the offender poses to 1240
the public, and if the court also finds any of the following: 1241

(a) The offender committed one or more of the multiple 1242
offenses while the offender was awaiting trial or sentencing, was 1243
under a sanction imposed pursuant to section 2929.16, 2929.17, or 1244
2929.18 of the Revised Code, or was under post-release control for 1245
a prior offense. 1246

(b) At least two of the multiple offenses were committed as 1247
part of one or more courses of conduct, and the harm caused by two 1248
or more of the multiple offenses so committed was so great or 1249
unusual that no single prison term for any of the offenses 1250
committed as part of any of the courses of conduct adequately 1251
reflects the seriousness of the offender's conduct. 1252

(c) The offender's history of criminal conduct demonstrates 1253
that consecutive sentences are necessary to protect the public 1254
from future crime by the offender. 1255

(5) If a mandatory prison term is imposed upon an offender 1256
pursuant to division (D)(5) or (6) of this section, the offender 1257
shall serve the mandatory prison term consecutively to and prior 1258
to any prison term imposed for the underlying violation of 1259
division (A)(1) or (2) of section 2903.06 of the Revised Code 1260
pursuant to division (A) of this section. If a mandatory prison 1261
term is imposed upon an offender pursuant to division (D)(5) of 1262
this section, and if a mandatory prison term also is imposed upon 1263
the offender pursuant to division (D)(6) of this section in 1264
relation to the same violation, the offender shall serve the 1265
mandatory prison term imposed pursuant to division (D)(5) of this 1266
section consecutively to and prior to the mandatory prison term 1267
imposed pursuant to division (D)(6) of this section and 1268
consecutively to and prior to any prison term imposed for the 1269
underlying violation of division (A)(1) or (2) of section 2903.06 1270
of the Revised Code pursuant to division (A) of this section. 1271

(6) When consecutive prison terms are imposed pursuant to 1272

division (E)(1), (2), (3), (4), or (5) of this section, the term
to be served is the aggregate of all of the terms so imposed.

(F)(1) If a court imposes a prison term for a felony of the
first degree, for a felony of the second degree, for a felony sex
offense, or for a felony of the third degree that is not a felony
sex offense and in the commission of which the offender caused or
threatened to cause physical harm to a person, 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 sentence including a prison term of a type described in this
division on or after ~~the effective date of this amendment~~ July 11,
2006, the failure of a court to include a post-release control
requirement in the sentence pursuant to this division does not
negate, limit, or otherwise affect the mandatory period of
post-release control that is required for the offender under
division (B) of section 2967.28 of the Revised Code. Section
2929.191 of the Revised Code applies if, prior to ~~the effective~~
~~date of this amendment~~ July 11, 2006, a court imposed a sentence
including a prison term of a type described in this division and
failed to include in the sentence pursuant to this division a
statement regarding post-release control.

(2) If a court imposes a prison term for a felony of the
third, fourth, or fifth degree that is not subject to division
(F)(1) of this 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. Section 2929.191 of the Revised Code applies if, prior
to ~~the effective date of this amendment~~ July 11, 2006, a court
imposed a sentence including a prison term of a type described in

this division and failed to include in the sentence pursuant to 1305
this division a statement regarding post-release control. 1306

(G) If a person is convicted of or pleads guilty to a violent 1307
sex offense or a designated homicide, assault, or kidnapping 1308
offense and, in relation to that offense, the offender is 1309
adjudicated a sexually violent predator, the court shall impose 1310
sentence upon the offender in accordance with section 2971.03 of 1311
the Revised Code, and Chapter 2971. of the Revised Code applies 1312
regarding the prison term or term of life imprisonment without 1313
parole imposed upon the offender and the service of that term of 1314
imprisonment. 1315

(H) If a person who has been convicted of or pleaded guilty 1316
to a felony is sentenced to a prison term or term of imprisonment 1317
under this section, sections 2929.02 to 2929.06 of the Revised 1318
Code, section 2971.03 of the Revised Code, or any other provision 1319
of law, section 5120.163 of the Revised Code applies regarding the 1320
person while the person is confined in a state correctional 1321
institution. 1322

(I) If an offender who is convicted of or pleads guilty to a 1323
felony that is an offense of violence also is convicted of or 1324
pleads guilty to a specification of the type described in section 1325
2941.142 of the Revised Code that charges the offender with having 1326
committed the felony while participating in a criminal gang, the 1327
court shall impose upon the offender an additional prison term of 1328
one, two, or three years. 1329

(J) If an offender who is convicted of or pleads guilty to 1330
aggravated murder, murder, or a felony of the first, second, or 1331
third degree that is an offense of violence also is convicted of 1332
or pleads guilty to a specification of the type described in 1333
section 2941.143 of the Revised Code that charges the offender 1334
with having committed the offense in a school safety zone or 1335
towards a person in a school safety zone, the court shall impose 1336

upon the offender an additional prison term of two years. The
offender shall serve the additional two years consecutively to and
prior to the prison term imposed for the underlying offense.

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

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

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

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

If the court does not make a recommendation under this 1368
division with respect to an offender and if the department 1369
determines as specified in section 5120.031 or 5120.032 of the 1370
Revised Code, whichever is applicable, that the offender is 1371
eligible for placement in a program or prison of that nature, the 1372
department shall screen the offender and determine if there is an 1373
available program of shock incarceration or an intensive program 1374
prison for which the offender is suited. If there is an available 1375
program of shock incarceration or an intensive program prison for 1376
which the offender is suited, the department shall notify the 1377
court of the proposed placement of the offender as specified in 1378
section 5120.031 or 5120.032 of the Revised Code and shall include 1379
with the notice a brief description of the placement. The court 1380
shall have ten days from receipt of the notice to disapprove the 1381
placement. 1382

Sec. 2941.1414. (A) Imposition of a five-year mandatory 1383
prison term upon an offender under division (D)(5) of section 1384
2929.14 of the Revised Code is precluded unless the offender is 1385
convicted of or pleads guilty to violating division (A)(1) or (2) 1386
of section 2903.06 of the Revised Code and unless the indictment, 1387
count in the indictment, or information charging the offense 1388
specifies that the victim of the offense is a peace officer or an 1389
investigator of the bureau of criminal identification and 1390
investigation. The specification shall be stated at the end of the 1391
body of the indictment, count, or information and shall be stated 1392
in substantially the following form: 1393

"SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The 1394
Grand Jurors (or insert the person's or the prosecuting attorney's 1395
name when appropriate) further find and specify that (set forth 1396
that the victim of the offense is a peace officer or an 1397
investigator of the bureau of criminal identification and 1398

investigation). " 1399

(B) The specification described in division (A) of this 1400
section may be used in a delinquent child proceeding in the manner 1401
and for the purpose described in section 2152.17 of the Revised 1402
Code. 1403

(C) As used in this section, ~~"peace:~~ 1404

(1) "Peace officer" has the same meaning as in section 1405
2935.01 of the Revised Code. 1406

(2) "Investigator of the bureau of criminal identification
and investigation" has the same meaning as in section 2903.11 of
the Revised Code. 1407
1408
1409

Section 2. That existing sections 109.761, 109.802, 2921.51, 1410
2929.13, 2929.14, and 2941.1414 and section 109.803 of the Revised 1411
Code are hereby repealed. 1412

Section 3. All items in this section are hereby appropriated 1413
as designated out of any moneys in the state treasury to the 1414
credit of the General Services Fund Group. For all appropriations 1415
made in this act, the amounts in the first column are for fiscal 1416
year 2006, and the amounts in the second column are for fiscal 1417
year 2007. The appropriations made in this act are in addition to 1418
any other appropriations made for the 2005-2007 biennium. 1419

AGO ATTORNEY GENERAL 1420

General Services Fund Group 1421

5L5 055-619 Law Enforcement \$ 0 \$ 5,000,000 1422

Assistance Fund

TOTAL GSF General Services Fund \$ 0 \$ 5,000,000 1423
Group

TOTAL ALL BUDGET FUND GROUPS \$ 0 \$ 5,000,000 1424

LAW ENFORCEMENT ASSISTANCE FUND 1425

Notwithstanding section 109.081 of the Revised Code, on the 1426
effective date of this section, or as soon as practicable 1427
thereafter, the Director of Budget and Management shall transfer 1428
\$5,000,000 in cash from the Attorney General Claims Fund (Fund 1429
419) to the Law Enforcement Assistance Fund (Fund 5L5). The 1430
foregoing appropriation item 055-619, Law Enforcement Assistance 1431
Fund, shall be used by the Attorney General pursuant to division 1432
(A) of section 109.802 of the Revised Code. 1433

Section 4. Within the limits set forth in this act, the 1434
Director of Budget and Management shall establish accounts 1435
indicating the source and amount of money for each appropriation 1436
made in this act and shall determine the form and manner in which 1437
appropriation accounts shall be maintained. Expenditures from 1438
appropriations contained in this act shall be accounted for as 1439
though made in Am. Sub. H.B. 66 of the 126th General Assembly. 1440

Section 5. The uncodified sections of law contained in this 1441
act, and the items of law of which the uncodified sections of law 1442
contained in this act are composed, are not subject to the 1443
referendum. Therefore, under Ohio Constitution, Article II, 1444
Section 1d and section 1.471 of the Revised Code, the uncodified 1445
sections of law contained in this act, and the items of law of 1446
which the uncodified sections of law contained in this act are 1447
composed, take effect on the ninety-first day after this act is 1448
filed with the Secretary of State. 1449