

As Reported by the House State Government Committee

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Sub. S. B. No. 281

**Senators Stivers, Padgett, Mumper, Goodman, Austria, Spada, Zurz
Representatives Uecker, Setzer**

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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 Revised Code be enacted to read as follows:

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:

(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;

(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.

(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.

(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.

(C) The Ohio peace officer training commission shall 51
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 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

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Revised Code, pending their compliance with the requirement. If 209
the public appointing authority is entitled to reimbursement under 210
division (E)(2)(a) of this section and if one or more of its peace 211
officers or troopers who were granted an extension pursuant to 212
division (A)(2) of section 109.803 of the Revised Code fails to 213
complete prior to the date on which the extension ends the 214
required minimum number of hours of continuing professional 215
training set by the commission under division (A)(1) of section 216
109.803 of the Revised Code, the failure does not affect the 217
reimbursement made to the public appointing authority, and the 218
public appointing authority is not required to return the 219
reimbursement or any portion of it. 220

(F) Each public appointing authority that receives funds 221
under this section shall keep those funds separate from any other 222
funds of the appointing authority and shall use those funds only 223
for paying the cost of continuing professional training programs. 224

(G) As used in this section and section 109.803 of the 225
Revised Code: 226

(1) "Peace officer" includes a sheriff, deputy sheriff, 227
marshal, deputy marshal, chief of police and member of a municipal 228
or township police department, chief of police and member of a 229
township police district police force, chief of police of a 230
university or college police department, state university law 231
enforcement officer appointed under section 3345.04 of the Revised 232
Code, superintendent of the state highway patrol, state highway 233
patrol trooper, and employee of the department of natural 234
resources who is a natural resources law enforcement staff 235
officer, park officer, forest officer, preserve officer, wildlife 236
officer, or state watercraft officer has the same meaning as in 237
section 109.71 of the Revised Code. 238

(2) "Chief of police of an organized municipal police 239

department" includes the chief of police of a village police department. 240
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~~(3) "Chief of police of a village police department" means the village marshal. 242
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~~(4) "Chief of police of a university or college police department" means the person who has direct supervisory authority over the state university law enforcement officers who are appointed for the university or college pursuant to section 3345.04 of the Revised Code by the board of trustees of the university or college. 244
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~~(3) "Appointing authority" means any agency or entity that appoints a peace officer or trooper. 252
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Sec. 109.803. (A)(1) Subject to division (A)(2) of this section, every appointing authority shall require each of its appointed peace officers and troopers to complete up to twenty-four hours of continuing professional training each calendar year, as directed by the Ohio peace officer training commission. The number of hours directed by the commission, up to twenty-four hours, is intended to be a minimum requirement, and appointing authorities are encouraged to exceed the number of hours the commission directs as the minimum. The commission shall set the required minimum number of hours based upon available funding for reimbursement as described in this division. If no funding for the reimbursement is available, no continuing professional training will be required. 254
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(2) An appointing authority may submit a written request to the peace officer training commission that requests for a calendar year because of emergency circumstances an extension of the time within which one or more of its appointed peace officers or 267
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troopers must complete the required minimum number of hours of
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

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within which a particular appointed peace officer or trooper of an 303
appointing authority must complete the required minimum number of 304
hours of continuing professional training set by the commission, 305
the appointing authority shall require that peace officer or 306
trooper to complete the required minimum number of hours of 307
training not later than the date on which the extension ends. 308

(3)(a) If a public appointing authority complies with the 309
training requirement specified in division (A)(1) of this section 310
by requiring each of its appointed peace officers and troopers to 311
complete the number of hours of training the commission directs as 312
the minimum and with division (B) of section 109.761 of the 313
Revised Code and if the appointed peace officers and troopers of 314
the public appointing authority comply with section 109.801 of the 315
Revised Code to the extent that they are subject to that section 316
and comply with all other training mandated by the general 317
assembly or the attorney general, the attorney general shall 318
reimburse the public appointing authority for the successful 319
training costs of each of its appointed peace officers and 320
troopers as provided in section 109.802 of the Revised Code. 321

(b) If the executive director of the Ohio peace officer 322
training commission grants pursuant to division (A)(2) of this 323
section an extension of the time within which one or more 324
appointed peace officers or troopers of a public appointing 325
authority must complete the required minimum number of hours of 326
continuing professional training set by the commission, and if the 327
criteria set forth in division (A)(3)(a) of this section are 328
satisfied regarding each appointed peace officer or trooper of the 329
public appointing authority for whom such an extension was not 330
granted, the attorney general shall reimburse the public 331
appointing authority for the successful training costs of each of 332
its appointed peace officers and troopers for whom such an 333
extension was not granted, as provided in section 109.802 of the 334

Revised Code.

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If an appointed peace officer or trooper of a public
appointing authority for whom the executive director granted such
an extension completes prior to the date on which the extension
ends the number of hours of training the commission directs as the
minimum, if the officer or trooper also 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
training mandated by the general assembly or the attorney general,
and if the public appointing authority has complied with division
(B) of section 109.761 of the Revised Code, the attorney general
shall reimburse the public appointing authority for the successful
training costs of that peace officer or trooper as provided in
section 109.802 of the Revised Code.

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

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(2) 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 an appointed peace
officer or trooper of an appointing authority must complete the
required minimum number of hours of continuing professional
training set by the commission, during the period of the extension

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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 368
peace officer or trooper has complied with section 109.801 of the 369
Revised Code to the extent that the officer or trooper is subject 370
to that section and has complied with all other required training. 371
If a peace officer or trooper of an appointing authority for whom 372
such an extension was granted fails to complete prior to the date 373
on which the extension ends the required minimum number of hours 374
of continuing professional training set by the commission, 375
division (B)(1) of this section applies to that officer or trooper 376
after the date on which the extension ends. 377

(C) With the advice of the Ohio peace officer training 378
commission, the attorney general shall adopt in accordance with 379
Chapter 119. of the Revised Code rules setting forth minimum 380
standards for continuing professional training for peace officers 381
and troopers and governing the administration of continuing 382
professional training programs for peace officers and troopers. 383
The attorney general shall transmit a certified copy of any rule 384
adopted under this section to the secretary of state. 385

Sec. 2921.51. (A) As used in this section: 386

(1) "Peace officer" means a sheriff, deputy sheriff, marshal, 387
deputy marshal, member of the organized police department of a 388
municipal corporation, or township constable, who is employed by a 389
political subdivision of this state, a member of a police force 390
employed by a metropolitan housing authority under division (D) of 391
section 3735.31 of the Revised Code, a member of a police force 392
employed by a regional transit authority under division (Y) of 393
section 306.35 of the Revised Code, a state university law 394
enforcement officer appointed under section 3345.04 of the Revised 395
Code, a veterans' home police officer appointed under section 396
5907.02 of the Revised Code, a special police officer employed by 397

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 428
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 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.	490 491
(b) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.	492 493 494
(c) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person, and the offender previously was convicted of an offense that caused physical harm to a person.	495 496 497 498
(d) The offender held a public office or position of trust and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's professional reputation or position facilitated the offense or was likely to influence the future conduct of others.	499 500 501 502 503 504
(e) The offender committed the offense for hire or as part of an organized criminal activity.	505 506
(f) The offense is a sex offense that is a fourth or fifth degree felony violation of section 2907.03, 2907.04, 2907.05, 2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the Revised Code.	507 508 509 510
(g) The offender at the time of the offense was serving, or the offender previously had served, a prison term.	511 512
(h) The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance.	513 514 515
(i) The offender committed the offense while in possession of a firearm.	516 517
(2)(a) If the court makes a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this	518 519

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 521
is consistent with the purposes and principles of sentencing set 522
forth in section 2929.11 of the Revised Code and finds that the 523
offender is not amenable to an available community control 524
sanction, the court shall impose a prison term upon the offender. 525

(b) Except as provided in division (E), (F), or (G) of this 526
section, if the court does not make a finding described in 527
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 528
this section and if the court, after considering the factors set 529
forth in section 2929.12 of the Revised Code, finds that a 530
community control sanction or combination of community control 531
sanctions is consistent with the purposes and principles of 532
sentencing set forth in section 2929.11 of the Revised Code, the 533
court shall impose a community control sanction or combination of 534
community control sanctions upon the offender. 535

(C) Except as provided in division (D), (E), (F), or (G) of 536
this section, in determining whether to impose a prison term as a 537
sanction for a felony of the third degree or a felony drug offense 538
that is a violation of a provision of Chapter 2925. of the Revised 539
Code and that is specified as being subject to this division for 540
purposes of sentencing, the sentencing court shall comply with the 541
purposes and principles of sentencing under section 2929.11 of the 542
Revised Code and with section 2929.12 of the Revised Code. 543

(D)(1) Except as provided in division (E) or (F) of this 544
section, for a felony of the first or second degree, for a felony 545
drug offense that is a violation of any provision of Chapter 546
2925., 3719., or 4729. of the Revised Code for which a presumption 547
in favor of a prison term is specified as being applicable, and 548
for a violation of division (A)(4) of section 2907.05 of the 549
Revised Code for which a presumption in favor of a prison term is 550
specified as being applicable, it is presumed that a prison term 551

is necessary in order to comply with the purposes and principles 552
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 regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the rape;	616 617 618 619 620
(3) Gross sexual imposition or sexual battery, if the victim is under thirteen years of age and if any of the following applies:	621 622 623
(a) Regarding gross sexual imposition, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, gross sexual imposition, or sexual battery, and the victim of the previous offense was under thirteen years of age;	624 625 626 627 628
(b) Regarding gross sexual imposition, the offense was committed on or after the effective date of this amendment <u>August</u> <u>3, 2006</u> , and evidence other than the testimony of the victim was admitted in the case corroborating the violation.	629 630 631 632
(c) Regarding sexual battery, either of the following applies:	633 634
(i) The offense was committed prior to the effective date of this amendment <u>August 3, 2006</u> , the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was under thirteen years of age.	635 636 637 638 639
(ii) The offense was committed on or after the effective date of this amendment <u>August 3, 2006</u> .	640 641
(4) A felony violation of section 2903.04, 2903.06, 2903.08, 2903.11, 2903.12, or 2903.13 of the Revised Code if the section	642 643

requires the imposition of a prison term;

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

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

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

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

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

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

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

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

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

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

(13) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if 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, with respect to the portion of the sentence imposed pursuant to division (D)(5) of section 2929.14 of the Revised Code;

(14) A violation of division (A)(1) or (2) of section 2903.06

of the Revised Code if the offender 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, with respect to the portion of the sentence imposed
pursuant to division (D)(6) of section 2929.14 of the Revised
Code.

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

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

division (A)(1) of this section.

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

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

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

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

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

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

(2) The judge imposing sentence for the sexually oriented offense determines pursuant to division (B) of section 2950.09 of

the Revised Code that the offender is a sexual predator. 801

(I) If an offender is being sentenced for a sexually oriented 802
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.

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

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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:

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

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

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

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(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.

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

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(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

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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 893
while committing the felony; 894

(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 1052
violence and the court does not impose a sentence of life 1053
imprisonment without parole, or any felony of the second degree 1054
that is an offense of violence and the trier of fact finds that 1055
the offense involved an attempt to cause or a threat to cause 1056
serious physical harm to a person or resulted in serious physical 1057
harm to a person. 1058

(c) For purposes of division (D)(2)(b) of this section, two 1059
or more offenses committed at the same time or as part of the same 1060
act or event shall be considered one offense, and that one offense 1061
shall be the offense with the greatest penalty. 1062

(d) A sentence imposed under division (D)(2)(a) or (b) of 1063
this section shall not be reduced pursuant to section 2929.20 or 1064
section 2967.193, or any other provision of Chapter 2967. or 1065
Chapter 5120. of the Revised Code. The offender shall serve an 1066
additional prison term imposed under this section consecutively to 1067
and prior to the prison term imposed for the underlying offense. 1068

(e) When imposing a sentence pursuant to division (D)(2)(a) 1069
or (b) of this section, the court shall state its findings 1070
explaining the imposed sentence. 1071

(3)(a) Except when an offender commits a violation of section 1072
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 1073
the violation is life imprisonment or commits a violation of 1074
section 2903.02 of the Revised Code, if the offender commits a 1075
violation of section 2925.03 or 2925.11 of the Revised Code and 1076
that section classifies the offender as a major drug offender and 1077
requires the imposition of a ten-year prison term on the offender, 1078
if the offender commits a felony violation of section 2925.02, 1079
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 1080

4729.37, or 4729.61, division (C) or (D) of section 3719.172, 1081
division (C) of section 4729.51, or division (J) of section 1082
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 1115
not more than thirty months, and if the offender is being 1116
sentenced for a third degree felony OVI offense, the sentencing 1117
court may sentence the offender to an additional prison term of 1118
any duration specified in division (A)(3) of this section. In 1119
either case, the additional prison term imposed shall be reduced 1120
by the sixty or one hundred twenty days imposed upon the offender 1121
as the mandatory prison term. The total of the additional prison 1122
term imposed under division (D)(4) of this section plus the sixty 1123
or one hundred twenty days imposed as the mandatory prison term 1124
shall equal a definite term in the range of six months to thirty 1125
months for a fourth degree felony OVI offense and shall equal one 1126
of the authorized prison terms specified in division (A)(3) of 1127
this section for a third degree felony OVI offense. If the court 1128
imposes an additional prison term under division (D)(4) of this 1129
section, the offender shall serve the additional prison term after 1130
the offender has served the mandatory prison term required for the 1131
offense. In addition to the mandatory prison term or mandatory and 1132
additional prison term imposed as described in division (D)(4) of 1133
this section, the court also may sentence the offender to a 1134
community control sanction under section 2929.16 or 2929.17 of the 1135
Revised Code, but the offender shall serve all of the prison terms 1136
so imposed prior to serving the community control sanction. 1137

If the offender is being sentenced for a fourth degree felony 1138
OVI offense under division (G)(1) of section 2929.13 of the 1139
Revised Code and the court imposes a mandatory term of local 1140
incarceration, the court may impose a prison term as described in 1141
division (A)(1) of that section. 1142

(5) If an offender is convicted of or pleads guilty to a 1143
violation of division (A)(1) or (2) of section 2903.06 of the 1144

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 1177
division (D)(1)(a) of this section for having a firearm on or 1178
about the offender's person or under the offender's control while 1179
committing a felony, if a mandatory prison term is imposed upon an 1180
offender pursuant to division (D)(1)(c) of this section for 1181
committing a felony specified in that division by discharging a 1182
firearm from a motor vehicle, or if both types of mandatory prison 1183
terms are imposed, the offender shall serve any mandatory prison 1184
term imposed under either division consecutively to any other 1185
mandatory prison term imposed under either division or under 1186
division (D)(1)(d) of this section, consecutively to and prior to 1187
any prison term imposed for the underlying felony pursuant to 1188
division (A), (D)(2), or (D)(3) of this section or any other 1189
section of the Revised Code, and consecutively to any other prison 1190
term or mandatory prison term previously or subsequently imposed 1191
upon the offender. 1192

(b) If a mandatory prison term is imposed upon an offender 1193
pursuant to division (D)(1)(d) of this section for wearing or 1194
carrying body armor while committing an offense of violence that 1195
is a felony, the offender shall serve the mandatory term so 1196
imposed consecutively to any other mandatory prison term imposed 1197
under that division or under division (D)(1)(a) or (c) of this 1198
section, consecutively to and prior to any prison term imposed for 1199
the underlying felony under division (A), (D)(2), or (D)(3) of 1200
this section or any other section of the Revised Code, and 1201
consecutively to any other prison term or mandatory prison term 1202
previously or subsequently imposed upon the offender. 1203

(c) If a mandatory prison term is imposed upon an offender 1204
pursuant to division (D)(1)(f) of this section, the offender shall 1205
serve the mandatory prison term so imposed consecutively to and 1206
prior to any prison term imposed for the underlying felony under 1207
division (A), (D)(2), or (D)(3) of this section or any other 1208

section of the Revised Code, and consecutively to any other prison 1209
term or mandatory prison term previously or subsequently imposed 1210
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 1273
to be served is the aggregate of all of the terms so imposed. 1274

(F)(1) If a court imposes a prison term for a felony of the 1275
first degree, for a felony of the second degree, for a felony sex 1276
offense, or for a felony of the third degree that is not a felony 1277
sex offense and in the commission of which the offender caused or 1278
threatened to cause physical harm to a person, it shall include in 1279
the sentence a requirement that the offender be subject to a 1280
period of post-release control after the offender's release from 1281
imprisonment, in accordance with that division. If a court imposes 1282
a sentence including a prison term of a type described in this 1283
division on or after ~~the effective date of this amendment~~ July 11, 1284
2006, the failure of a court to include a post-release control 1285
requirement in the sentence pursuant to this division does not 1286
negate, limit, or otherwise affect the mandatory period of 1287
post-release control that is required for the offender under 1288
division (B) of section 2967.28 of the Revised Code. Section 1289
2929.191 of the Revised Code applies if, prior to ~~the effective~~ 1290
~~date of this amendment~~ July 11, 2006, a court imposed a sentence 1291
including a prison term of a type described in this division and 1292
failed to include in the sentence pursuant to this division a 1293
statement regarding post-release control. 1294

(2) If a court imposes a prison term for a felony of the 1295
third, fourth, or fifth degree that is not subject to division 1296
(F)(1) of this section, it shall include in the sentence a 1297
requirement that the offender be subject to a period of 1298
post-release control after the offender's release from 1299
imprisonment, in accordance with that division, if the parole 1300
board determines that a period of post-release control is 1301
necessary. Section 2929.191 of the Revised Code applies if, prior 1302
to ~~the effective date of this amendment~~ July 11, 2006, a court 1303

imposed a sentence including a prison term of a type described in 1304
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 1337
offender shall serve the additional two years consecutively to and 1338
prior to the prison term imposed for the underlying offense. 1339

(K) At the time of sentencing, the court may recommend the 1340
offender for placement in a program of shock incarceration under 1341
section 5120.031 of the Revised Code or for placement in an 1342
intensive program prison under section 5120.032 of the Revised 1343
Code, disapprove placement of the offender in a program of shock 1344
incarceration or an intensive program prison of that nature, or 1345
make no recommendation on placement of the offender. In no case 1346
shall the department of rehabilitation and correction place the 1347
offender in a program or prison of that nature unless the 1348
department determines as specified in section 5120.031 or 5120.032 1349
of the Revised Code, whichever is applicable, that the offender is 1350
eligible for the placement. 1351

If the court disapproves placement of the offender in a 1352
program or prison of that nature, the department of rehabilitation 1353
and correction shall not place the offender in any program of 1354
shock incarceration or intensive program prison. 1355

If the court recommends placement of the offender in a 1356
program of shock incarceration or in an intensive program prison, 1357
and if the offender is subsequently placed in the recommended 1358
program or prison, the department shall notify the court of the 1359
placement and shall include with the notice a brief description of 1360
the placement. 1361

If the court recommends placement of the offender in a 1362
program of shock incarceration or in an intensive program prison 1363
and the department does not subsequently place the offender in the 1364
recommended program or prison, the department shall send a notice 1365
to the court indicating why the offender was not placed in the 1366

recommended program or prison.

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

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

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

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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 1407
and investigation" has the same meaning as in section 2903.11 of 1408
the Revised Code. 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